SUPPLEMENT NO. 38
October 2014

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2013-19, enacted December 2, 2013.

See the Code Comparative Table for further information.

Remove Old Pages	*Insert New Pages*
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
SH:1	SH:1
1305—1308.1	1305—1308.1
1905	1905

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SUPPLEMENT NO. 37
July 2013

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2012-20, enacted June 24, 2013.

See the Code Comparative Table for further information.

Remove Old Pages	*Insert New Pages*
Title page	Title page
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
SH:1	SH:1
357, 358	357, 358
899—904	899—904.2
913, 914	913—914.1
1905	1905

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SUPPLEMENT NO. 36
August 2012

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2012-13, enacted June 25, 2012.

See the Code Comparative Table for further information.

Remove Old Pages	*Insert New Pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
SH:1	SH:1
57—64	57—65
1143—1150	1143—1154
1905	1905
1951, 1952	1951, 1952
2005—2008	2005—2008.1
2019, 2020	2019—2020.1

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SUPPLEMENT NO. 35
October 2011

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2011-13, enacted September 6, 2011.

See the Code Comparative Table for further information.

Remove Old Pages	*Insert New Pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents) SH:1(following Checklist of up-to-date pages)
537—574	537—572
1307, 1308	1307—1308.1
1903, 1904	1903—1905
1951, 1952	1951, 1952
2011, 2012	2011—2012.1
2021, 2022	2021, 2022

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SUPPLEMENT NO. 34, ADDITION
July 2010

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement No. 34, Addition, is printed to include provisions omitted in Supplement No. 34, and should be inserted as directed below.

Remove Old Pages	*Insert New Pages*
ix, x	ix, x
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
59—62	59—64
1903, 1904	1903, 1904
1951, 1952	1951, 1952
2005, 2006	2005, 2006

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SUPPLEMENT NO. 34
June 2010

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2010-07, adopted May 4, 2010.

See the Code Comparative Table for further information.

Remove Old Pages	*Insert New Pages*
ix, x	ix, x
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
1091, 1092	1091—1092.2
1099, 1100	1099, 1100
1903, 1904	1903, 1904
2019, 2020	2019, 2020

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SUPPLEMENT NO. 33
November 2009

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2009-16, adopted October 5, 2009.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
525, 526	525, 526
537—563	537—574
1099, 1100	1099, 1100
1903, 1904	1903, 1904
1951, 1952	1951, 1952
2011—2014	2011—2014.1

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SUPPLEMENT NO. 32
June 2009

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2008-20, adopted April 6, 2009.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
357, 358	357, 358
431—438	431—438
893, 894	893—894.1
1903, 1904	1903, 1904
1951, 1952	1951, 1952
2013—2016	2013—2016

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SUPPLEMENT NO. 31
October 2008

CODE OF ORDINANCES

County of

CHEROKEE COUNTY, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2008-03, adopted June 16, 2008.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
359—362	359—362
427—438	427—438
1147, 1148	1147—1150
1301—1302.1	1301—1302.1
1903, 1904	1903, 1904
2001—2027	2001—2027

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SUPPLEMENT NO. 30, ADDITION
January 2008

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement No. 30, Addition, is printed to include the omitted material from Supplement No. 30 and contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2007-11, adopted November 5, 2007.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
427—431	427—438
1903, 1904	1903, 1904
1951, 1952	1951, 1952
2001—2024	2001—2027

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SUPPLEMENT NO. 30
November 2007

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2007-15, adopted October 1, 2007.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
915, 916	915, 916
1501	1501, 1502
1903, 1904	1903, 1904
2001, 2002	2001—2002.1
2020.1—2022	2021—2022.2

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SUPPLEMENT NO. 29
December 2006

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2006-13, adopted November 20, 2006.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
893—906.1	893—906.2
910.3—918	911—918.1
1091—1096	1091—1100
1903	1903, 1904
1951, 1952	1951, 1952
2013—2018	2013—2018.1

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SUPPLEMENT NO. 28, ADDITION
September 2005

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement No. 28, Addition, is printed to Ordinance No. 2005-03, adopted April 18, 2005, omitted from Supplement No. 28 and should be inserted as directed below.

Remove old pages	*Insert new pages*
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
1701	1701
1903	1903
2015, 2016	2015, 2016

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SUPPLEMENT NO. 28
August 2005

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2005-18, adopted July 18, 2005.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
357—394	357—363
904.1—906	905—906.1
1201, 1202	1201, 1202
1247	1301—1311
1903	1903
2003—2010	2003—2010
2017—2020	2017—2020.2

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SUPPLEMENT NO. 27
May 2005

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2005-02, adopted March 21, 2005.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
739, 740	739, 740
753	753—755
1903	1903
2001, 2002	2001, 2002
2007—2010	2007—2010

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SUPPLEMENT NO. 26
December 2004

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of July 1, 2004.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
357—359	357—359
1903	1903

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SUPPLEMENT NO. 25
September 2004

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2004-3, adopted May 17, 2004.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
915—918	915—918
1903	1903
1951, 1952	1951, 1952
2013, 2014	2013, 2014

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SUPPLEMENT NO. 24
January 2004

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of November 3, 2003.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
357, 358	357, 358
363—378	363—366
431	431
527, 528	525—527
537, 538	537—563
1903	1903
1951, 1952	1951, 1952
2002.1—2004	2003—2004.1
2006.1—2018	2007—2018
2020.1—2024	2021—2024

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SUPPLEMENT NO. 23
May 2003

CODE OF ORDINANCES

County of

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Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of February 20, 2003.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
685, 686	685, 686
839, 840	839, 840
845, 846	845—849
1903	1903
2010.1—2012	2011—2012.1
2014.1—2016	2015—2016.1
2019, 2020	2019—2020.1

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SUPPLEMENT NO. 22
July 2002

CODE OF ORDINANCES

County of

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Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of June 24, 2002.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
261	261
359—360.1	357—359
899—904	899—904.1
1903	1903

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SUPPLEMENT NO. 21
January 2002

CODE OF ORDINANCES

County of

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Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of December 3, 2001.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
993	993
1091—1093	1091—1096
1903	1903
2001, 2002	2001—2002.1

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SUPPLEMENT NO. 20
September 2001

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinances of June 25, 2001.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
359, 360	359—360.1
391—393	391—394
533—534.1	533—534.1
739, 740	739, 740
751	751—753
893, 894	893—894.1
899—904	899—904
1501	1501
	1699—1701
1903	1903
2003—2006	2003—2006.1
2009, 2010	2009—2010.1
2013—2014.1	2013—2014.1
2019—2024	2019—2024

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SUPPLEMENT NO. 18
October 2000

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of August 8, 2000.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix—xi	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
739, 740	739, 740
749, 750	749—751
903, 904	903, 904
921—950	921—950.2
1903	1903
2009—2012	2009—2012.1

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SUPPLEMENT NO. 17
June 2000

CODE OF ORDINANCES

County of

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Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of April 3, 2000.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix, x	ix—xi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
891	891—955
1347—1354	1347
1901, 1902	1901—1903
1951	1951, 1952
2001—2004	2001—2004.1
2009—2022	2009—2024

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SUPPLEMENT NO. 16
November 1999

CODE OF ORDINANCES

County of

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Looseleaf Supplement

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Ordinance of August 16, 1999.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix, x	ix, x
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
427	427—431
739, 740	739, 740
747	747—750
1195, 1196	1195, 1196
1901, 1902	1901, 1902
1951	1951
2001—2021	2001—2022

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SUPPLEMENT NO. 15
November 1998

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of September 8, 1998.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix, x	ix, x
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
359—364	359—364.1
385—394	385—393
533—534.1	533—534.1
1901, 1902	1901, 1902
2001—2020	2001—2021

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SUPPLEMENT NO. 14
April 1998

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of October 21, 1997.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
533, 534	533—534.1
1901, 1902	1901, 1902
2015, 2016	2015, 2016

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SUPPLEMENT NO. 13
January 1998

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of November 4, 1997.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
ix, x	ix, x
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
685—689	685—690
739, 740	739, 740
745	745—747
1901, 1902	1901, 1902
2005—2008	2005—2008.1

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SUPPLEMENT NO. 12
July 1997

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of May 22, 1997.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
533—537	533—538
1199—1201	1199—1202
1901, 1902	1901, 1902
1951	1951
2005, 2006	2005—2006.1
2010.1—2012	2011—2012.1
2015—2018	2015—2018.1

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SUPPLEMENT NO. 11
May 1996

CODE OF ORDINANCES

County of

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Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance of June 27, 1995.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
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Tallahassee, FL 32316
(904) 576-3171
1-800-262-CODE

SUPPLEMENT NO. 10
June 1995

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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SUPPLEMENT NO. 9
September 1994

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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SUPPLEMENT NO. 8
May 1994

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County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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See the Code Comparative Table for further information.

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SUPPLEMENT NO. 7
September 1992

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County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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SUPPLEMENT NO. 6
March 1992

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County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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See the Code Comparative Table for further information.

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October 1991

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County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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October, 1990

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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Note—An updated checklist of pages in Code is included, following Table of Contents.

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November, 1989

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County of

CHEROKEE, SOUTH CAROLINA

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CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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Insert this instruction sheet in front of volume. File removed pages for reference.

MUNICIPAL CODE CORPORATION

Tallahassee, Florida

January, 1989

Note—An updated checklist of pages in Code is included, following Table of Contents.

SUPPLEMENT NO. 1

CODE OF ORDINANCES

County of

CHEROKEE, SOUTH CAROLINA

Looseleaf Supplement

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Insert this instruction sheet in front of volume. File removed pages for reference.

MUNICIPAL CODE CORPORATION

Tallahassee, Florida

November, 1988

Note—A new checklist of pages in Code is included, following Table of Contents.

THE CODE OF ORDINANCES

OF

CHEROKEE COUNTY, SOUTH CAROLINA

GENERAL ORDINANCES AND RESOLUTIONS OF THE COUNTY

Published in 1988 by Order of the County Council

Municipal Code Corporation • PO Box 2235 Tallahassee, FL 32316
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fax 850.575.8852 • www.municode.com

Supp. No. 37

OFFICIALS

of the

COUNTY OF CHEROKEE

AT THE TIME OF THIS CODIFICATION

Barry Morgan
Chairman

Rufus Foster, Jr.
Vice-Chairman

Charles Mathis, Jr.
James Batchler
Francis McCraw
Hazel Lovelace
Drayton Queen
County Council

Wesley L. Brown
County Attorney

Dolphus C. Medley
County Administrator

Doris Pearson
Clerk of Council

PREFACE

This Code constitutes a complete codification of the ordinances and resolutions of Cherokee County, South Carolina of a general and permanent nature.

Source materials used in the preparation of the Code were ordinances and resolutions adopted by the county council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this volume, the reader can locate any section of the ordinances and resolutions included herein.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been catchlined to facilitate usage. Footnotes which tie related sections of the Code together and which refer to relevant state laws have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this volume.

Numbering System

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the first section of Chapter 2 is numbered 2-1 and the third section of Chapter 4 is 4-3. Under this system, each section is identified with its chapter and at the same time new sections or even whole chapters can be inserted in their proper places simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between sections 9-8 and 9-9 is desired to be added, such new sections would be numbered 9-8.1, 9-8.2 and 9-8.3 respectively. New chapters may be included in the same manner. If the new material is to be included between Chapters 5 and 6, it will be designated as Chapter 5.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Index

The index of the Code has been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by municipal officers and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which he is interested.

Looseleaf Supplements

A special feature of this Code to which the attention of the user is especially directed is the looseleaf system of binding and supplemental servicing for the

Code. With this system, the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances or resolutions, they will be properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the Code, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Successfully keeping this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

The publication of this Code was under the direct supervision of B. Meade White, Supervising Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Dolphus C. Medly, County Administrator, and Mr. Wesley L. Brown, County Attorney, for their cooperation and assistance during the progress of the work on this Code. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

MUNICIPAL CODE CORPORATION

Tallahassee, Florida

ADOPTING ORDINANCE

An Ordinance Adopting and Enacting a New Code for the County of Cherokee, South Carolina; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and this Ordinance Shall Become Effective.

Be It Enacted by the County Council of Cherokee County, South Carolina:

Section 1. The Code entitled "Code of Ordinances, Cherokee County, South Carolina," published by Municipal Code Corporation consisting of Chapters 1 to 21, each inclusive, is hereby adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before October 27, 1987, and not included in the Code or recognized and continued in force by reference therein are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not exceeding two hundred dollars ($200.00) or imprisonment not exceeding thirty (30) days. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the County may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Any and all additions and amendments to the Code, when passed in the form as to indicate the intention of the council to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code shall be understood and intended to include the additions and amendments.

Section 6. Ordinances adopted after October 27, 1987, that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective July 1, 1988.

Passed and adopted by the Cherokee County Council of this 28th day of June, 1988.

/s/ Barry S. Morgan
Chairman

/s/ Rufus H. Foster, Jr.
Vice-Chairman

/s/ Dolphus C. Medley
County Administrator

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(This checklist will be updated with the printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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

The ordinances and resolutions embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, Cherokee County, South Carolina" and may be so cited. Such ordinances and resolutions may also be cited as the "Cherokee County Code."

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

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

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the county council may be fully carried out. Terms used in this Code, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state for such terms.

In the interpretation and application of the provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than other more general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

In the construction of this Code and of all ordinances of the county, all things and places therein referred to shall, unless a contrary intention appears, be construed to mean things and places situated in the county or employed by or appertaining to the county.

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

Clerk. The word "clerk" shall mean the clerk to the county council.

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

Council, county council, governing body. The words "the council" or "the county council" or "governing body" shall mean the county council of Cherokee County, South Carolina.

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

Delegation of authority. Whenever a provision appears requiring the head of a department or some other county officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Gender. Words importing one gender shall include the other genders.

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

Keeper and *proprietor.* The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

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

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. Words used in the singular shall include the plural and words used in the plural shall include the singular.

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."

Officer, official. Whenever reference is made to any officer or official the reference will be taken to be to such officer or official of Cherokee County.

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 a part of such building or land.

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

Personal property. The words "personal property" include every species of property except real property, as herein defined.

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

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

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

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

Shall, may. The word "shall" is mandatory; "may" is permissive.

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

Signature, subscription. The words "signature" and "subscription" include a mark when the person cannot write, when such mark is witnessed by a longhand signature.

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

Street, road. The words "street" and "road" shall include avenues, boulevards, highways, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the county, and shall mean the entire width thereof between opposed 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 county council.

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

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

Week. The word "week" shall be construed to mean seven (7) calender days.

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

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

Sec. 1-3. Catchlines of sections.

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

Sec. 1-4. Effect of repeal or expiration of ordinances.

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

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

Sec. 1-5. Provisions considered as continuations of existing ordinances and resolutions.

The provisions appearing in this Code, so far as they are the same as those previously adopted by the council, shall be considered as continuations thereof and not as new enactments.

Cross reference—Ordinances and resolutions continued in effect, § 1-10.

Sec. 1-6. Severability of parts of Code.

It is hereby declared to be the intention of the county council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by 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.

Sec. 1-7. Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

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

Sec. 1-8. General penalty; continuing violations.

(a) Wherever in this Code, or in any ordinance of the county, any act is prohibited or is declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code, or any such ordinance, shall be subject to a fine not exceeding two hundred dollars ($200.00) or imprisonment not exceeding thirty (30) days.

(b) Each day any violation of this Code, or any such ordinance, shall continue, shall constitute, except where otherwise provided, a separate offense.

State law references—Authority to provide penalties for ordinance violations not in excess of jurisdiction of magistrates' courts, S.C. Code 1976, § 4-9-30(14); jurisdiction of magistrates' courts, S.C. Code 1976, § 22-3-550.

Sec. 1-9. Altering Code.

It shall be unlawful for any person to change or amend by addition or deletion any part of this Code; or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever, which will cause the law of the county to be misrepresented thereby.

Sec. 1-10. Certain ordinances and resolutions not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following ordinances, which are not included herein:

(1) Any ordinance promising or guaranteeing the payment of money for the county, or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness;

(2) Any appropriation ordinance providing for the levy of taxes or for an annual budget, or prescribing salaries for county officers or employees;

(3) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, speed limits and other specific traffic regulations, not inconsistent with this Code;

(4) Any ordinance fixing utility rates or charges;

(5) Any ordinance granting any franchise, permit or other right;

(6) Any ordinance approving, authorizing or otherwise relating to any contract, agreement, lease, deed or other instrument;

(7) Any ordinance authorizing or otherwise relating to any public improvement project or work;

(8) Any temporary or special ordinance or ordinance of limited interest or transitory nature;

(9) Any ordinance providing for reapportionment of election districts;

(10) Any ordinance laying out or accepting any road or street, or naming the same, or closing the same; any ordinance accepting any property whatsoever, real or personal;

(11) Any ordinance prescribing zoning or subdivision regulations, or zoning or rezoning particular property, or accepting any plat;

(12) Any ordinance adopted after October 27, 1987;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

(b) Nothing in this Code, or the ordinance adopting this Code, shall be construed to repeal any ordinance not appearing in this Code and not in conflict with this Code, and all such ordinances are continued in full force and effect until repealed. No resolutions are repealed.

Sec. 1-11. Code does not affect prior offenses, rights, etc.

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

Sec. 1-12. County seal.

The official county seal will be in the form set forth on the logo on file in the office of the county administrator wherein the state is royal blue, the county is white, and the peach is red and orange with the stems being green.

A replica of the county seal, though without use of the colors, or a substitute suitable for casting, shall be cast as a seal in form suitable to be affixed to ordinances, resolutions, legal instruments and documents requiring a county seal. All ordinances and resolutions of the council and other legal instruments or documents executed on behalf of the county shall have the county seal affixed thereto, which seal shall be attested by one or more persons authorized by the council.
(Ord. of 8-2-88)

Editor's note—Ord. of Aug. 2, 1988, did not specifically amend the Code, hence inclusion herein as § 1-12 was at the discretion of the editor.

Chapter 2

ADMINISTRATION

Art. I. In General, §§ 2-1—2-27
Art. II. Boards and Commissions, §§ 2-28—2-58
Div. 1. Generally, §§ 2-28—2-38
Div. 2. Board of Disabilities and Special Needs, §§ 2-39—2-47

ARTICLE I. IN GENERAL

Sec. 2-1. Form of government.

The governing body in conformity with the statutory law of the state, hereby officially adopts the council-administrator form of government, as the official county government of the county. (Res. of 4-20-76)

State law references—Referendum to determine form of government, S.C. Code 1976, § 4-9-10; council-administrator form of government, § 4-9-610 et seq.

Sec. 2-2. Notice by petitioner of desire to appear before council.

Anyone wishing to appear before the county council shall contact the county administrator's office before noon on Friday, preceding the regular council meeting, or four (4) days before a regularly scheduled meeting. No councilmember shall have the authority to introduce a petitioner not in compliance with this section.
(Res. of 10-9-79)

Sec. 2-3. [Establishment of electoral districts—Findings of fact; adoption of plan.]

(a) *Recitals and statement of purpose.* Incident to the adoption of this section, the County Council of Cherokee County, South Carolina (the "council"), the governing body of Cherokee County, South Carolina (the "county"), finds that each of the statements hereinafter set forth in this subsection (a) is in all respects true and correct.

(1) The United States Department of Commerce has declared final the results of the Federal Decennial Census of 2010 (the "2010 census").

(2) In compliance with the United States Constitution; the Constitution of the State of South Carolina, S.C. Code of Laws 1976, § 4-9-90, as amended; and the United States Voting Rights Act of 1965, as amended; the council has determined to realign the electoral districts for the election of members of council in accordance with [the] 2010 census and is adopting this section for that purpose.

(b) *New district lines.* From and after the "effective date" of subsection 2-4(c) below, the county shall be divided into seven (7) new districts (the "new districts") for the purposes of electing members to the council. Each new district shall be entitled to elect one (1) member of council in accordance with S.C. Code of Laws 1976, § 4-9-90, as amended. S.C. Code of Laws 1976, § 4-9-90, as amended, states in part:

> "All districts must be reapportioned as to population by the county council within a reasonable time prior to the next scheduled general election which follows the adoption by the state of each federal decennial census. The population variance between defined election districts shall not exceed ten (10) percent."

The new districts are as defined and delineated in the voting districts as shown on the maps attached as Exhibit A hereto based on the statistical data contained in Exhibit B [below].

District Number	*Population of Districts*	*Variation per Representative*
1	7267	-3.20%
2	7740	3.10%
3	7796	3.90%
4	7290	-2.90%
5	7484	-0.30%
6	7526	0.30%
7	7434	-0.90%

(Ord. No. 2011-16, arts. I, II(1.01, 2.01), 10-17-11)

Editor's note—Ord. No. 2011-16, arts. I—III, V(1.01—3.01, 5.01), adopted Oct. 17, 2011, has been treated as superseding the former provisions of §§ 2-3 and 2-4, which pertained to reapportionment—election districts defined and number of members; term; when election to be held, and derived from an ordinance adopted Feb. 2, 1982, §§ 1, 2 and an ordinance adopted March 3, 1992.

Note—Exhibit A has not been set out in this Code, but is available for inspection in the county offices.

State law reference—Reapportionment, S.C. Code 1976, § 4-9-90.

Sec. 2-4. [Establishment of electoral districts—Implementation; effective date.]

(a) *Preclearance.* The county attorney is hereby directed and authorized to submit the plan for the new districts to the Attorney General of the United States for preclearance pursuant to Section 5 of the United States Voting Rights Act of 1965, as amended. He is hereby directed to request expedited preclearance in accordance with the regulations promulgated thereunder by the Attorney General of the United States.

(b) *2012 elections.* The election commission of the county is hereby directed, immediately upon the effective date hereof, to undertake, by and with the South Carolina Election Commission, all steps necessary for holding elections for members of the council according to the regular schedule for the general election on November 6, 2012, in such of the new districts as is required in accordance with S.C. Code of Laws 1976, § 4-9-90, as amended.

(c) *Section not effective until preclearance.* The provisions of this section shall become effective upon, and shall not be effective before, receipt by the council or the county attorney of preclearance from the Attorney General of the United States; or on the failure of the Attorney General to interpose an objection to the new districts within the allotted time; or upon the issuance of a declaratory judgment by the United States District Court for the District of Columbia that the plan for the new districts is not violative of the United States Voting Rights of 1965, as amended (the first of which to occur being the "effective date" of this

section); all in accordance with the United States Voting Rights Act of 1965, as amended, Section 5; provided, however, that subsection (a) of this section shall be effective immediately upon adoption of this section.
(Ord. No. 2011-16, arts. III, V(3.01, 3.02, 5.01), 10-17-11)

Editor's note—See editor's note to § 2-3.

Sec. 2-5. Duties and powers of appointive boards and commissions.

The duties and powers imposed or granted by this section shall apply to all boards and commissions whose members are appointed by the county council. Such duties and powers are as follows:

(1) All such boards or commissions shall have an officer who shall be responsible for keeping minutes of regular meetings which minutes shall reflect, among other things, the names of those members who are in attendance and those who are absent.

(2) It shall be incumbent on the chairman of such board or commission to notify the clerk of council when any member has been absent for three (3) consecutive regular meetings.

(3) The chairman shall also prepare an annual report, which shall state the number of regular meetings attended by each member and the number of absences from regular meetings for each member of such board or commission.

(4) Any member of any board or commission may be removed at any time if such member has missed more than three (3) consecutive regular meetings or more than seventy-five (75) percent of the regular meetings for the preceding year.

(5) The chairman shall furnish to the county such additional reports as the county administrator may deem necessary from time to time.

(Ord. of 9-24-81, §§ 1—6)

Sec. 2-6. Notice of termination of administrator's services.

(a) Should the county council decide that it should terminate the services of the county administrator, it shall give written notice to the administrator at least sixty (60) days prior to the termination.

(b) Should the administrator decide that such administrator is terminating such services, such administrator should give county council sixty (60) days' notice prior to termination.

(c) With the mutual agreement between the council and the administrator, the notice may be negotiated to reflect different termination notice periods.
(Ord. of 1-24-78, §§ 1—3)

State law reference—Hearing on removal, S.C. Code 1976, § 4-9-620.

Sec. 2-7. [Transfer of authority for conducting municipal elections.]

(a) *Legislative finding.* As an incident to the adoption of this section, the Cherokee County Council as the governing body of Cherokee County, South Carolina makes the following findings. S.C. Code 1976, § 5-15-145, as amended, provides for the transfer of the powers, duties and responsibilities for conducting municipal elections from municipal elections commission to county elections commission upon the adoption of an appropriate ordinance by the governing body of the municipality transferring such powers, duties and responsibilities and adoption of an ordinance by the county governing body of an appropriate ordinance accepting the transfer of authority for conducting municipal elections.

The Town of Blacksburg has indicated its desire to transfer all authority for conducting municipal elections within the Town of Blacksburg to the Cherokee County Voter Registration and Election Commission, and has adopted an ordinance for the transfer of the powers, duties and responsibilities for conducting municipal elections in the Town of Blacksburg from the Town of Blacksburg Municipal Election Commission to the Cherokee County Voter Registration and Election Commission. The Cherokee County Council finds that the Cherokee County Registration and Election Commission is willing to assume the transfer of the powers, duties and responsibilities for conducting municipal elections in the Town of Blacksburg upon the terms and conditions contained in this section, and the council finds that it is proper, appropriate and in the public interest for the Cherokee County Council to adopt an ordinance accepting the transfer of authority for conducting municipal elections from the Town of Blacksburg Municipal Election Commission to the Cherokee County Voter Registration and Election Commission, on the terms and conditions herein contained.

(b) *Acceptance of authority for conducting municipal elections.* The Cherokee County Council, as the governing body of Cherokee County, South Carolina, hereby accepts authority for conducting municipal elections in the Town of Blacksburg and such authority is hereby transferred from the Municipal Election Commission of the Town of Blacksburg to the Registration and Election Commission for Cherokee County in the following particulars:

(1) The Cherokee County Voter Registration and Election Commission for Cherokee County shall advertise municipal elections, prepare and distribute ballots and election materials, appoint managers of election for each polling place and otherwise supervise and conduct all municipal elections with the Town of Blacksburg;

(2) Immediately upon the closing of the polls at any municipal election in the Town of Blacksburg, the Cherokee County Voter Registration and Election Commission shall begin to count and continuously count the votes cast and make a statement of the whole number of the votes cast in such election together with the number of votes cast for each candidate for mayor and councilperson, canvas the vote and publicly display the unofficial results;

(3) The voter registration and election commission shall thereafter certify the results of the elections and transmit the certified results to the Blacksburg Town Council or an appointed authority representing the town government as soon as practicable following the certification;

(4) Hear and decide protests and certify the result of municipal elections;

(5) Utilize an automated election system and computer counting with the count publicly conducted;

(6) Take such other action as may be necessary or appropriate to conduct municipal elections and certify the results.

(c) *Reimbursement of election costs.* The Town of Blacksburg shall reimburse the Registration and Election Commission of Cherokee County for its share of all costs incurred in providing ballots, advertising elections, printing costs, postage, transportation costs, temporary help, programming charges, poll managers compensation and other related additional expenses incurred in its conduct of municipal elections in the Town of Blacksburg. In the event a protest is filed or litigation is commenced in connection with the conduct of municipal elections, the Town of Blacksburg shall pay all court costs, attorney fees, court reporter fees and costs, and other costs and expenses incurred in such protest or litigation. The Cherokee County Registration and Election Commission shall provide invoices and/or other documentation to the Town of Blacksburg of all such costs and expenses incurred in the conduct of Town of Blacksburg municipal elections, protests, certification of results, litigation or other costs which may be incurred, not specifically mentioned in this section.

(d) *Effective date.* This section shall take effect upon the successful completion of the following necessary actions prerequisite under federal and state law to effect the changes called for hereunder:

(1) Adoption of an appropriate ordinance by the governing body of the Town of Blacksburg transferring the authority accepted hereunder;

(2) Adoption of an appropriate ordinance by the governing body of Cherokee County accepting the authority being transferred hereunder;

(3) Submission to the United States Justice Department and subsequent receipt of pre-clearance and positive response to the transfer of authority for conducting municipal elections which would be effected hereunder.

(Ord. No. 2010-01, §§ 1—3, 5, 3-1-10)

Editor's note—Ord. No. 2010-01, §§ 1—3, 5, adopted March 1, 2010, did not specifically amend the Code; hence, codification as § 2-7 was at the discretion of the editor.

Sec. 2-8. [Same—City of Chesnee to the Spartanburg County Election Commission.]

(a) *Legislative finding.* As an incident to the adoption of this section, the Cherokee County Council as the governing body of Cherokee County, South Carolina, makes the following findings: S.C. Code of Laws 1976, § 5-15-145, as amended, provides for the transfer of the powers, duties and responsibilities for conducting municipal elections from municipal elections commission to county elections commission upon the adoption of an appropriate ordinance by the governing body of the municipality transferring such powers, duties and responsibilities and adoption of an ordinance by the county governing body of an appropriate ordinance accepting the transfer of authority for conducting municipal elections.

The City of Chesnee has indicated its desire to transfer all authority for conducting municipal elections within the City of Chesnee including such portion as lies within Cherokee County to the Spartanburg County Election Commission, which is expected to adopt an ordinance for the transfer of the powers, duties and responsibilities for conducting municipal elections in the City of Chesnee from the City of Chesnee Municipal Election Commission to the Spartanburg County Election Commission. The Cherokee County Council finds that the Spartanburg County Election Commission is willing to assume the transfer of the powers, duties and responsibilities for conducting municipal elections in the City of Chesnee including such portion as lies within Cherokee County upon the terms and conditions contained in this section, and the council finds that it is proper, appropriate and in the public interest for the Cherokee County Council to adopt an ordinance to authorize the transfer of authority for conducting municipal elections from the City of Chesnee Municipal Election Commission to the Spartanburg County Election Commission, on the terms and conditions herein contained.

(b) *Effective date.* This section shall take effect upon the successful completion of the following necessary actions prerequisite under federal and state law to effect the changes called for hereunder:

(1) Adoption of an appropriate ordinance by the governing body of the City of Chesnee transferring the authority accepted hereunder;

(2) Adoption of an appropriate ordinance by the governing body of Spartanburg County accepting the authority being transferred hereunder;

(3) Submission to the United States Justice Department and subsequent receipt of preclearance and positive response to the transfer of authority for conducting municipal elections which would be effected hereunder.

(Ord. No. 2011-19, §§ 1, 2, 12-19-11)

Editor's note—Ord. No. 2011-19, §§ 1, 2, adopted Dec. 19, 2011, did not specify manner of inclusion; hence, codification as § 2-8 was at the discretion of the editor.

Secs. 2-9—2-27. Reserved.

ARTICLE II. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-28—2-38. Reserved.

DIVISION 2. BOARD OF DISABILITIES AND SPECIAL NEEDS*

Sec. 2-39. Authority.

This division is adopted pursuant to authority given to the Cherokee County Council by sections 44-20-375 et seq. South Carolina Code Annotated, 1976 as amended.
(Ord. of 2-21-95, § 1)

Sec. 2-40. Board.

There is hereby created the Cherokee County Disabilities and Special Needs Board with powers, duties, responsibilities, and functions set forth herein.
(Ord. of 2-21-95, § 2)

Sec. 2-41. Purpose.

It is the purpose of the Cherokee County Disabilities and Special Needs Board to develop, provide, coordinate, improve and operate community-based programs serving persons with mental retardation or other related disabilities, including autism and head and spinal cord injuries, with a view toward developing their respective mental, physical and social capacities to their fullest potential.
(Ord. of 2-21-95, § 3)

Sec. 2-42. Membership.

(a) The board shall be comprised of nine (9) members who shall be resident electors of Cherokee County. The board shall be appointed by the Governor of the State of South Carolina upon recommendation of the majority of the Cherokee County Legislative Delegation. Persons with a demonstrated interest and background in disabilities and/or human services and/or experience relating to the board's operations shall be recommended for appointment.

(b) The terms of the members shall be for four (4) years until their successors are appointed and qualify, except that of the first appointed: one (1) shall be appointed for one (1) year; two (2) for two (2) years; two (2) for three (3) years; and two (2) for four (4) years. Vacancies shall be filled for any unexpired terms in the same manner as original appointments. Any member may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office or missing three (3) consecutive meetings after being given a written statement of reasons and an opportunity to be heard.
(Ord. of 2-21-95, § 4)

Sec. 2-43. Duties.

The board shall:

(1) Be the administrative, planning, coordinating, evaluative, and reviewing board for services to persons in Cherokee County who have mental retardation or other related

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***Editor's note—**An Ord. of Feb. 21, 1995, did not specifically amend the Code; hence, codification as Ch. 2, Art. II, Div. 2, §§ 2-39—2-47 was at the discretion of the editor.

disabilities, including autism and head and spinal cord injuries; the board shall be funded in part by appropriations from the South Carolina Department of Disabilities and Special Needs.

(2) Submit an annual plan and projected budget to the South Carolina Department of Disabilities and Special Needs for approval and consideration of funding.

(3) Review and evaluate on at least an annual basis county disability services provided pursuant to this division and report its funding and recommendations to the South Carolina Department of Disabilities and Special Needs and Cherokee County Council.

(4) Promote and accept local financial support for the Cherokee County program from funding sources, such as businesses, individuals, industrial and private foundations, voluntary agencies, governmental and other lawful sources and promote public support from municipal and county sources.

(5) Employ personnel and expend its budget for the direct delivery of services or contract with those service vendors necessary to carry out county mental retardation or related disability service programs, which shall meet those specifications prescribed by the South Carolina Department of Disabilities and Special Needs.

(6) Plan, arrange, and implement working agreements and contracts with other human service agencies, both public and private, and with educational and judicial agencies.

(7) Provide the South Carolina Department of Disabilities and Special Needs and Cherokee County Council such records, reports, and access to its sponsored services as the South Carolina Department of Disabilities and Special Needs and Cherokee County Council may require and submit its sponsored services and facilities to licensing requirements of the South Carolina Department of Disabilities and Special Needs or the licensing requirements of other state or local agencies having such legal authority.

(8) Buy, sell, mortgage, pledge, encumber, lease, rent, and contract with respect to real and personal property, and borrow money, provided the obligation to repay same is payable out of any revenues of the County Disabilities and Special Needs Board, and shall not obligate the full faith, credit, and taxing power of Cherokee County.

(9) Provide a public forum to which individuals or groups may present any concerns or appeal a dispute or disagreement with a provided agency or service.

(Ord. of 2-21-95, § 5)

Sec. 2-44. Meetings and requirements.

(a) The board shall open all regular meetings to the general public. No fewer than four (4) meetings per year shall be held. Special meetings may be called, with reasonable notice given to other members.

(b) The board will establish its own bylaws. On an annual basis, it will elect a chairperson, vice-chairperson, a secretary and a treasurer.
(Ord. of 2-21-95, § 6)

Sec. 2-45. Severability.

Should any section of this division be, for any reason, held void or invalid, it shall not affect the validity of any other section hereof which is not itself void or invalid.
(Ord. of 2-21-95, § 7)

Sec. 2-46. Insurance.

The board will maintain at all times workers compensation insurance on its employees and a policy of liability insurance in the amount of one million dollars ($1,000,000.00) covering all employees and board members. The premiums for this coverage shall be the responsibility of the board. Cherokee County shall be listed as an insured under the policy of liability insurance. The board shall furnish a copy of the current insurance policies to the county council and will keep current copies of the policies on file at all times.
(Ord. of 2-21-95, § 8)

Sec. 2-47. Not affiliated with county.

Notwithstanding anything herein contained, it is clearly established that the Cherokee County Disabilities and Special Needs Board established under this division shall in no way be interpreted as an agency or subservient of Cherokee County; Cherokee County shall not be responsible for any acts by the board which may result in a claim, action, cause of action, liability, damages, expenses, and the like and the board shall indemnify and hold the county harmless from same.
(Ord. of 2-21-95, § 9)

[The next page is 109]

Chapter 3

(RESERVED)

[The next page is 209]

Chapter 4

ANIMALS AND FOWL*

Sec. 4-1. Definitions.

For the purposes of this chapter, the following terms shall have the respective meanings ascribed to them:

Animal control officer: Any person employed by the county as the enforcement officer of the provisions of this chapter.

Animal shelter or *pound:* Any premises so designated by the county council for the purpose of impounding and caring for animals found in violation of this chapter.

County: The unincorporated areas of the county and any municipality which has contracted with the county council for dog or other animal control services and which has adopted appropriate legislation.

Dog: Includes any member of the canine family.

Running at large: Any dog or other domesticated animal not under restraint as herein defined.

Stray dog: Any dog found wandering at large or abandoned in the public ways or on the lands of any person other than that of its owner or keeper.

Under restraint: An animal controlled by means of a chain, leash, fence or other restraining device, or which is sufficiently near the owner or keeper to be directly under such person's control and which is obedient to that person's commands, or which is on the property of the owner, or is on property by that owner's permission, or is within a vehicle being driven or parked.

Vicious dog or other animal: Any dog or other domesticated animal constituting a physical threat to human beings or other animals, or evidencing abnormal behavior or inclination to attack persons or animals without provocation, or having a tendency to do any act repeatedly which might endanger the safety of persons or property.
(Ord. of 11-5-85, § 2)

State law reference—Definitions, S.C. Code 1976, §§ 47-1-10, 47-3-10, 47-5-20, 47-7-10.

Sec. 4-2. Animal control officer—Duties; assistance by other officers.

(a) It shall be the duty of the animal control officer or any person appointed for such purpose by the county to apprehend and seize all stray dogs, vicious dogs and dogs running at large and to impound them in an enclosure provided for that purpose. For the purposes of enforcing this chapter, the sheriff, deputy sheriffs, county police officers, magistrates and constables, and the police officers of any municipality which contracts with the county council, are authorized and instructed to assist the animal control officers.

***State law references**—Authority, S.C. Code 1976, § 47-3-20; rabies control, § 47-5-10 et seq.

(b) The animal control officers shall have the power to enforce this chapter, to cooperate with the health department in quarantining animals, and to carry out the duties and assume the responsibilities set out in this chapter.

(c) The animal control officers shall maintain such records as may be prescribed by the county administrator and which are necessary to account for the activities of such office.

(d) The animal control officers shall patrol areas of the county for purposes of enforcing this chapter. The animal control officers may require a complaining or aggrieved party to sign a complaint and/or warrant whenever such officer deems it advisable.
(Ord. of 11-5-85, § 3)

Sec. 4-3. Same—Interference therewith by others.

It shall be unlawful for any person to interfere with, hinder or molest the animal control officer in the execution of such officer's duty.
(Ord. of 11-5-85, § 10)

Sec. 4-4. Seizure of dog by property owner.

Any person may seize any dog found on that person's premises and deliver it to the animal control officers or other person appointed for such purposes, to be impounded as set forth above.
(Ord of 11-5-85, § 4(b))

Sec. 4-5. Disposition of impounded dog—Generally.

If ownership of an impounded dog is evidenced by an identification tag, the animal control officers shall make a reasonable effort to notify the owner of the dog's impoundment. When the owner of the dog is unidentified, the animal control officers shall post a copy of the dog's description and time of impounding on the first floor bulletin board located in the county courthouse. If the dog impounded is not redeemed by its owner within five (5) days after the date of its impoundment, it may be offered for sale or for adoption to any member of the general public, or it may be destroyed in accordance with the laws of the state.
(Ord. of 11-5-85, § 4(a))

Sec. 4-6. Same—Redemption by owner.

The owner or keeper of an impounded dog may claim and resume possession of such dog, except as herein or otherwise provided, upon the payment to the county of redemption fees and expenses as may from time to time be prescribed by council.
(Ord. of 11-5-85, § 5)

Sec. 4-7. Keeping vicious or unruly dog.

It shall be unlawful for any person to keep a vicious or unruly dog unless under restraint or other means so that such dog cannot reach persons not on land owned, leased or controlled by such keeper.
(Ord. of 11-5-85, § 8)

Sec. 4-8. Destruction of vicious animal.

An animal that is found to be wounded, diseased or in great pain, in the judgment of the animal control officer, may be destroyed immediately. A vicious dog may be summarily destroyed by the animal control officers, or any person so designated by the county, when the safety of the officers or other persons is immediately endangered and summary destruction is necessary to prevent injury.
(Ord. of 11-5-85, § 6)

Sec. 4-9. Abandoning dog.

It shall be unlawful for any person to release, forsake or abandon any dog within the county except upon lands belonging to the owner or keeper of the dog, or by permission of the property owner on whose property the dog is found.
(Ord. of 11-5-85, § 7)

Sec. 4-10. Keeping of dog which creates nuisance.

It shall be unlawful for any person to maintain a dog which habitually barks, whines or howls, or which habitually chases or runs after persons or vehicles, or which destroys or damages property belonging to any person or legal entity, or which habitually causes serious annoyances to a neighboring residence and interferes with the reasonable use and enjoyment of that neighbor's property, or creates a habitual disturbance or nuisance of any kind.
(Ord. of 11-5-85, § 9)

Sec. 4-11. Punishment for violations; summary disposition out of court.

In addition to or in lieu of impounding an animal found in violation of this chapter, the animal control officer may issue to the owner a notice of violation. Such notice shall impose upon the owner of such animal a penalty of ten dollars ($10.00) for the initial offense and twenty-five dollars ($25.00) for each subsequent offense which may, in the discretion of the owner, be paid to the county within forty-eight (48) hours thereafter, not including Saturdays, Sundays or legal holidays. In the event that such penalty is not paid to the county within the time prescribed, a criminal warrant may be initiated before the proper magistrate, and upon conviction of the violation, the owner shall be punished as set forth in section 1-8. In the event the owner elects to pay the penalty within the prescribed period of time, such payment shall be a bar to prosecution.
(Ord. of 11-5-85, § 11)

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Chapter 5

(RESERVED)

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Chapter 6

BUILDINGS; CONSTRUCTION AND RELATED ACTIVITIES*

Art. I. Cherokee County Building and Construction Standards and Related Activities, §§ 6-1—6-19
Art. II. Reserved, §§ 6-20—6-50
Art. III. Reserved, §§ 6-51—6-134

ARTICLE I. CHEROKEE COUNTY BUILDING AND CONSTRUCTION STANDARDS AND RELATED ACTIVITIES†

Sec. 6-1. Technical codes adopted.

The latest edition of the following nationally known codes for the regulation of construction and building safety standards are hereby adopted by reference and shall be in final force and effect in Cherokee County, South Carolina upon the effective date of July 1, 2013:

(a) 2012 International Residential Code;

(b) 2012 International Building Code;

(c) 2012 International Fire Code;

(d) 2012 International Plumbing Code;

(e) 2012 International Mechanical Code;

(f) 2012 International Fuel Gas Code;

(g) 2009 International Energy Conservation Code;

(h) 2012 International Property Maintenance Code with the substitution of Chapter One with the Cherokee County Property Maintenance Code Administration Chapter One incorporated herein;

(i) 2011 National Electrical Code.

***Cross reference—**Uniform road naming and property numbering system, § 17-21 et seq.

State law reference—Authority to adopt codes by reference, S.C. Code 1976, §§ 6-9-10, 6-9-60.

†**Editor's note—**Section 3 of an ordinance adopted Dec. 16, 1997, renamed Art. I of this chapter from "In General" to "Cherokee County Building and Construction Standards and Related Activities." Section 4 of said ordinance subsequently repealed provisions formerly set out as §§ 6-1—6-5 of the Code, which pertained to building permits and derived from ordinances adopted Sept. 19, 1978, §§ 1, 2, 4, 5; Dec. 16, 1986, §§ 1, 2, 4—6; and Aug. 23, 1988, and enacted new provisions as §§ 6-1—6-10. Sections 5—7 of said ordinance renumbered former §§ 6-6, 6-7, and 6-9 of the Code as 6-11—6-13, and § 8 repealed former § 6-8, which pertained to violations regarding payment of taxes before waiver of fine and derived from an ordinance adopted Jan. 7, 1986, § 5, and enacted new provisions as 6-14.

The provisions of the above codes concerning the qualifications, removal, dismissal, duties, responsibilities of, and administrative procedures for all building officials, deputy building officials, chief inspectors, other inspectors, and assistants are not adopted. Included in the administrative procedures not adopted are any such sections of the above codes regarding the composition and procedures of a board of adjustments and appeals.
(Ord. of 12-16-97, § 4; Ord. of 6-25-01(1); Ord. of 6-24-02, § 1; Ord. of 7-1-05, § 1; Ord. No. 2005-05, § 1, 5-16-05; Ord. No. 2008-15, § 1, 8-18-08; Ord. No. 2012-20, § 1, 6-24-13)

Sec. 6-2. Permits—When required, issuance, exceptions.

(a) Any owner, authorized agent, contractor or any other party who desires to construct, enlarge, alter, repair, move, improve, demolish or change a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or repair any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the technical codes above set forth, or to cause any work to be done, shall first make application to the building official and obtain an appropriate building permit, except as noted below.

(b) If the total cost in value of the work, construction, repair or alterations as included in section 6-2 (a) is less than one thousand dollars ($1,000.00), then and in that event, the permit requirement of this article shall not apply. Furthermore, the permit requirement and the technical codes shall not apply to any matters exempt under any laws of the State of South Carolina and the United States.
(Ord. of 12-16-97, § 4)

Sec. 6-3. Same—Display.

The permit when issued shall be kept at the building or in place where the construction, alteration, repair, removal or demolition is being done and on demand shall be produced by the person in charge of such work for the inspection of the building official or any designated agent on behalf of the building official, and it shall be unlawful to continue work after demand unless and until the permit is produced for inspection.
(Ord. of 12-16-97, § 4)

Sec. 6-4. Building official; office established, duties.

The office of the building official, which may also be known as building inspector, is hereby established and the county administrator shall appoint one or more persons to serve as building official in accordance with the qualifications and job specifications which may be

established by county council from time to time by resolution. The building official shall be certified as a qualified building inspector as required by the laws of the State of South Carolina. Other employees of the building official's office may be approved by county council from time to time in accordance with the qualifications and job specifications established by the county. The building official shall be the immediate supervisor of all such additional employees and may delegate to them, unless otherwise prohibited by law, such duties as may be necessary to discharge the responsibilities of the office of building inspector.
(Ord. of 12-16-97, § 4)

Sec. 6-5. Fees for permits, inspections, appeals, etc.

(a) Upon the effective date of the National Standard Building Codes set forth in section 6-1, the county shall have the right and authority to charge a fee for permits, inspections and appeals and any other activities relating thereto. A permit and fee schedule shall be adopted by resolution of the county council and may be amended from time to time by resolution of county council. All permit and related fees shall be due and payable at the time designated by county council in the adoption of a fee schedule; all appeal fees shall be due upon the filing of appeal.

(b) No activities, as defined in section 6-1, shall take place and no appeal may be filed until all related fees are paid in full. All fees not paid when due shall constitute a lien on the property to which it applies and shall be collected in the same manner and in accordance to the same provisions as ad valorem property taxes.

(c) All fees collected pursuant to this article shall be deposited in the general fund and shall be used in any manner designated by County Council, including but not limited to salaries, benefits, training, equipment, supplies, and other costs incurred in the operation of the office of building official.

(d) A schedule of fees, as amended from time to time, shall be posted and shall be available at the county assessor's office, the county administration building and such other locations as the county council deems appropriate.
(Ord. of 12-16-97, § 4)

Sec. 6-6. Notice of changes to codes, fees or procedures.

When any of the codes herein adopted under section 6-1 are revised or changed and when any of the established fees and procedures are revised or changed, the county shall publish notice of any such changes and revisions in one or more newspapers having general circulation in Cherokee County, South Carolina. The notice shall be published for two (2) consecutive weeks and the changes and revisions shall become effective ten (10) days following the date of the last publication unless otherwise specified by county council.
(Ord. of 12-16-97, § 4)

Sec. 6-7. Appeals to determinations or actions of the building official.

If any person who holds a building permit, or the owner of the property to which the permit is applicable, is aggrieved with any determinations or actions made or taken by the building official or his designated representative(s), such person or owner may appeal the building official's determination or action to the county administrator within ten (10) days after the determination or action in question. The appeal shall be in writing and shall clearly set forth the reasons for the appeal. Within five (5) days after the receipt of such appeal, the county administrator shall issue a decision regarding the appeal and shall transmit notice of the decision to the appellant by registered mail with return receipt requested.

In the event the aggrieved party is dissatisfied with the decision of the county administrator, then and in that event, the aggrieved party shall have the right to appeal the county administrator's decision to the board of adjustments and appeals by giving notice of intent to appeal within thirty (30) days of receiving notice of the county administrator's decision. Such appeal shall be in writing and set the grounds for the appeal. The appeal shall be filed with the chairman of the board of adjustments and appeals and a copy shall be served on the county building official. A filing fee for such an appeal, as established from time to time by resolution of county council, shall be paid at the time the appeal is filed. In the event the aggrieved party is dissatisfied with the decision of the board of adjustments and appeals, the aggrieved party may appeal to any court of competent jurisdiction. Notice of such appeal and grounds therefor shall be filed with the county clerk of court and served on the building official within thirty (30) days after the decision of the board.
(Ord. of 12-16-97, § 4)

Sec. 6-8. Board of adjustments and appeals; establishment, composition and organization.

Upon adoption of this article, a board of adjustments and appeals shall be established, with a composition and organization specified as follows:

(a) The board of adjustments and appeals shall have seven (7) members. The members shall be appointed by county council and those appointed as members should have knowledge and experience in the technical codes, such as architects, engineers, contractors, or other representatives of the building industry. At least one member of the board shall be a county resident of the area located to the east of the Broad River.

(b) Appointments to the board of adjustments and appeals shall be made by a majority vote of council members present and voting, subsequent to the nomination of a board of adjustments and appeals member by any member of the county council.

(c) Initial appointments to the board of adjustments and appeals shall be for terms as listed:

(1) One member for a term of one year.

(2) Two (2) members for a term of two (2) years.

(3) Two (2) members for a term of three (3) years.

(d) Subsequent appointments to the board of adjustments and appeals shall be for a term of three (3) years. There is no limitation to the number of consecutive terms which a member may serve.

(e) Should a position on the board of adjustments and appeals become vacant before the expiration of a member's term, the county council shall appoint a member for the remainder of the vacant term.

(f) Members of the board of adjustments and appeals shall serve for the term of appointment and until a replacement is appointed by the county council.

(Ord. of 12-16-97, § 4; Ord. of 6-16-08, § 1))

Sec. 6-9. Applicability.

This article and all codes referred to in section 6-1 shall apply to the entire unincorporated area of Cherokee County.

(Ord. of 12-16-97, § 4)

Sec. 6-10. Severability.

Should any portion of this article be found to be unconstitutional by any court of competent jurisdiction, the remaining portion of the article shall continue to be valid and in full force and effect.

(Ord. of 12-16-97, § 4)

Sec. 6-11. Moving of mobile home or building—Permit required; certificate of no tax delinquency required; display of permit.

(a) When a mobile home or building is to be relocated within the county boundaries, the owner and/or transporter shall, prior to relocation, obtain a moving permit from the office of the assessor or licensing agent.

(b) Before issuing a moving permit, the assessor or licensing agent shall require a certificate from the office of the county treasurer stating there are no delinquent taxes on the mobile home or building.

(c) The moving permit shall accompany the mobile home or building while it is being moved. The moving permit shall be designed and displayed in accordance with regulations issued by the state tax commission. Any time a mobile home or building is moved for any reason, including repossession, relocation, etc., it shall be the responsibility of the mobile home or building transporter to have the required moving permit properly displayed and accompanying the mobile home or building while it is being moved.

(Ord. of 1-7-86, §§ 1, 3, 4; Ord. of 12-16-97, § 5)

State law reference—Permit required for mobile home, S.C. Code 1976, § 31-17-360.

Sec. 6-12. Same—Payment of current taxes in case of ownership change.

If the mobile home or building changes ownership or is to be removed beyond the boundaries of the county, any taxes that have been assessed for that calendar year shall be paid in full, and if taxes have not yet been assessed for the calendar year in which the move is being made, the assessor shall provide the county auditor with an assessment and the auditor shall apply the previous year's millage. The county treasurer shall collect such taxes before issuing the requisite certificate to the licensing agent.
(Ord. of 1-7-86, § 2; Ord. of 12-16-97, § 6)

Sec. 6-13. Same—Proof of paid taxes prior to electric connection.

It shall be unlawful for any electric utility supplier electric cooperative to make a new connection of electrical energy and or re-establish discontinued service to a mobile home or relocated building unless proof of paid taxes can be furnished.
(Ord. of 1-7-86, § 6; Ord. of 12-16-97, § 7)

Sec. 6-14. Enforcement; authority of building official, penalties.

(a) In the enforcement of this article and the building codes herein adopted, the building official shall have the authority to issue stop work orders, revoke permits, seek injunctive orders, orders of mandamus and/or orders of specific performance and to exercise any other authority permitted by the building codes and to pursue any other remedy afforded at equity.

(b) Persons found to be in violation of the building codes or regulations set forth under this article may be fined, by civil fine; in an amount not to exceed two hundred dollars ($200.00). Each day the violation continues is a separate offense. This provision, however, shall not apply until after the violator has been given notice of the violation and has been given reasonable time to correct the violation.

(c) Any person, firm, corporation or agent who, after notice, violates the provision of this article and fails to comply with any orders or directives of the building official shall be guilty of a misdemeanor, and upon conviction, is subject to imprisonment for a period not to exceed thirty (30) days or the payment of a fine not to exceed two hundred dollars ($200.00), or both. Each violation shall be deemed to be a separate offense.
(Ord. of 12-16-97, § 8)

Secs. 6-15—6-19. Reserved.

ARTICLE II. RESERVED*

Secs. 6-20—6-50. Reserved.

***Editor's note—**An ordinance of Nov. 3, 2003, §§ 100—600, was not specifically amendatory of the Code and have been treated as superceding the provisions of art. II, §§ 6-20—6-40. Formerly, said chapter pertained to flood damage protection. The user is directed to ch. 8, art. V for similar provisions.

ARTICLE III. RESERVED*

Secs. 6-51—6-134. Reserved.

*__Editor's note—__Ord. No. 2005-05, § 2, adopted May 16, 2005, repealed art. III, §§ 6-51—6-134, in its entirety. Formerly, said article pertained to the unsafe building abatement code as enacted by an ordinance adopted Nov. 5, 1991; as amended. See the Code Comparative Table for a detailed analysis of repeal.

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Chapter 7

BUSINESSES*

Art. I. In General, §§ 7-1—7-100
Art. II. Coin-Operated Machines, §§ 7-101—7-120
Art. III. Accommodations, §§ 7-121—7-138
Art. IV. Junk and Salvage Yards, §§ 7-139—7-147

ARTICLE I. IN GENERAL

Secs. 7-1—7-100. Reserved.

ARTICLE II. COIN-OPERATED MACHINES†

Sec. 7-101. Authority.

Pursuant to S.C. Code 1976, § 12-21-2720(D), as amended, counties are granted authority to impose a license fee on coin-operated machines, as defined in S.C. Code, § 12-21-2720(A)(3), as amended, currently in an amount not exceeding ten (10) percent of three thousand six hundred dollars ($3,600.00) of the license fee imposed pursuant to S.C. Code 1976, § 12-21 -2720(A), as amended, for the equivalent license period.
(Ord. of 4-20-99, § 1)

Sec. 7-102. Definitions.

The coin-operated machine or device to which this article applies is defined in S.C. Code 1976 § 12-21-2720(A)(3), as amended.
(Ord. of 4-20-99, § 2)

Sec. 7-103. License established.

Every person who maintains for use or permits the use of, on a place or premises occupied by him within the unincorporated areas of the county, one (1) or more of the machines or devices defined in section 7-102 shall apply for and procure from the county a license for the privilege of making use of the machine or device in the county.
(Ord. of 4-20-99, § 3)

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*__Cross reference—__Ad valorem tax to develop jointly owned and operated industrial/ business park, § 21-4.

†__Editor's note—__An ordinance adopted April 20, 1999, did not specifically amend the Code; hence, inclusion of §§ 1—8 of said ordinance as Art. II, §§ 7-100—7-108 of this chapter was at the discretion of the editor.

Sec. 7-104. Terms and cost of license.

The license required herein shall be a biennial license beginning July 1, 1999, and expiring twenty-four (24) months thereafter and at that time there shall be subsequent two-year license periods. The nonrefundable cost of the license shall be the maximum amount authorized by the laws of the state, with the present maximum amount allowed for said license fee being three hundred and sixty dollars ($360.00). Licenses purchased after July 31, 1999, shall be prorated on a twenty-four month basis with each month representing one twenty-fourth of the license fee imposed under this article. Licenses are nontransferable from one machine to another. Individual machines are licensed for operation on a place or premises as defined by the South Carolina Code of Laws and will require a new license before that machine may be operated on a different place or premises.
(Ord. of 4-20-99, § 4)

Sec. 7-105. Proof of licensing.

Every person who maintains for use or permits the use of, on any place or premises shall by way of proof of licensing have the current county license decal permanently affixed in plain sight, at the front of the machine, easily readable and to a nontransferable part of the machine. Pending the processing of an application for a permit the applicant shall have in his possession and produce on demand a receipt not more than thirty (30) days old from the county treasurer verifying an application is pending and documentation showing thereon the state license numbers of the machine(s) for which licenses have been applied for.
(Ord. of 4-20-99, § 5)

Sec. 7-106. Penalties and enforcement.

(a) Any person who fails, neglects, or refuses to comply with the terms of this article is subject to a fine of five hundred dollars ($500.00) or imprisonment for not more than thirty (30) days for each such failure per machine and for each day of non-compliance.

(b) Violations of this article shall be enforced by the county sheriff, his deputies, or other officers as appointed by the county council.
(Ord. of 4-20-99, § 6)

Sec. 7-107. Effect of license.

The issuance of a license under the provisions of this article by the county does not make lawful the operation of any gambling machine or device, the operation of which is made unlawful under the laws of this state.
(Ord. of 4-20-99, § 7)

Sec. 7-108. Presumption.

Upon application being made for a license to operate any machine or apparatus under this article, the county may presume that the operation of the machine or apparatus is lawful and

when a license has been issued for the operation thereof, the sum paid for the license may not be refunded notwithstanding that the operation of the machine or apparatus is prohibited, except as provided in section 7-104 above.

Secs. 7-109—7-120. Reserved.

ARTICLE III. ACCOMMODATIONS*

Sec. 7-121. Definitions.

[The following words, terms and phrases when used in this article shall have the meanings herein set out:]

Accommodations is defined as any room (excluding meeting and conference rooms), camp ground spaces, recreational vehicle space, lodgings or sleeping accommodations furnished to transients by any hotel, inn, condominium, motel, "bed and breakfast", residence, or any other place in which rooms, lodgings or sleeping accommodations are furnished for consideration within the county. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person or persons or a period of thirty (30) continuous days or longer are not considered proceeds from transients.

County means Cherokee County and all of the municipalities within the geographical boundaries of the county.
(Ord. of 6-28-99, § 1)

Sec. 7-122. Accommodations fee—Imposed.

A uniform fee equal to three (3) percent is hereby imposed on the gross proceeds derived from the rental of any accommodation within the county.
(Ord. of 6-28-99, § 2)

Sec. 7-123. Same—Payment.

Payment of the accommodations fee established herein shall be the liability of the consumer of the accommodations services. The fee shall be paid at the time of delivery of the services to which the fee applies, and shall be collected by the provider of the services. The county shall promulgate a form of return which shall be utilized by the provider of services to calculate the amount of accommodations fees collected and due. This form shall contain a sworn declaration as to the correctness thereof by the provider of services.

The provider of services shall remit the form, a copy of the state's sales tax computation form, and the accommodations fees due on the twentieth day of each month, or, when such twentieth day falls on a Saturday or Sunday or legal holiday, the first business day thereafter,

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***Editor's note—**An ordinance adopted June 28, 1999, did not specifically amend the Code; hence, inclusion of §§ 1—7 of said ordinance as Art. III, §§ 7-121—7-127 of this chapter was at the discretion of the editor.

commencing in July 1999, to the Cherokee County Treasurer's Office, at 125 E. Floyd Baker Blvd., Gaffney, South Carolina 29340. (Post Office Box 1267, Gaffney, South Carolina 29342)
(Ord. of 6-28-99, § 3)

Sec. 7-124. Same—Special revenue fund.

An interest-bearing segregated and restricted account to be known as the "Cherokee County Accommodations Fee Special Revenue Fund" is hereby established. All revenues received from the accommodations fee shall be deposited into this fund. The principal and any accrued interest in the fund shall be expended only as permitted by this article.
(Ord. of 6-28-99, § 4)

Sec. 7-125. Same—Distribution of funds.

The county council shall distribute the accommodations fees collected and placed in the Cherokee County Accommodations Fee Special Revenue Fund to be used for capital projects and the support of tourism and tourist services in a manner that will best serve the tourist from whom it was collected. It shall be the responsibility of the county council to ensure that any and all money expended from the Cherokee County Accommodations Fee Special Revenue Fund shall be spent to build and operate capital projects and to support tourism and tourists in a manner which will serve and attract tourists and benefit those tourists who regularly seek accommodations in the county.
(Ord. of 6-28-99, § 5)

Sec. 7-126. Inspections, audits and administration.

For the purpose of enforcing the provisions of this article, the compliance officer, finance officer, or other authorized agent of the county, is empowered to enter upon premises of any person subject to this article and to make inspections, examine and audit books and records. 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 false information has been filled by the remitter, the costs of the audit shall be added to the correct amount of fees determined to be due. All operational and administrative costs associated with the billing and collection of this accommodations fee will be charged to the special revenue fund. The compliance officer, finance officer, or other authorized agent of the county may make systematic inspections of all accommodations within the county to ensure compliance with this article. Records of inspections shall not be deemed public records.
(Ord. of 6-28-99, § 6)

Sec. 7-127. Violations and penalties.

It shall be a violation of this article to:

(1) Fail to collect the accommodations fee in connection with the rental of any accommodations to transients;

(2) Fail to remit to the county the accommodations fee collected, pursuant to this article on a monthly basis;

(3) Knowingly provide false information on the form of return submitted to the county;

(4) Fail to provide books and records to the compliance officer, finance officer, or other authorized agent of the county, for the purpose of an audit upon twenty-four-hour written notice.

The penalty for violation of this article shall be five (5) percent per month or any part thereof, charged on the original amount of the accommodations fee due, up to a maximum of one hundred (100) percent. Additionally, violators may be deemed guilty of a misdemeanor, subject to a five hundred dollar ($500.00) penalty for violation of this article. Each day a violation remains in effect shall constitute a separate violation of this article.
(Ord. of 6-28-99, § 7)

Secs. 7-128—7-138. Reserved.

ARTICLE IV. JUNK AND SALVAGE YARDS*

Sec. 7-139. Findings.

Cherokee County finds that junkyards:

(1) Pose a hazard to the health, safety, and general welfare of the citizens of Cherokee County;

(2) Depreciate the value of surrounding property;

(3) Pose environmental and fire hazards;

(4) Are a breeding ground for mosquitoes or other insects, snakes, rats and other pests;

(5) Pose a threat of injury to children and other individuals who may be attracted to the premises;

(6) Are a visual blight and patently offensive to the aesthetic quality of the environment of Cherokee County.

(Ord. No. 2008-20, 4-6-09)

Sec. 7-140. Purpose.

To preserve the physical integrity of established neighborhoods for the quiet enjoyment of family, safety of children, and the maintenance of residential property values; to protect the citizens and residents of Cherokee County from possible injury at junkyards; to achieve responsible economic growth in areas of Cherokee County that is compatible with growth and

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***Editor's note—**Ord. No. 2007-11, adopted Nov. 5, 2007, did not specifically amend the Code; hence, codification as Ch. 7, Art. IV, §§ 7-139—7-147 was at the discretion of the editor. Subsequently, Ord. No. 2008-20, adopted April 6, 2009, amended Art. IV, in its entirety, to read as herein set out. See also the Code Comparative Table.

development in nearby areas; to protect the public from health nuisances and safety hazards by controlling vectors, concentration of volatile or poisonous materials, and sources of danger to children and other individuals; and to preserve and enhance the natural scenic beauty of areas in the vicinity of the primary and secondary roads of Cherokee County, it is declared to be in the public interest of Cherokee County, and necessary and proper for the general welfare, convenience, safety and health of the people of the county, to regulate the operation and maintenance of junkyards in areas adjacent to public roads and highways within Cherokee County, including those regulated by the South Carolina Department of Highways and Public Transportation to the extent that this article is not in conflict with such regulations. Cherokee County Council hereby finds and declares that junkyards which do not conform to the requirements of this article are public nuisances.
(Ord. No. 2008-20, 4-6-09)

Sec. 7-141. Fencing and screening.

All junkyards shall be enclosed on all sides by one (1) of the following that shield the junkyards from view:

(1) A chain link fence with evergreen screening of an approved type; or

(2) Where evergreen screening is not possible, a chain link fence with vinyl strips or slats woven into the fence fabric may be used upon approval by the article administrator; or

(3) A wooden or masonry privacy fence; or

(4) Other type material which has been given approval by the ordinance administrator.
(Ord. No. 2008-20, 4-6-09)

Sec. 7-142. General requirements.

(a) Anchoring. All metal or wooden fence posts shall have at least one-fourth (1/4) of their length below ground level and shall be set in hard packed clay or concrete. All metal fence posts shall be treated with an anti-corrosive coating. All wooden posts shall be pressure treated lumber.

(b) All junkyard business shall be conducted entirely within the screened/fenced area of the property.

(c) No junk shall be stacked, stored or maintained at a height greater than the opaque screen/fence around the junkyard.

(d) Adequate off-street customer parking must be provided, and must be graveled or paved in an acceptable manner.

(e) If a junkyard closes, it must comply with the provisions of section 7-143 for new junkyards to re-open. Evidence of closing shall be established by inspection of the property, written notification or non renewal of a junkyard permit.

(f) Any person, company, business or corporation not covered by this article or exempted from this article shall comply with state statutory law regarding disposition of abandoned or derelict motor vehicles as provided by S.C. Code 1976, §§ 56-5-5610, 56-5-5810 et seq. and 44-67-10 et seq.

(g) All junkyards shall be maintained to protect the public from health nuisances, aesthetic distractions, and safety hazards. The Cherokee County Building Codes Department or Health Department may inspect each junkyard to determine that the junkyard does not create a nuisance, aesthetic distractions or safety hazard. Should a nuisance or safety hazard be identified, the owner, operator or maintainer shall submit satisfactory evidence to the health department and building codes department that the violation has been eliminated. Failure to comply with this provision shall result in revocation of permit as well as other penalties and remedies for violation of this article.
(Ord. No. 2008-20, 4-6-09)

Sec. 7-143. Operation of new junkyards.

The following standards shall be applicable to junkyards that open, reopen, or begin operations or business after November 5, 2007:

(1) New junkyards shall be situated on a continuous parcel of at least five (5) acres excluding rights-of-way that are undivided by road right-of ways or public dedication.

(2) Have a minimum front lot line of one hundred (100) feet on a public right-of-way frontage.

(3) Have a minimum setback to the fence from front, side and rear property lines excluding road rights-of-way of at least fifty (50) feet.

(4) No junkyard shall be established closer than one thousand (1,000) feet to a church, school, daycare center, nursing home, health care facility, hospital, public building, public or private recreation facility, a concentration of ten (10) or more contiguous residences, or closer than five hundred (500) feet from any single residence. An on-site residence at the junkyard by the owner or its agent is permitted. No junkyard shall be established closer than one thousand (1,000) feet of any S.C. Highway, U.S. Highway and Interstate 85.

(5) The junkyard shall be entirely surrounded by an opaque fence at least six (6) feet in height or by either a woven or welded wire (twelve-gauge minimum) or chain link fence a minimum of six (6) feet in height and with an opaque evergreen screen with a minimum height of not less than eight (8) feet when mature. The evergreen vegetation shall be planted between the property line and the outbound side of the fence. The distance spacing of the evergreen vegetation from the fence and the property line should allow for maintenance of the mature vegetation from inside the property line. Evergreen vegetation that serves as screening shall be of an approved type that can reach a minimum height of eight (8) feet when mature from the date planted and shall be planted at intervals evenly spaced and in close proximity to each other so that a

continuous, unbroken screen (without gaps or open spaces) will exist to a height of at least eight (8) feet along the length of the fence surrounding the junkyard. The evergreen screen shall be maintained as a continuous, unbroken screen for the period the property is used as a junkyard. Acceptable species include, but are not limited to, Ligustrum, Euonymous, Leyland Cypress, White Pine, Cedar, Arborvitae, Hemlock, and upright varieties of Junipers, Holly and Yew.

(6) Each owner, operator, or maintainer of a junkyard shall utilize good husbandry techniques by pruning, mulching, and fertilizing, so that the vegetation can reach a height of eight (8) feet within five (5) years of the date planted and will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

(7) A junkyard plan prepared by the owner or operator of any new junkyard shall be submitted prior to the junkyard permit being granted by Cherokee County. The plan shall indicate setbacks, location of public rights-of-way, all proposed structures, all structures within five hundred (500) feet of a junkyard, driveways, entrances, fencing, screening, types of fencing, types of screening, dimensions of junkyard, gross acreage, owner(s)' name(s), address(es), preparer of plan name(s) and address(es). Submission of information shall establish pre-existing conditions. Plan may be drawn at a scale of one (1) inch equals four hundred (400) feet or less.

(8) When, for reasons of topography, it is determined by the ordinance administrator that the fencing and screening requirements of the new junkyard will not produce a result that sufficiently shields the junkyard from view and otherwise preserves the policy and intent of this article, the following alternatives are available:

a. The junkyard may locate at the site if it's fenced boundaries are no closer than one thousand (1,000) feet to any adjacent residence; or

b. Topographic features shall be graded to adjacent roadway levels so that the provisions for fencing and screening can be effective; or

c. The developer of a junkyard may seek another site that is more suitable to junkyard development.

(Ord. No. 2008-20, 4-6-09)

Sec. 7-144. Permit required for junkyards.

(1) All junkyards are required to obtain a junkyard permit. Such permit shall be valid for the life of the operation, assuming it does not cease operation, from the date of issuance and will have to be inspected by county staff each year to maintain the original permit. A permit shall be issued by the building codes department upon completion of fencing and screening requirements. For junkyards established, opened, or re-opened after enactment of this article, the permit shall only be issued upon approval of a junkyard plan by the building codes department.

(2) The county may accept a letter-of-credit from any junkyard owner who is unable to plant an evergreen screen around a junkyard due to seasonal weather conditions. The junkyard owner is to obtain a letter-of-credit.

(3) No person shall establish, possess, open, re-open, own, enlarge, or operate a junkyard after the effective date of this article without complying with the provisions set forth herein.

(4) Any addition, enlargement or expansion of a junkyard shall require a permit and shall be permitted in accordance with this article as a new junkyard.

(5) Providing false or incorrect information on any application form, registration form, permit form or permit renewal form under this article shall constitute a misdemeanor. Any permit not containing the current mailing address of the permit holder or the current mailing address of the record owner of the parcel of land upon which the junkyard is located, is void. Any application form submitted by a lessee or tenant for a permit under this article shall contain the signature and current mailing address of the landlord, lessor, or record owner constituting an affirmation that the permit applicant is in fact a lessee or tenant of the landlord, lessor, or record owner of the parcel of land upon which the junkyard is located.
(Ord. No. 2008-20, 4-6-09)

Sec. 7-145. Exemptions.

Although the following are junkyards as defined by this article and are subject to the provisions of this section, the following limited exemptions are granted:

(1) A recycling center is a facility where recoverable resources such as paper, plastic, glass and metal cans are collected, flattened, crushed, shredded or bundled for shipment to others who will use those materials to manufacture new products. Recycling centers shall not have outside storage of material except in closed containers. Recycling centers will be exempt from the requirement of section 7-143(1) and section 7-144. Recycling centers shall have a two-acre minimum lot size. All other provisions of this section shall apply including the fencing and anchoring requirement of section 7-142.

(2) Service stations are exempt from section 7-143 and section 7-144 of this article. All other provisions of this article shall apply. A service station is any establishment or place of business which provides retail sales of fuel, lubricants, air, water or other items for the operation or maintenance of motor vehicles or for making mechanical repairs, servicing or indoor washing of motor vehicles.

(3) Properly licensed sanitary landfills are exempt from these provisions.

(4) Wrecker, towing and impoundment services, as defined herein, are exempt from the five (5) acre requirement of section 7-143(1) under this article. All other provisions of this article shall apply including the fencing and anchoring requirement of section 7-141. A wrecker, towing or impoundment service is any establishment or place of business which provides towing or temporary storage services of no more than twenty-five (25) currently licensed and currently registered motor vehicles which have been wrecked, or whose possession is by virtue of court order, a copy of which is in the

possession of the proprietor of such service or affixed to the vehicle. Temporary storage is defined as not exceeding ninety (90) days from the date possession or custody of the vehicle is obtained except when possession is pursuant to a court order.

(Ord. No. 2008-20, 4-6-09)

Sec. 7-146. Non-conforming junk/salvage yards.

It is anticipated that some junkyards lawfully established prior to the effective date of the "junkyard ordinance," may be "grandfathered" to continue as a non-conforming use and be maintained and operated subject to the requirements stated in this article.

(1) *Requirements for protection as a non-conforming junkyard.*

a. The junkyard must have actually been lawfully in existence on the effective date of applicable law or regulation passed and must continue to be lawfully maintained.

b. A non-conforming junkyard which is enlarged, extended, changed in use or location shall not continue as a non-conforming junkyard, but shall, for the purpose of these regulations, be treated as a new junkyard. All provisions of this article shall apply.

c. A non-conforming junkyard which is abandoned, destroyed, or voluntarily discontinued shall not thereafter be continued in use.

(2) *Control measures.*

a. Existing junk yards that wish to continue their non-conforming use status after the effective date of this article need to provide evidence that any part of the junk yard that fronts on a public road or highway will be screened from the public right-of-way to ensure it is completely shielded from the roadway. The frontage of the property must be enclosed within a building, fence, screen planting or other device that screens the operations of the junk yard from the public right-of-way. Upon approval of such plans, the junk yard shall be considered a legal conditional use and shall be subject to conditions, permits, reviews and all procedures set forth in section 7-141, 7-142, and 7-144.

b. Any non-conforming junkyard will be screened in accordance with the standards and criteria for effective screening set forth in these regulations. For non-conforming junkyards, the owner/operator responsible will have two (2) years to have an approved screening in place along the property frontage facing the public right-of-way.

c. The evergreen vegetation shall be planted between the property line and the outbound side of the fence. The distance spacing of the evergreen vegetation from the fence and the property line should allow for maintenance of the mature vegetation from inside the property line. Evergreen vegetation that serves as screening shall be of an approved type that can reach a minimum height of eight (8) feet when mature from the date planted and shall be planted at intervals

evenly spaced and in close proximity to each other so that a continuous, unbroken screen (without gaps or open spaces) will exist to a height of at least eight (8) feet along the length of the fence surrounding the junkyard. The evergreen screen shall be maintained as a continuous, unbroken screen for the period the property is used as a junkyard. Acceptable species include, but are not limited to, Ligustrum, Euonymous, Leyland Cypress, White Pine, Cedar, Arborvitae, Hemlock, and upright varieties of Junipers, Holly and Yew.

d. Plans for the screening device shall be approved by the ordinance administrator before it is erected or put into place.

(Ord. No. 2008-20, 4-6-09)

Sec. 7-147. Definitions.

As used in this chapter:

(1) *Junk.* The term "junk" shall include, but not be limited to abandoned barrels or drums, dismantled or inoperable industrial or commercial equipment or machinery being salvaged for parts, vacant/abandoned mobile homes, and the following old, scrap, or used items: metal; rope; rags; batteries; paper; cardboard; plastic; rubber; pallets; appliances; motors; industrial or commercial fixtures; rubbish; debris; wrecked, dismantled or disabled motor vehicles or parts thereof.

(2) *Junkyard.* The term "junkyard" shall mean an establishment which is used in part or in whole for storing, keeping, buying or selling of items defined as "junk." This includes "scrap processors" which is defined below. For the purpose of this article, properly licensed sanitary landfills are exempt.

(3) *Scrap processor.* The term "scrap processor" shall mean any person, firm or corporation engaged only in the business of buying scrap iron and metals, including, but not limited to, old automobiles, for the specific purpose of processing into raw material for remelting purposes only, and whose principal product is ferrous and nonferrous scrap for shipment to steel mills, foundries, smelters and refineries, and maintaining an established place of business in this state and having facilities and machinery designed for such processing.

(4) *Fence.* The term "fence" shall mean a six-foot tall chain link or wooden fence which forms a substantial physical barrier which is capable of withstanding the effects of the local climate and which completely surrounds the items defined as "junk." other fencing materials may be approved by the ordinance administrator.

(5) *Evergreen screening.* The term "evergreen screening" shall mean evergreen trees or shrubs with a minimum height of not less than six (6) feet when mature. Acceptable species include, but are not limited to, Ligustrum, Euonymous, Leyland Cypress, White Pine, Cedar, Arborvitae, Hemlock, and upright varieties of Juniper, Holly and Yew. Other species may be approved by the ordinance administrator.

(6) *Visual screen.* The term "visual screen" shall mean a static barrier which shields the junkyard from view. The visual screen shall extend from the ground to a height of six (6) feet and shall completely enclose the junkyard. Not more than twenty-five (25) percent of the vertical surface shall be open to allow the passage of air, but any such openings shall be designed to obscure visibility.

(Ord. No. 2008-20, 4-6-09)

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Chapter 8

COUNTY UTILITIES AND SERVICES

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ARTICLE I. IN GENERAL

Secs. 8-1—8-19. Reserved.

ARTICLE II. WASTEWATER DISPOSAL*

Sec. 8-20. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

Delegate agency means an agency of local government authorized by the county council to discharge its responsibilities under this article for and on behalf of the council. All such delegated actions by the delegate agency are subject to review by the council.

Franchise area assignment means a grant by the county council to a person or agency to provide a wastewater treatment service under this article within a particular portion of the unincorporated areas of the county.

Municipal system means a wastewater treatment utility system owned and operated by a municipality located within the county.

Person, as defined in section 1-2, means specifically including any individual, group of individuals, company, partnership, corporation, or type of organization of any kind or any political subdivision or special purpose district.

Plant location permit means a permit approving the location of a wastewater treatment plant or facility granted on behalf of the county council by its delegate agency, after due

*__State law reference—__Sewage collection, etc., S.C. Code 1976, §§ 6-15-10 et seq., 44-55-1410 et seq.

consideration of the public safety and proper land use in relation to the potential water pollution effects when coordinated with the state board of health and environmental control.

Public streets means any public street, road, easement or right-of-way, whether established by formal action or general acceptance and those easements and right-of-ways that may be established or developed for public use, access or maintenance, where such action is in accordance with this Code of Ordinances.

Unincorporated areas means all the land area of the county except:

(1) Areas within municipal jurisdictions;

(2) Areas outside of municipal jurisdictions which are currently provided wastewater treatment services by a municipality; and

(3) Areas assigned for wastewater treatment services to special purpose districts or public service corporations.

Wastewater treatment utility system means any facility operated for the purpose of the collecting, treating or disposing of sanitary sewage from five (5) or more consumer units, which may include package plants, interceptors, lift stations and permanent plants.
(Ord. of 1-23-79, § 2.1)

Sec. 8-21. Purpose.

The county council finds it necessary and proper to exercise its power to grant assigned-service areas in the unincorporated areas of the county in order to provide for the orderly control of services and utilities affected with the public interest and to guide the process of locating public and private treatment facilities. The services and utilities to be controlled shall be limited to wastewater treatment facilities.
(Ord. of 1-23-79, § 1.1)

Sec. 8-22. Grant of assigned-service areas authorized.

The county council may grant assigned-service areas for use of the public streets to provide for the orderly control of wastewater treatment utility systems in the unincorporated areas of the county.
(Ord. of 1-23-79, § 3.1)

Sec. 8-23. Grant of assigned service area exemptions authorized.

The county council may grant assigned-service area exemptions for use of the public streets to provide for the orderly control of wastewater treatment utility systems in the unincorporated areas of the county. Those systems in place and operating upon adoption of the ordinance from which this section is derived shall be eligible to receive exemption, but said exemption shall not apply to future extensions or expansions of said systems.
(Ord. of 1-23-79, § 3.2)

Sec. 8-24. Grant of assigned service area or exemption prerequisite to use of streets.

No person shall use the public streets within the unincorporated areas of the county for the purpose of operating a wastewater treatment utility system without having been granted

an assigned-service area or assigned-service area exemption by the county council for that purpose.
(Ord. of 1-23-79, § 4.1)

Sec. 8-25. Charges for grant of area authorized.

The county council shall make charges for the granting of an assigned-service area pursuant to this article according to a prepared rate schedule.
(Ord. of 1-23-79, § 4.2)

State law reference—Authority to levy service charges, S.C. Code 1976, § 4-9-30(5).

Sec. 8-27. Plant location permits authorized; applicability.

The county council may grant plant location permits for the unincorporated areas of the county after due consideration of the public health, land use and water pollution effects for all public and private wastewater treatment plants or facilities, except such plants and facilities existing in the county upon adoption of the ordinance from which this section is derived. Such permits shall be applicable to all public or private plants or facilities not then existing.
(Ord. of 1-23-79, § 3.3)

Sec. 8-28. Grant of permits exclusive; period as specified.

Plant location permits granted pursuant to this article will be exclusive and shall be granted for periods of time as hereinafter set forth.
(Ord. of 1-23-79, § 4.5)

Sec. 8-29. Grants nontransferable; change of ownership requires application.

(a) Assigned-service areas and location permits granted pursuant to this article are not transferable, and any change in ownership or majority stockholders when applicable, requires the application as provided in this article.

(b) Service areas granted pursuant to this article are not transferable except as herein provided for the designation of service areas or the issuance of assigned service areas as provided herein.
(Ord. of 1-23-79, §§ 4.6, 5.3)

Sec. 8-30. Establishing of regulations and procedural requirements.

The county council and its delegate agency shall establish the regulations and procedural requirements for the granting of an assigned-service area or assigned-service area exemption and location permits granted pursuant to this article, and a copy of same shall be maintained by the clerk for public inspection.
(Ord. of 1-23-79, § 4.3)

Sec. 8-31. Accommodating municipal systems within area.

The county council may designate an unincorporated area contiguous to a municipality as a municipal service area for the purpose of accommodating municipally owned and operated wastewater treatment utility systems within the area.
(Ord. of 1-23-79, § 5.1)

State law reference—Contract with municipalities for services, S.C. Code 1976, § 4-9-40.

Sec. 8-32. Designation of area to be by contract.

The designation of a service area shall be done by contract between the delegate agency and the person involved. The contract shall set out the geographic area to be designated and the mutually agreed upon terms and shall include an appropriate map of the areas to be assigned. Designation of a service area may provide for exclusive or nonexclusive use.
(Ord. of 1-23-79, § 5.2)

Sec. 8-33. Applications—For area or exemption.

Those persons desiring to establish a service area or to obtain an assigned-service area or assigned-service area exemption for the purpose of developing, establishing, and/or operating a wastewater treatment utility system in the unincorporated areas of the county shall make written application, upon forms provided by the county, to the delegate agency.
(Ord. of 1-23-79, § 6.1)

Sec. 8-34. Same—To construct or locate a treatment facility.

Those persons desiring to construct or locate a wastewater treatment facility shall make written application, upon forms provided by the county, to the delegate agency.
(Ord. of 1-23-79, § 6.2)

Sec. 8-35. Same—Consideration.

Consideration of applications for service areas or plant locations shall be as provided in the Code of Ordinances. The delegate agency, in its deliberations on the application, shall take into consideration, but not limited to, the following:

(1) Need for service;

(2) Ability of applicant to provide service in an effective and satisfactory manner;

(3) Public health, welfare and safety of the residents of the area;

(4) Economic impact on the area and the county as a whole;

(5) Most feasible means of providing service;

(6) General background and record of applicant.

(Ord. of 1-23-79, § 6.3)

Sec. 8-36. Same—Coordination with state as to plant location permits.

All applications for plant location permits shall be coordinated with the state board of health and environmental control and its actions in consideration of issuing state permits for construction of such plants.
(Ord. of 1-23-79, § 6.4)

Sec. 8-37. Same—Informing the council.

All approved applications shall be held pending county council's review for a period of fifteen (15) days following issuance during which period the council may request a meeting with the applicant and delegate agency for the purpose of informing the council on the matter.
(Ord. of 1-23-79, §s 6.6)

Sec. 8-38. Same—Approval by federal and state agencies.

Final approval of all applications is subject to approval by all relative federal and state agencies. but approval by said agencies does not imply approval by the county.
(Ord. of 1-23-79, § 6.6)

Sec. 8-39. Delegation of implementation and operational responsibilities.

For the purposes of this article, the county council delegates the implementation and operational responsibilities to the following agencies, subject to council's review:

(1) Assignment of service areas, to Gaffney Board of Public Works and Town of Blacksburg;

(2) To plant location permits to Gaffney Board of Public Works and the Town of Blacksburg.

(Ord. of 1-23-79, § 7.1)

Sec. 8-40. Hearing on application for license to create site for disposal of industrial waste..

Upon receipt from the state department of health and environmental control or its successor of notice of application for license to create a site for the disposal of any industrial waste and prior to the issuance of a license, a public hearing shall be held in the county in conjunction with the county council.
(Res. of 1-11-77)

Secs. 8-41—8-49. Reserved.

ARTICLE III. SOLID WASTE DISPOSAL*

Sec. 8-50. Decal—Required, exception; cost; period; color code.

(a) All users of the landfill are required to obtain an annual decal for each vehicle at a cost of ten dollars ($10.00) per decal per vehicle. Each decal would only allow a particular vehicle entry into the landfill on a calendar year basis. Sanitation vehicles of Cherokee County, Blacksburg and Gaffney would obtain and display a green decal annual y All other users would have to obtain a blue decal annually and the user volume charges.

(b) The only exception allowed to subsection (a) will be for residential households. Households disposing of "personal household waste" are not required to have a decal or pay a fee for disposal of such wastes.
(Ord. of 8-2-88, §1(1), (2))

Sec. 8-51. Same—Preparation of forms; applications.

The superintendent of public works for Cherokee County is hereby authorized to prepare forms for obtaining the decals. One application can be used to obtain decals for a multiple vehicle fleet. The application shall contain the following information:

(1) Name of applicant showing legal identity;

(2) Legal address of applicant;

(3) A list and description of all vehicles to be used in the collection of wastes that may appear at the county landfill for the disposal of wastes. License tag numbers of each vehicle shall be required;

(4) A description of the type origin and volume of wastes carried to the county landfill for disposal.

(Ord. of 8-2-88, § 2(1))

Sec. 8-52. Same—Placement.

The decal shall be displayed in the upper left hand top corner of the vehicle windshield, or in the case of a detachable trailer, on the front left hand side of the trailer. The decal must be replaced in the event it becomes damaged beyond recognition.
(Ord. of 8-2-88, § 2(2))

***Editor's note**—Ord. of Aug. 2, 1988, §§ 1, 2, did not specifically amend the Code, hence inclusion herein as §§ 8-50—8-58.1, as superseding former §§ 8-50—8-58, was at the discretion of the editor. Former §§ 8-50—8-58, which pertained to solid waste disposal, derived from Ord. of Feb. 11, 1986, §§ 1(1) (4), 2(1)—(6). For a detailed analysis of inclusion of said Ord. of Aug. 2, 1988, see the Code Comparative Table.

Cross reference—Litter control, § 12-30 et seq.

State law reference—Solid waste collection and disposal, S.C. Code 1976, §§ 44-67-10 et seq., 44-55-1210 et seq.

Sec. 8-53. Identification of capacity of trailer or vehicle.

All vehicles or trailers brought to the landfill for the purpose of disposal of wastes shall clearly indicate the cubic yard capacity.
(Ord. of 8-2-88, § 2(3))

Sec. 8-54. Landfill charges—User volume.

User volume charge for users who are required to have decals, for wastes requiring normal handling, shall be as follows:

Municipal solid waste, per ton	$ 36.50
Minimum charge	12.00
Construction and demolition materials, per ton	25.00
Minimum charge (commercial)	12.00

Any change of rates set forth in this section shall be by resolution.
(Ord. of 8-2-88, § 1(3); Ord. of 6-4-91, § 1; Ord. of 3-8-94; Ord. of 6-27-95; Ord. of 8-20-96; Ord. of 10-21-97, § 1; Ord. of 9-8-98, § 1; Res. of 6-25-01)

State law reference—Authority to levy service charges, S.C. Code 1976, 4-9-30(5).

Sec. 8-55. Same—Special handling.

(a) Solid wastes that require special handling, such as having to be covered immediately with dirt, requiring extra care of effort, etc., are to be charged a special handling fee to compensate the county for the extra work, time and costs necessary to handle these wastes. In all cases, any wastes requiring handling have to be approved by DHEC, where necessary and as required, before disposal in the county landfill. The special handling fees are as follows:

CRT's, televisions, video game machines	$ 10.00
Asbestos, other special wastes, per ton	49.00
Minimum charge	49.00

(Ord. of 8-2-88, § 1(5); Ord. of 6-4-91, § 1; Ord. of 3-8-94; Ord. of 10-21-97, § 1; Res. of 6-25-01)

Sec. 8-56. Same—Purchase of landfill tickets.

Cherokee County Council directs that landfill tickets in the appropriate and specific fee denominations as included in this article be prepared and offered for sale at convenient locations as the council sees fit and that before the effective date of this article, appropriate steps be taken to inform the public of the changes.
(Ord. of 8-2-88, § 2(4))

Sec. 8-57. Authority of landfill operator.

The operator in the landfill is hereby given authority to determine in his sole discretion the following:

(1) Capacity of vehicles or trailers that are not clearly marked as to cubic yard capacity;

(2) Can refuse entry of vehicles or trailers not displaying the required decals;

(3) Can increase cubic yard charges for vehicles with side extensions;

(4) Imposition of special handling fees for and load;

(5) Who is a citizen disposing of "personal household waste";

(6) Other determinations not specifically covered as the need arises.
(Ord. of 8-2-88, § 2(5))

Sec. 8-58. Prohibited activities at landfill.

(a) No money will be handled at the landfill site. Payment shall only be made in the form of landfill tickets.

(b) Hazardous material wastes requiring special handling will not be permitted in the Cherokee County Landfill.

(c) Only wastes generated by businesses, industries, governments and individuals in Cherokee County can be disposed of at the Cherokee County Landfill.
(Ord. of 8-2-88, § 2(6))

Sec. 8-58.1. Commercial/retail solid waste collection fees.

(a) [Commercial/retail solid waste collection charges, based on number of pickups per week and size, shall be as follows:]

Number of Pickups Per Week	*Size*	*Charge*
1	2 yd.	$ 30.00
2		62.00
3		84.00
4		116.00
1	4 yd.	$ 68.00
2		88.00
3		112.00
4		128.00
1	6 yd.	$ 88.00
2		112.00
3		128.00
4		150.00
1	8 yd.	$112.00
2		128.00
3		150.00
4		165.00

(b) [Commercial/retail solid waste collection charges, for ninety-gallon rollout containers, shall be as follows:]

One (1) container	$ 20.00
Two (2) containers	35.00
Three (3) containers	60.00
Four (4) containers	80.00
Over four (4) containers per month, each	20.00

Containers shall be picked up once a week.
(Ord. of 10-21-97, § 2)

Editor's note—An ordinance of Aug. 20, 1996, repealed § 8-58.1, pertaining to fees for retail/commercial establishments, as derived from an ordinance of Aug. 2, 1988, § 1(4). Section 2 of an ordinance of Oct. 21, 1997, enacted similar new provisions as § 8-58.1.

Sec. 8-59. Containers—Location.

(a) All residential waste containers are required to be at roadside adjacent to or within the right-of-way as allowed by state and county laws. The only exception made to this subsection will be that the handicapped or elderly may continue to receive backyard type service upon notification and request to the sanitation department. The decision to grant this exception will be made by the superintendent of public works, the pollution officer, or their designee, based on the legal or standard definitions of handicapped or elderly.

(b) If the location of the containers presents a potential safety hazard by vehicular traffic, in any way, to the collection personnel or equipment, or to the vehicular traffic, the superintendent of public works, the pollution officer, or their designee will meet with the resident and agree on a new safe location for the containers.
(Ord. of 12-18-84, §§ 1—3)

Sec. 8-60. Same—Size; number.

For residential and business collections by the county, the county council hereby establishes a limit on the number of particular sized containers for specific users before requiring them to acquire larger containers. The specific quantity limits for all containers is a maximum of eight (8). Any residence or business with more than eight (8) containers will be required to obtain a dumpster.
(Ord. of 12-18-84, § 4)

Sec. 8-61. Roadside waste containers.

(a) *Purpose.* The purpose of this section is to regulate the use of roadside waste containers located at any Cherokee County Landfill or at such other locations the county may designate; to prevent the dumping of unauthorized waste materials and/or the dumping of waste materials by unauthorized parties in any roadside waste container and at any county landfill; and to prevent all persons from scavenging and rummaging in and/or removing any material(s) from any county landfill and/or roadside waste container.

(b) *Authority.* This section is adopted pursuant to authorization conferred by § 4-9-30 S.C. Code Ann., 1976 as amended, which authorizes the county to enact laws to protect the health, safety and welfare of its citizens and the general public.

(c) *Jurisdiction.* This section shall be applicable within the unincorporated areas of Cherokee County, South Carolina, now existing or hereafter established.

(d) *Definitions.*

(1) *Household garbage* shall mean all putrescible animal and vegetable waste, paper, tin cans, glass, plastic containers and the like.

(2) *Commercial waste.* All other waste including but not limited to appliances, industrial waste, trees or brush and the like.

(3) *Roadside waste container.* Any large container placed by the county at the county landfill or such location as the county may elect for the purpose of receiving and holding household waste.

(e) *Use of containers.* Roadside waste containers shall be used only for the disposal of household garbage. It shall be unlawful for any person to deposit commercial waste in said containers or to deposit, dispose of or abandon any waste upon the ground surrounding any such container.

(f) *Licenses and permits.* All private collectors who collect or transport household waste or other waste within the county must first obtain a collectors license from the Cherokee County Solid Waste Department and pay all fees, charges, assessments and the like which the county may from time to time require. No person or licensed collector shall dispose of any waste in any roadside waste container(s) or any Cherokee County sanitary landfill that has been collected and transported from any county other than Cherokee County without first obtaining a special permit from the Cherokee County Solid Waste Department and paying all fees, charges, assessments and the like which the county may from time to time require. Nonresidents of Cherokee County shall not be permitted use of roadside waste containers or any Cherokee County sanitary landfill without first obtaining a special permit from Cherokee County Solid Waste Department and paying all fees, charges, assessments and the like which the county may from time to time require.

(g) *Additional prohibited activity.* It shall be unlawful for any person to loiter around and/or search, probe, scour, rummage or scavenge in any roadside waste container or upon any land designated as a county sanitary landfill site or to remove any materials therefrom.

(h) *Penalties.* Any person violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars ($200.00) for each offense or imprisoned for each offense for a period not to exceed thirty (30) days, or both.

(i) *Enforcement.* This section may be enforced by any local, state or federal law enforcement officer. It may also be enforced by any party or parties designated as enforcement officer(s) by the Cherokee County Department of Public Works.
(Ord. of 3-18-97, §§ 1—9)

Editor's note—An ordinance of Mar. 18, 1997, did not specifically amend the Code; hence, inclusion of §§ 1—9 of such ordinance as § 8-61 was at the discretion of the editor.

Secs. 8-62—8-75. Reserved.

ARTICLE IV. 911 TELEPHONE SYSTEM*

Sec. 8-76. Findings.

(a) It is the desire of the county council to shorten the time and to simplify the method required for a resident of the county to request and to receive emergency aid.

(b) It is the further intent of the county council to maintain the Cherokee County Emergency 911 Telephone System throughout the legally bounded areas of Cherokee County, as provided by the S.C. Code of Public Law, Chapter 47, as amended October 1, 1991, §§ 23-47-10 through 23-47-80.

(c) It is the further intent of the county council to provide funding by which to allow operation, maintenance and enhancements of E 911 by levying a monthly charge of eighty-nine cents ($0.89) upon each local exchange access facility subscribed by telephone subscribers whose local exchange access lines are in the area served by or which would be served by the E 911 service and/or system of Cherokee County.
(Ord. of 6-25-93, § 1)

Sec. 8-77. General requirement.

(a) The Cherokee County 911 System is the enhanced system type and shall fully comply with all specified requirements of the S.C. Code 1976, §§ 23-47-10 through 23-47-80.

(b) The county department of communications/E 911 is charged with the responsibility of maintaining the data base, managing the county E 911 system, providing guidance, support and assistance, as needed, to the municipalities, the sheriff's office, the county EMS, all county fire districts and other public safety agencies, as may be appropriate.

***Editor's note**—Although Ord. of June 25, 1993, did not specifically adopt these sections, it has been included as article IV of the Community Utilities and Services, Ch. 8, at the discretion of the editor.

State law reference—Funding provided for E 911 system, S.C. Code 1976, Tit. 23, ch. 47.

(c) An emergency telephone system fund shall be established in an interest bearing account by the county treasurer. The requirements and limitations in the S.C. Code 1976, §§ 23-47-10 through 23-47-80 shall apply.
(Ord. of 6-25-93, § 2)

Sec. 8-78. E 911 service fee, billing and collection.

(a) The E 911 service fee shall include charges as may be required by the service supplies and agreed upon by the county and such charges for support, planning, operation and current or future enhancements as required by the county and outlined in S.C. Code 1976, §§ 23-47-10 through 23-47-80.

(b) A monthly charge shall be levied upon each local exchange access facility subscribed to by telephone subscribers whose local exchange access lines are in the area served by or which would be served by the 911 service and/or system of the jurisdiction of the county as provided for in this article, in amounts permitted pursuant to S.C. Code 1976, § 23-47-50, and subject to approval by the Division of Information Resource Management of the South Carolina Budget and Control Board, provided that the amounts of such levy shall be set forth precisely in each annual, or supplemental budget ordinance as appropriate, together with a provision providing that such charges were a tax enforceable under S.C. Code 1976, § 23-47-50(B). Said E 911 service fee rate shall include funding for only such expenses and costs as are authorized under provisions of S.C. Code 1976, § 23-47-40(A), (B) and (D), as may be approved by the county council attendant to the normal adoption of the county's ordinary and capital budgets. Said budget shall clearly delineate the estimated E 911 service fee revenue and the associated expense, and sources of revenue and authorized expenses from sources other than the E 911 service fee, by budget account and line item/object.

(c) The E 911 service fee shall be uniform and not vary according to the type of local exchange access.

(d) Coin operated telephones are toll free for 911 calls, but certain locations, such as detention centers or institutions may be denied access to 911 at the discretion of the responsible director and the E 911 director. Other coin operated telephones where it can be clearly justified as not being in the public interest to continue or have access to 911 may also be denied such access.

(e) The service supplier shall remit to the county E 911 service fee collections within forty-five (45) calendar days following the end of the month of collection of such funds and, upon receipt of a monthly bill from the service supplier, the county will remit payment.

(f) An audit and budget reconciliation shall be conducted annually. The audit shall comply with the requirements of the S.C. Code 1976, § 23-47-50(E).
(Ord. of 6-25-93, § 3)

Sec. 8-79. Accounting and management.

(a) As provided in S.C. Code 1976, § 23-47-50(C), the county is responsible for the collection of delinquent accounts having access to the E 911 system. The E 911 director shall cause procedures to be established with the service supplier for the identification of such accounts and the service supplier shall forward such information to the appropriate authority for collection procedures.

(b) The E 911 director is responsible within Cherokee County for the administration of this article and S.C. Code 1976, §§ 23-47-10 through 23-47-80.
(Ord. of 6-25-93, § 4)

Sec. 8-80. Addressing and road names.

All road naming activity shall be coordinated with the county department of communications/E 911. Public safety is of the highest priority and road names contribute significantly to the efficiency of the emergency response system.
(Ord. of 6-25-93, § 5)

Sec. 8-81. Penalties.

Any person who shall violate any provision of this ordinance, including the provisions of S.C. Code 1976, Tit. 23, Ch. 47, shall be deemed to be guilty of a misdemeanor and, upon conviction of such offense, shall be fined not more than two hundred dollars ($200.00) or imprisoned for not more than thirty (30) days, and in addition, shall pay all costs and expenses involved in the case. Each and every day or portion thereof during which any violation continues shall be considered a separate offense.
(Ord. of 6-25-93, § 6)

Secs. 8-82—8-100. Reserved.

ARTICLE V. FLOOD DAMAGE PREVENTION*

DIVISION 1. GENERAL STANDARDS

Sec. 8-101. Statutory authorization.

County. The Legislature of the State of South Carolina has in S.C. Code of Laws, Title 4, Chapters 9 (Article 1), 25, and 27, and amendments thereto, delegated the responsibility to

*__Editor's note—__Ord. No. 2009-16, adopted Oct. 5, 2009, repealed the former art. V, §§ 8-101—8-110, 8-121, 8-122, 8-131—8-134, 8-141—8-145, 8-151—8-158, and 8-161—8-165, and enacted new provisions as set out herein. The former art. V pertained to similar subject matter and derived from an ordinance adopted Nov. 3, 2003.

local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Council of Cherokee County, South Carolina does ordain as follows.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-102. Findings of fact.

The special flood hazard areas of Cherokee County 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.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-103. Statement of purpose and objectives.

It is the purpose of this article 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 article prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

The objectives of this article 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 article 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 article 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 that evaluate resource conditions and human needs.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-104. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of Cherokee County as identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study, dated July 2, 1981, with accompanying maps and other supporting data that are hereby adopted by reference and declared to be a part of this article.

Upon annexation any special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in its flood insurance study for the unincorporated areas of Cherokee County, with accompanying map and other data are adopted by reference and declared part of this article.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-105. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-106. Compliance.

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-107. Interpretation.

In the interpretation and application of this article 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 article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions, shall prevail.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-108. Partial invalidity and severability.

If any part of this article is declared invalid, the remainder of the article shall not be affected and shall remain in force.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-109. Warning and disclaimer of liability.

The degree of flood protection required by this article 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 manmade or natural causes. This article 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 article shall not create liability on the part of Cherokee County or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-110. Penalties for violation.

Violation of the provisions of this article 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 article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars ($500.00) or imprisoned for not more than thirty (30) days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent Cherokee County from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. No. 2009-16, 10-5-09)

Secs. 8-111—8-120. Reserved.

DIVISION 2. DEFINITIONS

Sec. 8-121. General.

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

Accessory structure. Structures that are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building). An extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction regardless as to whether the addition is a substantial improvement or not. Where a firewall or load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

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 article.

Appeal. A request for a review of the local administrator's interpretation of any provision of this article.

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 (1) to three (3) 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.

Area of special flood hazard. The land in the floodplain within a community subject to a one (1) percent or greater chance of being equaled or exceeded in any given year.

Base flood (or base flood elevation, BFE). The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement. Any enclosed area of a building that is below grade on all sides.

Building. Any structure built for support, shelter, or enclosure for any occupancy or storage.

Coastal high hazard area. An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to velocity wave action from storms or seismic sources.

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.

Development. Any manmade 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.

Elevated building. A nonbasement 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.

Executive Order 11988 (floodplain management). Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

Existing construction. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date.

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 November 3, 2003.

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).

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.

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.

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.

Flood insurance study. The official report provided by the Federal Emergency Management Agency which contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Flood-resistant material. Any building material capable of withstanding direct and prolonged contact (minimum seventy-two (72) hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, "Flood Damage-Resistant Materials Requirements," dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

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 (1) foot.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that

could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

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.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

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.

Increased cost of compliance (ICC). Applies to all new and renewed flood insurance policies effective on and after June 1, 1997. The NFIP shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under section 1361. It

provides coverage for the payment of a claim to help pay for the cost to comply with state or community floodplain management laws or ordinances after a flood event in which a building has been declared substantially or repetitively damaged.

Limited storage. An area used for storage and intended to be limited to incidental items that can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood-resistant or breakaway material, void of utilities except for essential lighting and cannot be temperature controlled. If the area is located below the base flood elevation in an A, AE and A1—A30 zone it must meet the requirements of subsection 8-141(4) of this article. If the area is located below the base flood elevation in a V, VE and V1—V30 zone, it must meet the requirements of section 8-146 of this article.

Lowest adjacent grade (LAG). An elevation of the lowest ground surface that touches any of the exterior walls of a building or proposed building walls.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

Manufactured home. A structure, transportable in one (1) 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".

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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 article, the term is synonymous with National Geodetic Vertical Datum (NGVD).

National Geodetic Vertical Datum (NGVD). As corrected in 1929, elevation reference points set by National Geodetic Survey based on mean sea level.

North American Vertical Datum (NAVD). Datum point established at Pointe-au-Pere on the St. Lawrence River, Quebec Province, Canada, based on the mass or density of the earth. The datum listed as the reference datum on flood insurance rate maps should be used for elevation certificate and floodproofing certificate completion.

New construction. Structure for which the start of construction commenced after (the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date). The term also includes any subsequent improvements to such structure.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are

to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or before November 3, 2003.

Primary frontal dune. A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and subject to erosion and overtopping from high tides and waves during coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Recreational vehicle. A vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (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.

Repetitive loss. A building covered by a contract for flood insurance that has incurred flood-related damages on two (2) occasions during a ten-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 twenty-five (25) percent of the market value of the building at the time of each such flood event.

Section 1316 of the National Flood insurance Act of 1968. The act provides that no new flood insurance shall be provided for any property found by the Federal Emergency Management Agency to have been declared by a state or local authority to be in violation of state or local ordinances.

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 one hundred eighty (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.

Structure. A walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other manmade facility or infrastructure that is principally above ground.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Such repairs may be undertaken successively and their costs counted cumulatively. Please refer to the definition of "substantial improvement".

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project of improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions (does not include American with Disabilities Act compliance standards);

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure;

(c) Permits shall be cumulative for a period of five (5) 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.

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

Variance. A grant of relief from a term or terms of this article.

Violation. The failure of a structure or other development to be fully compliant with these regulations.
(Ord. No. 2009-16, 10-5-09)

Secs. 8-122—8-130. Reserved.

DIVISION 3. ADMINISTRATION

Sec. 8-131. Designation of local administrator.

The building official is hereby appointed to administer and implement the provisions of this article.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-132. Adoption of letter of map revisions (LOMR).

All LOMRs that are issued in the areas identified in section 8-104 of this article are hereby adopted.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-133. Designation of party responsible for biennial report.

The building official is hereby designated as the party responsible to submit the biennial report to FEMA.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-134. Development permit and certification requirements.

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

(a) A plot plan that shows the one hundred-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either the duties and responsibilities of the local administrators of subsection 8-135(11), or the standards for subdivision proposals of section 8-152, and the standards for streams without estimated base flood elevations and/or floodways of section 8-143. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either the duties or responsibilities of the local administrators of section 8-135(11), or the standards for subdivision proposals of section 8-142(13), and the standards for streams without estimated base flood elevations and/or floodways of section 8-143.

(b) Where base flood elevation data is provided as set forth in section 8-104 or the duties and responsibilities of the local administrators of subsection 8-135(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 subsection 8-142(2), the elevation (in relation to mean sea level) to which the structure will be floodproofed.

(c) Where base flood elevation data is not provided as set forth in section 8-104, or the duties and responsibilities of the local administrators of subsection 8-136(11), then the provisions in the standards for streams without estimated base flood elevations and/or floodways of section 8-143, must be met.

(d) Alteration of watercourse. Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation, an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream, and a map showing the location of the proposed watercourse alteration or relocation.

(2) *Certifications.*

(a) Floodproofing 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 the non-residential construction requirements of subsection 8-142(2).

(b) Certification during construction. A lowest 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 survey or professional engineer and certified by it. Any work done prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(c) V-zone certification. When a structure is located in zones V, VE, or V1—30, certification shall be provided from a registered professional engineer or architect, separate from submitted plans, that new construction or substantial improvement meets the criteria for the coastal high hazard areas outlined in subsection 8-146(5).

(d) As-built certification. Upon completion of the development, a registered professional engineer, land surveyor or architect, in accordance with S.C. Law, shall certify according to the requirements of subsections 8-134(2)(a) and (2)(c) that the development is built in accordance with the submitted plans and previous pre-development certifications.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-135. Duties and responsibilities of the local administrator.

[Duties and responsibilities 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 article have been satisfied.

(2) *Requirement of federal and/or state permits.* Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

(3) *Watercourse alterations.*

(a) Notify adjacent communities and the South Carolina Department of Natural Resources, Land Resources and Conservation Division, state coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(b) In addition to the notifications required watercourse alterations per subsection 8-135(3)(a), 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 impact the configuration of the watercourse, floodway, or base flood elevation for which a detailed flood insurance study has been developed, the applicant shall apply for and must receive approval for a conditional letter of map revision with the Federal Emergency Management Agency prior to the start of actual construction.

(d) Within sixty (60) days of completion of an alteration of a watercourse, referenced in the certification requirements of subsection 8-134(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 subsection 8-142(5) are met.

(5) *Development proposals.* Require development proposals for proposed developments prior to signing off on and CLOMRs or LOMRs.

(6) *Adjoining floodplains.* Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

(7) *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.

(8) *Certification requirements.*

(a) Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in subsection 8-134(2)(b) or the coastal high hazard area requirements outlined in subsection 8-146(5).

(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 subsection 8-134(2)(a).

(c) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in subsection 8-142(2).

(d) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in the coastal high hazard area requirements outlined in subsections 8-146(4), (6), and (8) of this article.

(9) *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.

(10) *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 subsection 8-142(7)(b).

(11) *Use of best available data.* When base flood elevation data or floodway data has not been provided in accordance with section 8-104, 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 subsection 8-143(4), in order to administer the provisions of this article. Data from preliminary, draft, and final flood insurance studies constitutes best available data from a federal, state, or other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Parts 67.5 and 67.6, the data does not have to be used.

(12) *Special flood hazard area; topographic boundaries conflict.* When the exact location of boundaries of the areas special flood hazards conflict with the current, natural

topography information at the site the property owner may apply and be approved for a letter of map amendment (LOMA) by FEMA. The local administrator in the permit file will maintain a copy of the letter of map amendment issued from FEMA.

(13) *On-site inspections.* Make on-site inspections of projects in accordance with the administrative procedures outlined in subsection 8-136(4).

(14) *Administrative notices.* Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in section 8-136.

(15) *Records maintenance.* Maintain all records pertaining to the administration of this article and make these records available for public inspection.

(16) *Annexations and detachments.* Notify the South Carolina Department of Natural Resources Land, Water and Conservation Division, state coordinator for the National Flood Insurance Program within six (6) months, of any annexations or detachments that include special flood hazard areas. The community must incorporate applicable maps from surrounding jurisdictions into this article within ninety (90) days of date of the annexation.

(17) *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.

(18) *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 fifty (50) percent of the market value of the structure before the damage occurred.

(19) *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 fifty (50) percent of the market value of the structure before the improvement or repair is started. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five (5) 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.

The market values shall be determined by one (1) of the following methods:

(a) The current assessed building value as determined by the county assessor's office or the value of an appraisal performed by a licensed appraiser at the expense of the owner; or

(b) One (1) or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall

indicate actual replacement value of the building or structure in its pre-improvement condition, less depreciation for functionality and obsolescence and site improvements. The Marshall and Swift Residential Cost Handbook shall be used to determine costs for buildings or structures.

(c) Real estate purchase contract within twelve (12) months prior to the date of the application for a permit.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-136. 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 article, 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/her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

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

(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 ten (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/she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than sixty (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 ten (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 article and the violation is not remedied then the local administrator shall notify the Federal Emergency Management Agency (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 article. Once a violation has been remedied, the local administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.

(11) *[Documents incorporated by reference.]* The following documents are incorporated by reference and may be used by the local administrator to provide further guidance and interpretation of this article 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.

(Ord. No. 2009-16, 10-5-09)

Secs. 8-137—8-140. Reserved.

DIVISION 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 8-141. 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.

(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 five hundred-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 five hundred-year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates five hundred-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 three (3) feet. This requirement does not preclude the installation of outdoor faucets for shower heads, sinks, hoses, etc., as long as cut off devices and back flow devices are installed to prevent contamination to the service components and thereby minimize any flood damages to the building.

(6) *Water supply systems.* All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

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

(8) *Gas or liquid storage tanks.* All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(9) *Alteration, repair, reconstruction, or improvements.* Any alteration, repair, reconstruction, or improvement to a structure that is in compliance with the provisions of this article, shall meet the requirements of "new construction" as contained in this article. 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 article. Provided, however, nothing in this article 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 article.

(11) *American with Disabilities Act (ADA).* A building must meet the specific standards for floodplain construction outlined in section 8-142, 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.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-142. 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 section 8-104, or outlined in the "Duties and responsibilities of the local administrator" section 8-135, 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 three (3) 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 floodwaters shall be provided in accordance with the elevated buildings requirements in subsection 8-142(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 three (3) feet, whichever is greater, above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of

floodwaters shall be provided in accordance with the elevated buildings requirements in subsection 8-142(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 the floodproofing certification requirements in subsection 8-134(2)(a). A variance may be considered for wet-floodproofing agricultural structures in accordance with the criteria outlined in section 8-154 of this article. Agricultural structures not meeting the criteria of section 8-154 must meet the non-residential construction standards and all other applicable provisions of this article. Structures that are floodproofed are required to have an approved maintenance plan with an annual exercise. The local administrator must approve the maintenance plan and notification of the annual exercise shall be provided to it.

(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 three (3) 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 for residential construction in subsection 8-142(1) of this article must be elevated so that the lowest floor of the manufactured home is elevated no lower three (3) feet than 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 40-29-10 of the South Carolina Manufactured Housing Board Regulations, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis at least thirty-six (36) inches or less above the grade

at the sight, reinforced piers or other foundation elements of at least equivalent strength shall support the chassis. When the elevation of the chassis is above thirty-six (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 limited storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet all of the following minimum criteria:

1. Provide a minimum of two (2) openings on different walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. If there are multiple enclosed areas, each area must have openings in its exterior walls.

2. The bottom of each opening must be no more than one (1) 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.

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 (1) 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 five (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 BFE.

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, except to enclose a single storage area and must be void of utilities except for essential lighting as required, and cannot be temperature controlled.
3. One (1) wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in the specific standards outlined in subsections 8-142(1), (2), and (3).
4. All construction materials below the required lowest floor elevation specified in the specific standards outlined in subsections 8-142(1), (2), ad (3), should be of flood-resistant materials.

(5) *Floodways.* Located within areas of special flood hazard established in section 8-104, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

(a) No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local administrator.

(b) If subsection 8-142(5)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of division 4.

(c) Stream crossings for any purpose (i.e., timber-harvesting operations), if temporary, shall be permitted in accordance with floodway requirements of subsection 8-142(5), and the temporary development provisions of subsection 8-142(11). Otherwise, the development shall comply with all applicable flood hazard reduction provisions of division 4.

(d) 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 subsection 8-142(3) are met.

(e) Permissible uses within floodways may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also, lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a permissible use may require a no-impact certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations or changes to the floodway configuration.

(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 one hundred eighty (180) consecutive days; and
2. Be fully licensed and ready for highway use, or meet the development permit and certification requirements of section 8-134, "General standards" outlined in section 8-141, and "Manufactured homes standards" in subsection 8-142(3).

(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 section 8-104, 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 data reflecting such changes be submitted to FEMA within six (6) months of the date such information becomes available. These development proposals include:
   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 subsection 8-142(13)(d).
2. It is the responsibility of the applicant to have technical data, required in accordance with subsection 8-142(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 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 (1) foot in areas where FEMA has provided base flood elevations but no floodway.

4. Floodplain development permits issued by the floodplain administrator shall be conditioned upon the applicant obtaining a letter of map revision from FEMA for any development proposal subject to subsection 8-142(7).

5. Conditional letter of map revisions (CLOMR) and/or letters of map revision (LOMR) must go through the variance process outlined in division 5.

(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 three thousand dollars ($3,000.00), must comply with the requirements as outlined in FEMA's Technical Bulletin 7-93 "Wet Floodproofing Requirements" or be elevated in accordance with subsections 8-142(1) and 8-142(4), or dry floodproofed in accordance with subsection 8-142(2).

(b) If accessory structures of three thousand dollars ($3,000.00) or less are to be placed in the floodplain, the following criteria shall be met:

1. Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);

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 subsection 8-141(5); and

6. Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with subsection 8-142(b)(4)a.

(9) *Swimming pool utility equipment rooms.* If the building can not 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 subsection 8-142(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 descend below the BFE during a flood per FEMA's Technical Bulletin 4-93 "Elevator installation for buildings" 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 buildings" located in special flood hazard areas.

(11) *Temporary development.* Certain types of structures (e.g., fruit stands, construction site offices, portable toilets, etc.) may be situated temporarily on flood-prone property without having to comply with the elevation or floodproofing criteria of subsections 8-142(1) and 8-142(2), respectively, provided that the following criteria are met:

(a) All applicants must submit to the local administrator, prior to the issuance of the development permit, a written plan for the removal of any temporary structures or development in the event of a hurricane or flash flood warning notification. The plan shall be reviewed and approved in writing, and must include the following information:

1. A specified time period for which the temporary use will be permitted;
2. The name, address and phone number of the individual responsible for the removal of temporary structures or development;
3. The time frame prior to the event at which any structures will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
4. A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed;
5. Designation, accompanied by documentation, of a location outside the floodplain to which any temporary structure will be moved;
6. A determination of permanent structures which would be adversely affected by increased flooding upstream or downstream, and a method for covering this liability, such as a performance bond; and
7. A plan to restore the area to its natural condition once the temporary permit expires or the temporary use is terminated, whichever is first.

(b) The structure is mobile, or can be made so, and is capable of being removed from the site with a maximum of four (4) hours warning.

(c) The structure will not remain on the property for more than one hundred eighty (180) days.

(12) *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 subsection 8-142(1) or 8-142(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 the requirements in subsection 8-142(5)(a).

(b) Fill may not be placed in tidal or non-tidal wetlands without the required state and federal permits.

(c) Fill must consist of soil and rock materials only. A registered professional geotechnical engineer may use dredged material as fill only upon certification of suitability. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain.

(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 (2) horizontal to one (1) vertical. Flatter slopes may be required where velocities may result in erosion.

(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 fill in or near special flood hazard areas are reasonably safe from flooding."

(13) *Standards for subdivision proposals.*

(a) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.

(b) All subdivision proposals 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 shall have adequate drainage provided to reduce exposure to flood damage.

(d) 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 fifty (50) lots or five (5) acres, whichever is less.

(e) If the area of special flood hazard is identified as an area of open space and is deeded as such, then a hydrologic and hydraulic engineering analysis that generates base flood elevations for the subdivision proposal would not be required.

(f) The applicant shall meet the requirement to submit technical data to FEMA in subsection 8-142(7), when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-143. 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 section 8-104, 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) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within one hundred (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.

(2) If subsection 8-143(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 article provisions of division 4 and shall be elevated or floodproofed in accordance with elevations established in accordance with subsection 8-135(11).

(3) Data from preliminary, draft, and final flood insurance studies constitutes best available data. Refer to FEMA Floodplain Management Technical Bulletin 1-98 "Use of flood insurance study (FIS) data as available data." If an appeal is pending on the study in accordance with 44 CFR, Ch. 1, Parts 67.5 and 67.6, the data does not have to be used.

When base flood elevation (BFE) data is not available from a federal, state, or other source one (1) 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 (½) 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 five hundred (500) feet upstream of a reach of a stream reach for which a one hundred-year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches.

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

1. HEC-RAS 3.1.1 and up;
2. HEC-1 4.0.1 and up;
3. HEC-2 4.6.2;
4. HEC-HMS 1.1 and up;
5. FLO-2D;
6. QUICK-2;
7. SFD;
8. WSPRO.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-144. Standards 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) In areas where non-encroachment zones are shown, no encroachments including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-145. Standards for areas of shallow flooding (AO zones).

Located within the areas of special flood hazard established in section 8-104, 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 flood-proofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(3) All structures on slopes must have drainage paths around them to guide water away from the structures.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-146. Coastal high hazard areas (V-zones).

Located within the areas of special flood hazard established in section 8-104 or 8-135(11), are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash. The following provisions shall apply within such areas:

(1) All buildings or structures shall be located landward of the first line of stable natural vegetation and comply with all applicable department of heath and environmental control (DHEC) ocean and coastal resource management (OCRM) setback requirements.

(2) All buildings or structures shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than three (3) above the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Prior to construction, plans for any structures that will have lattice work or decorative screening must be submitted to the local administrator for approval. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection 8-146(8).

(3) All buildings or structures shall be securely anchored on pilings or columns, extending vertically below a grade of sufficient depth and the zone of potential scour, and securely anchored to the subsoil strata.

(4) All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, lateral movement and scour due to the effect of wind and water loads acting simultaneously on all building components.

(5) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsections 8-146(3), (4), (6) and (9) of this article.

(6) There shall be no fill used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Only beach-compatible sand may be used. The local administrator shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist that demonstrates that the following factors have been fully considered:

(a) Particle composition of fill material does not have a tendency for excessive natural compaction;

(b) Volume and distribution of fill will not cause wave deflection to adjacent properties; and

(c) Slope of fill will not cause wave run-up or ramping.

(7) There shall be no alteration of sand dunes that would increase potential flood damage.

(8) Lattice work or decorative screening shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:

(a) No solid walls shall be allowed;

(b) Breakaway wall material shall consist of wood or mesh screening only;

(c) Design safe loading resistance of each breakaway wall shall be not less than ten (10) nor more than twenty (20) pounds per square foot; or

(d) If more than twenty (20) pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the IBC International Building Code.

(e) Breakaway wall material shall be constructed with flood-resistant materials.

(9) If aesthetic lattice work or screening is utilized, such enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

(a) Only flood-resistant materials shall be used below the required flood elevation specified in subsection 8-141(2).

(b) One (1) wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in subsection 8-141(5).

(c) The total area of an enclosed space shall not exceed two hundred ninety-nine (299) square feet per building.

(10) Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided for in subsections 8-146(8) and (9).

(11) 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 elevation standards of subsection 8-142(3).

(12) Recreational vehicles shall be permitted in coastal high hazard areas provided that they meet the recreational vehicle criteria of subsection 8-142(6) and the temporary structure provisions of subsection 8-142(11).

(13) Temporary structures are permitted in accordance with subsection 8-142(11).

(14) Accessory structures, below the required lowest floor elevation specified in subsection 8-146(2), are prohibited except for the following:

(a) *Swimming pools.*

1. They are installed at-grade or elevated so long as the pool will not act as an obstruction.
2. They must be structurally independent of the building and its foundation.
3. They may be placed beneath a coastal building only if the top of the pool and any accompanying decking or walkway are flush with the existing grade and only if the lowest area remains unenclosed.
4. As part of the certification process for V-zone buildings the design professional must consider the effects that any of these elements will have on the building in question and any nearby buildings.

(b) *Pool utility equipment rooms.* If the building can not be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:

1. It must be structurally independent from the main structure.
2. It must be built with breakaway walls.
3. 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.

(c) *Access stairs attached to or beneath an elevated building:*

1. Must be constructed of flood-resistant materials.

2. Must be constructed as open staircases so they do not block flow under the structure in accordance with 44 CFR 60.3(e)(5).

(d) *Decks.*

1. If the deck is structurally attached to a building, then the bottom of the lowest horizontal member must be at or above the elevation of the buildings lowest horizontal member.

2. If the deck is to be built below the BFE, then it must be structurally independent of the main building and must not cause an obstruction.

3. If an at-grade, structurally independent deck is proposed, then a design professional must evaluate the design to determine if it will adversely affect the building and nearby buildings.

(e) *Elevators.*

1. Install a float switch system or another system that provides the same level of safety is necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's Technical Bulletin 4-93, "Elevator Installation for Buildings Located in Special Flood Hazard Areas."

2. All equipment that may have to be installed below the BFE such as counter weight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood-resistant materials where possible per FEMA's Technical Bulletin 4-93, "Elevator Installation for Buildings Located in Special Flood Hazard Areas."

(15) Parking areas should be located on a stable grade under or landward of a structure. Any parking surface shall consist of gravel or ROC aggregate.

(16) 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 base flood event plus three (3) feet. This requirement does not preclude the installation of outdoor faucets for shower heads, sinks, hoses, etc., as long as cut-off devices and back flow devices are installed to prevent contamination to the service components and thereby minimize any flood damages to the building. No utilities or components shall be attached to breakaway walls.

(Ord. No. 2009-16, 10-5-09)

Secs. 8-147—8-150. Reserved.

DIVISION 5. VARIANCE PROCEDURES

Sec. 8-151. Establishment of appeal board.

The Cherokee County Board of Appeals, as established by Cherokee County, shall hear and decide requests for variances from the requirements of this article.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-152. Right to appeal.

Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the court.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-153. Historic structures.

Variances may be issued for the repair of 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.
(Ord. No. 2009-16, 10-5-09)

Sec. 8-154. Agricultural structures.

Variances may be issued to wet floodproof an agricultural structure in accordance with Technical Bulletin 7-93, "Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas" in accordance with the National Flood Insurance Program, document number FIA-TB-7, dated 12/93, and available from the Federal Emergency Management Agency (FEMA). In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of section 8-158, 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 corncribs;

  (c) General-purpose barns for the temporary feeding of livestock that are open on at least one (1) side;

  (d) For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures that were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of subsection 8-142(2) of this article; and

(e) Detached garages and storage sheds solely used for parking and limited storage in connection with agricultural uses only, which are no greater than four hundred (400) square feet in area.

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

(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 five (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 requirements of subsection 8-142(4) of this article.

(5) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation (BFE) so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with subsection 8-141(5) of this article.

(6) The agricultural structure must comply with the floodway encroachment provisions of subsection 8-142(5) of this article.

(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 subsection 8-142(11).

(Ord. No. 2009-16, 10-5-09)

Sec. 8-155. 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 article, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(9) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and

(10) Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the special flood hazard area and no other alternative locations for the structure are available.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-156. Findings.

Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the department of natural resources, land, water and conservation division, state coordinator's office, must be taken into account and included in the permit file.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-157. Floodways.

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

(Ord. No. 2009-16, 10-5-09)

Sec. 8-158. Conditions.

Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article. 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 (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

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

(6) Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this article. Violations must be corrected in accordance with subsection 8-136(5) of this article.

(Ord. No. 2009-16, 10-5-09)

Secs. 8-159, 8-160. Reserved.

DIVISION 6. LEGAL STATUS PROVISIONS

Sec. 8-161. Effect on rights and liabilities under the existing flood damage prevention ordinance.

This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted November 3, 2003, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Cherokee County, as amended, which are not reenacted herein, are repealed.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-162. 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 article; provided, however, that when construction is not begun under such outstanding permit within a period of sixty (60) days subsequent to passage of this article, construction or use shall be in conformity with the provisions of this article.

(Ord. No. 2009-16, 10-5-09)

Sec. 8-163. Effective date.

This article shall become effective upon adoption.
(Ord. No. 2009-16, 10-5-09)

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Chapter 9

(RESERVED)

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Chapter 10

EMERGENCY PREPAREDNESS*

Sec. 10-1. Definitions.

As used in this chapter, the following terms shall have the respective meanings ascribed to them:

Attack: A direct assault against the county, or any part of the state, by forces of a hostile nation, including assault by bombing, chemical or biological warfare, or sabotage.

Coordinator: The coordinator of the county emergency preparedness agency.

Emergency preparedness: A broad meaning, includes preparations against, and relief from the effects of attack on the county, or any part of the state, by the forces of any enemy nation, and it shall also include such activity in connection with natural disaster as defined herein.

Hazardous materials: Any exotic chemicals, fuels, gases, or compounds not easily controlled or neutralized by conventional procedures. Some of these are, but not limited to: gasoline fires or spills, chemical fires or spills, gas leaks, compressed gases, corrosive liquids, oxidizing materials, flammable liquids or solids, radioactive materials, poisons, or other toxic materials.

Natural disaster: Any condition seriously threatening public health, welfare, or security as a result of a severe fire (four (4) fire departments or more), explosion, flood, tornado, hurricane, earthquake, or similar natural or accidental cause and which is beyond the control of the public or private agency ordinarily responsible for the control or relief of such conditions.

Volunteer: Contributing service, equipment, or facilities to the emergency preparedness organization without remuneration or without formal agreement or contract of hire. While engaged in such services, they shall have the same immunities as persons and employees of the county performing similar duties.
(Ord. of 6-16-87, § 2)

Sec. 10-2. Purpose; scope.

It is the intent and purpose of this chapter to establish an organization, to be known as the Cherokee County Emergency Preparedness Agency, that will ensure the complete and efficient utilization of all county facilities to combat disaster from enemy attack or natural disaster. The agency will be the coordinating agency for all activities in connection with emergency preparedness or civil defense. It will be the instrument through which the county council shall exercise its authority under the laws of this state during an attack or natural disaster against this county or any part of the state. This chapter will not relieve any county department of the

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***Cross reference—**Hazardous waste, ch. 12, art. IV.
State law reference—Authority to provide for, S.C. Code 1976, §§ 4-9-30(5), 25-1-450.

normal responsibilities or authority given to it by general law or local resolution or ordinance, nor will it affect the work of the American Red Cross or other volunteer agencies organized for relief in natural disaster.
(Ord. of 6-16-87, § 1)

State law reference—Definitions, S.C. Code 1976, § 25-1-430.

Sec. 10-3. Coordinator—Office created; responsibilities; appointment; powers and duties generally.

(a) There is hereby created the office of coordinator of the county emergency preparedness agency, who shall have the responsibility of coordinating the activities of various county and municipal governments during periods of disaster.

(b) The coordinator shall be appointed by county council. County council hereby delegates the responsibility for directing the day to day operations of the emergency preparedness agency and supervisory responsibility of the emergency preparedness coordinator to the sheriff for Cherokee County provided, however, this delegation of authority may be rescinded at any time (i) upon reasonable notice from the sheriff that he no longer agrees to discharge such responsibilities over the agency and coordinator, or (ii) any time county council elects to rescind the delegation of authority by resolution. If the delegation of authority to the sheriff is at any time rescinded, such authority shall vest in the county administrator.

(c) The coordinator shall be empowered and required to coordinate and render assistance to county and municipal officials in the development of plans for the use of all facilities, equipment, manpower and other resources of the municipality and county for the purpose of minimizing or preventing damage to persons or property in emergency situations. Municipal and county personnel shall include in such plans the restoration of governmental services and public utilities necessary for public health, safety and welfare. The coordinator shall further direct the efforts of the county emergency preparedness agency in the implementation of the provisions of this chapter.
(Ord. of 6-16-87, § 3; Ord. of 8-19-97, § 1)

Sec. 10-4. Same—Duties specifically.

Subject to the authority delegated in section 10-3, the coordinator shall:

(1) Maintain liaison with the state and federal authorities of other nearby political subdivisions, so as to insure the most effective operation of the emergency plan. The coordinator shall be accountable for all disaster funds and property.

(2) The coordinator's duties shall include, but shall not be limited to, the following:

a. Development and publication of emergency plans in conformity with state emergency plans for the immediate use of all of the facilities, equipment, manpower, and other resources of the county for the purpose of minimizing or preventing damage to persons or property, and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.

b. Control any necessary record-keeping for emergency preparedness funds and property which may be made available from the federal, state, county and municipal governments.

c. Submission of annual budget requirements to the state and federal governments and to the county council.

d. Signing such documents as are necessary in the administration of the county emergency preparedness program to include project applications and billing for purchases under project applications.

e. Coordinating the recruitment and training of volunteer personnel and agencies to augment the personnel and facilities of the county for disaster preparedness purposes.

f. Through public information programs, educating the civil population as to the actions necessary and required for the protection of their persons and property in case of enemy attack, or natural disaster.

g. Conducting simulated exercises and public practice alerts to ensure efficient operations of the emergency preparedness agency and to familiarize residents of the county with civil defense regulations, procedures and operations.

h. Coordinating the activity of all other public and private agencies engaged in any disaster preparedness programs.

i. Negotiating with owners of persons in control of buildings or other property for the use of such buildings or property for civil defense purposes, and designating suitable buildings as public fallout shelters.

j. Develop a community shelter plan which will have as its ultimate goal as assigned fallout shelter space for every citizen of the county.

k. Assume such authority and conduct such activity as may be necessary to promote and execute the emergency operations plan.

(3) Perform such law enforcement duties as may be, from time to time, assigned by the sheriff.

(Ord. of 6-16-87, § 6; Ord. of 8-19-97, § 1)

Sec. 10-5. Same—Appointment of volunteers.

The coordinator may:

(1) At any time appoint or authorize the appointment of volunteer citizens to augment the personnel of a department in time of civil emergency. Such volunteer citizens shall be enrolled as civil emergency volunteers in cooperation with the heads of the county departments affected, and they shall be subject to the rules and regulations set forth by the coordinator for such volunteers.

(2) Appoint volunteer citizens to form the personnel of a civil emergency service for which the county has no counterpart. The coordinator may also appoint volunteer citizens as

public shelter managers who, when directed by the coordinator shall open public shelters and take charge of all stocks of food, water, and other supplies and equipment stored in the shelter, admit the public according to the community shelter plan and take whatever control measures unnecessary for the protection and safety of the occupants.

(Ord. of 6-16-87, § 8)

Sec. 10-6. Organization.

All county and municipal officials and employees of the county, together with those volunteer forces enrolled to aid them during a disaster, and persons who may by agreement or operation of law be charged with duties incident to the protection of life and property in the county during times of disaster shall constitute the county emergency preparedness agency.

(Ord. of 6-16-87, § ;4)

Sec. 10-7. Responsibility of county council in an emergency; declaration of emergency.

(a) The county council shall be responsible for meeting the problems and dangers of the county and its residents resulting from disasters of any origin and may issue proclamations and regulations concerning disaster relief and related matters which during an emergency situation shall have the full force and effect of law.

(b) A state of disaster emergency may be declared by the county council if it finds a disaster has occurred, or that the threat thereof is imminent, and extraordinary emergency measures are deemed necessary to cope with the existing or anticipated situation. Once declared, the state of emergency shall continue until terminated by proclamation of the county council. All proclamations issued pursuant to this section shall indicate the nature of the disaster, the areas affected by the proclamation, the conditions which required the proclamation of the disaster emergency and the conditions under which it will be terminated.

(c) In addition to any other powers conferred by law, the county council may, under the provisions of this chapter:

(1) Suspend existing laws and regulations prescribing the procedures for conduct of county business if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency;

(2) Utilize all available resources of county government as reasonably necessary to cope with a disaster emergency;

(3) Transfer the direction, personnel or functions of county departments and agencies of units thereof for purposes of facilitating or performing emergency services as necessary or desirable;

(4) Compel performance by elected and appointed county government officials and employees of the duties and functions assigned in the county disaster plan;

(5) Contract, requisition and compensate for goods and services from private sources;

(6) Direct and compel evacuation of all or part of the population from any stricken or threatened area within the county if such action is deemed necessary for preservation of life or other disaster mitigation, response or recovery;

(7) Prescribe routes, modes of transportation and destinations in connection with evacuation;

(8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;

(9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles;

(10) Make provisions for the availability and use of temporary housing;

(11) Suspend or limit nonemergency activities and prohibit assemblies.

(Ord. of 6-16-87, § 5)

Sec. 10-8. Cooperation by departments, etc.

All employees of departments, commissions, boards, institutions and other agencies of the county or municipalities designated as civil emergency forces, shall:

(1) Cooperate with the coordinator in the formulation of the county emergency operation plan, and shall comply with the orders of the coordinator when such orders are issued pursuant to the provisions of this chapter.

(2) Notify the coordinator of conditions in the county resulting from enemy attack or natural disaster, and they shall inform the coordinator of any conditions threatening to reach the proportions of a natural disaster as defined herein. Failure to notify the coordinator, however, shall not prevent the coordinator from exercising any authority assigned to him by this chapter.

(Ord. of 6-16-87, § 7)

Sec. 10-9. Status of county and municipal employees.

County and municipal employees assigned to duty as a part of the civil emergency forces pursuant to the provisions of this article shall retain all the rights, privileges, and immunities of employees, and shall receive the compensation incident to their employment.

(Ord. of 6-16-87, § 9)

Sec. 10-10. Nonliability of participants.

(a) This chapter is an exercise by the county of its governmental functions for the protection of the public peace, health, and safety, and the county or agents and representatives of the county, or any individual, receiver firm, partnership, corporation, association or trustee, or any

of the agents thereof in good faith carrying out, complying with, or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this article shall not be liable for any damage sustained to persons or property as a result of such activity.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the county the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purposes of sheltering persons during an actual, impending or threatened enemy attack, or during an authorized civil emergency practice exercise, shall not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for loss of, damage to, the property of such person.
(Ord. of 6-16-87, § 10)

Sec. 10-11. Violations.

It shall be unlawful for any person to violate any of the provisions of this chapter or the regulations issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the civil emergency organization in the enforcement of the provisions of this chapter or any regulation issued thereunder.
(Ord. of 6-16-87, § 11)

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Chapter 11

FIRE PROTECTION*

Art. I. In General, §§ 11-1—11-25
Art. II. Fire Districts, §§ 11-26—11-117
Div. 1. Generally, §§ 11-26—11-30
Div. 2. Grassy Pond Fire District, §§ 11-31—11-50
Div. 3. Macedonia Fire District, §§ 11-51—11-60
Div. 4. Cherokee Creek Fire District, §§ 11-61—11-70
Div. 5. Corinth Fire District, §§ 11-71—11-80
Div. 6. Buffalo Fire District, §§ 11-81—11-90
Div. 7. Gaffney Fire District, §§ 11-91—11-100
Div. 8. CKC Fire District, §§ 11-101—11-110
Div. 9. Antioch Fire District, §§ 11-111—11-117

ARTICLE I. IN GENERAL

Secs. 11-1—11-25. Reserved.

ARTICLE II. FIRE DISTRICTS†

DIVISION 1. GENERALLY

Secs. 11-26—11-30. Reserved.

DIVISION 2. GRASSY POND FIRE DISTRICT

Sec. 11-31. Established.

There is hereby created and established a special tax district within Cherokee County, South Carolina, to be known as the Grassy Pond Fire District, which shall include and be comprised of territory in Cherokee County described as follows, to-wit:

> All that certain area shown and depicted by Exhibit "A" which is attached to the ordinance from which this section is derived and incorporated therein and made a part thereof by reference.

(Ord. of 6-23-92)

Editor's note—Exhibit "A" attached to an ordinance adopted June 23, 1992, has not been set out herein, but is on file and available for inspection in the office of the county clerk.

***Editor's note—**Ord. of June 23, 1992, created the Grassy Pond Fire District and Board of Fire Commissioners for that district. Although nonamendatory, Ch. 11, Fire Protection, was created at the discretion of the editor and Fire Districts delegated as Art. II in order that sections could be reserved for the inclusion of future ordinances relating to fire protection.

Cross reference—County authority, § 6-112.

†State law references—Authority of council to create special tax districts; S.C. Code 1976, § 4-9-30.

Sec. 11-32. Purpose and function.

The Grassy Pond Fire District is created and established for the purpose and function of procuring, providing, improving and/or funding fire protection and emergency services, by contract, grant or otherwise within the special tax district, and county council is hereby authorized to exercise any and all powers and to perform any and all duties in regard thereto as permitted by the laws of the state.
(Ord. of 6-23-92)

Sec. 11-33. Board of fire commissioners.

There is hereby created and established a board of fire commissioners for the Grassy Pond Fire District, who shall manage the district pursuant to powers delegated to it by the county. The board of fire commissioners of the Grassy Pond Fire District shall consist of five (5) members. The members of the board of fire commissioners must be residents of the area encompassed within the Grassy Pond Fire District. Members of the commission shall be nominated by the council member or members representing the district, and thereafter shall be appointed by a majority vote of council.
(Ord. of 6-23-92)

Sec. 11-34. Terms of board; elections; meetings.

The members of the board of fire commissioners shall be appointed to serve initial terms as follows: One (1) member shall serve for a term of three (3) years; two (2) members shall serve for a term of two (2) years; and two (2) members for a term of one (1) year. Successors shall be appointed for terms of three (3) years. Any member whose term expires shall continue to serve until such time as a successor is duly appointed and qualified. The five (5) members, upon being appointed and qualified, shall take office at which time the terms shall commence and expire as indicated upon the certificate of each member. Any member of the board of fire commissioners shall be eligible for reappointment. The members of the board of fire commissioners shall serve without compensation or pay.

The board of fire commissioners shall annually elect a chairman, a vice-chairman, a secretary, a treasurer and such other officers as it deems necessary. The board of fire commissioners shall meet at least monthly, and at such other times as called by the chairman or upon written request of a majority of its members or upon request of council.
(Ord. of 6-23-92)

Sec. 11-35. Powers.

The board of fire commissioners shall be directed, authorized and empowered to exercise the following powers and duties:

(1) To negotiate and recommend annual service contracts, agreements, grants and the like for the provision and/or improvement of fire protection and emergency services

within the district and to enter into said agreements and/or carry out related acts necessary and incidental to accomplish the intended purposes, the foregoing being subject to the consent and approval of county council.

(2) Annually, at a time designated by council, submit to council, for approval, a budget for the ensuing fiscal year adequate to fund the operation and maintenance of the Grassy Pond Fire District. Such budget will list all funds which the board of fire commissioners anticipates will be available for operations within the Grassy Pond Fire District. All funds appropriated, earned, granted or donated to the Grassy Pond Fire District, including funds appropriated by the council, through its taxing authority shall be deposited and expended as provided in this division. All funds appropriated, earned, granted or donated shall be used exclusively for fire protection and emergency services within the district, and related matters. All financial procedures relating to the Grassy Pond Fire District, including audits, shall conform to the practices and procedures established by the county council; no monies shall be expended by the commission unless pursuant to its approved budget or otherwise authorized by resolution of county council.

(3) Annually submit to the county council the amount of millage that it wishes to levy for the upcoming fiscal year not to exceed an amount of taxation amount of eight (8) mills.

(4) Annually file a detailed report of its operation and expenditures for the previous fiscal year with the county council and provide a copy of such report.

(5) To perform any and all other acts which, from time to time, may be delegated to said fire commissioners by resolution of county council.

(Ord. of 6-23-92)

Sec. 11-36. Ad valorem tax.

In order to provide for the operation and maintenance of the intended functions of the Grassy Pond Fire District, there shall be levied annually by the auditor of the county and collected by the treasurer of the county an ad valorem tax in such amount as council may hereafter from time to time determine, provided said amount shall not exceed an annual amount of eight (8) mills.

(Ord. of 6-23-92)

Sec. 11-37. Collection of tax.

All monies collected by the treasurer of the county pursuant to the authorization contained in this division shall be deposited in a separate and distinct fund and shall be used solely for the purpose of providing and/or improving fire protection and emergency services within the Grassy Pond Fire District. Special tax monies and revenues derived solely from the district shall not be disbursed for use by the district until such time as same have been actually collected unless otherwise determined by resolution of county council.

(Ord. of 6-23-92)

Secs. 11-38–11-50. Reserved.

DIVISION 3. MACEDONIA FIRE DISTRICT

Sec. 11-51. Enlargement of boundaries; description.

(a) *Enlargement.* This division is enacted pursuant to S.C. Code 1976, § 6-11-410 et seq., as amended, to allow the Macedonia Fire District to enlarge its boundaries to include areas currently being served by it with fire protection services.

(b) *Description.* Macedonia Fire District shall be and it is hereby enlarged to encompass all of the areas located in Cherokee County as described by Exhibit "A" which is attached to the ordinance from which this section is derived and incorporated therein and made a part thereof by reference.

(Ord. of 5-4-93, §§ 1, 2)

Editor's note—Exhibit "A" attached to an ordinance adopted May 4, 1993, has not been set out herein, but is on file and available for inspection in the office of the county clerk.

Sec. 11-52. Ad valorem tax.

The county council believes that Macedonia Fire District, as expanded, has authority under the laws of the State of South Carolina to levy and assess a special ad valorem property tax on properties located within the district; to the extent required, the county council approves same on the condition that all such taxes be uniformly levied and assessed throughout the district, and that all such taxes be enacted and enforced by the district in strict compliance with the requirements and laws of the State of South Carolina.

(Ord. of 5-4-93, § 3)

Sec. 11-53. Prohibition.

The Macedonia Fire District is expressly prohibited from providing fire protection services within the boundaries of its district to an area where any overlapping political subdivision is authorized to provide the same service.

(Ord. of 5-4-93, § 4)

Secs. 11-54—11-60. Reserved.

DIVISION 4. CHEROKEE CREEK FIRE DISTRICT*

Sec. 11-61. Established.

There is hereby created and established a special tax district within Cherokee County, South Carolina, to be known as the Cherokee Creek Fire District, which shall include and be comprised of territory in Cherokee County described as follows, to-wit:

> ALL that certain area shown and described by Exhibit "A" which is attached to the ordinance from which this section is derived and incorporated therein and made a part thereof by reference.

(Ord. of 5-17-94, § 2)

Editor's note—Exhibit "A" attached to an ordinance adopted May 17, 1994, has not been set out herein but is on file and available for inspection in the office of the county clerk.

***Editor's note**—An ordinance adopted May 17, 1994, did not specifically amend the Code; hence, inclusion of §§ 2—2.04, 3 and 3.01 of such ordinance as §§ 11-61—11-67, was at the discretion of the editor.

Sec. 11-62. Purpose and function.

The Cherokee Creek Fire District is created and established for the purpose and function of procuring, providing, improving and/or funding fire protection and emergency services, by contract, grant or otherwise within the special tax district, and county council is hereby authorized to exercise any and all powers and to perform any and all duties in regard thereto as permitted by the laws of the state.
(Ord. of 5-17-94, § 2.01)

Sec. 11-63. Board of fire commissioners—Establishment; composition.

There is hereby created and established a board of fire commissioners for the Cherokee Creek Fire District, who shall manage the district pursuant to powers delegated to it by the county. The board of fire commissioners of the Cherokee Creek Fire District shall consist of five (5) members. The members of the board of fire commissioners must be residents of the area encompassed within the Cherokee Creek Fire District. Members of the commission shall be nominated by the council member or members representing the district, and thereafter shall be appointed by a majority vote of council.
(Ord. of 5-17-94, § 2.02)

Sec. 11-64. Same—Terms; compensation; elections; meetings.

The members of the board of fire commissioners shall be appointed to serve initial terms as follows: one (1) member shall serve for a term of three (3) years; two (2) members shall serve for a term of two (2) years; and two (2) members for a term of one (1) year. Successors shall be appointed for terms of three (3) years. Any member whose term expires shall continue to serve until such time as a successor is duly appointed and qualified. The five (5) members, upon being appointed and qualified, shall take office at which time the terms shall commence and expire as indicated upon the certificate of each member. Any member of the board or fire commissioners shall be eligible for reappointment. The members of the board of fire commissioners shall serve without compensation or pay. The board of fire commissioners shall annually elect a chairman, a vice-chairman, a secretary, a treasurer and such other officers as it deems necessary. The board of fire commissioners shall meet at least monthly, and at such other times as called by the chairman or upon written request of a majority of its members or upon request of council.
(Ord. of 5-17-94, § 2.03)

Sec. 11-65. Same—Powers and duties.

The board of fire commissioners shall be directed, authorized and empowered to exercise the following powers and duties:

(1) To negotiate and recommend annual service contracts, agreements, grants and the like for the provision and/or improvement of fire protection and emergency services

within the district and to enter into said agreements and/or carry out related acts necessary and incidental to accomplish the intended purposes, the foregoing being subject to the consent and approval of county council.

(2) Annually, at a time designated by council, submit to council, for approval, a budget for the ensuing fiscal year adequate to fund the operation and maintenance of the Cherokee Creek Fire District. Such budget will list all funds which the board of fire commissioners anticipates will be available for operations within the Cherokee Creek Fire District. All funds appropriated, earned granted or donated to the Cherokee Creek Fire District, including funds appropriate by the council, through its taxing authority shall be deposited and expended as provided in this division. All funds appropriated, earned, granted, or donated shall be used exclusively for fire protection and emergency services within the district, and related matters. All financial procedures relating to the Cherokee Creek Fire District, including audits, shall conform to the practices and procedures established by the Cherokee County Council; no monies shall be expended by the commission unless pursuant to its approved budget or otherwise authorized by resolution of county council.

(3) Annually submit to the Cherokee County Council the amount of millage that it wishes to levy for the upcoming fiscal year not to exceed an amount of taxation amount of twelve (12) mills.

(4) Annually file a detailed report of its operation and expenditures for the previous fiscal year with the county council and provide a copy of such report.

(5) To perform any and all other acts which, from time to time, may be delegated to said fire commissioners by resolution of county council.

This section may be amended and/or modified in any matter and at any time by resolution duly passed by county council.
(Ord. of 5-17-94, § 2.04)

Sec. 11-66. Ad valorem tax—Annual levy.

In order to provide for the operation and maintenance of the intended functions of the Cherokee Creek Fire District, there shall be levied annually by the auditor of the county and collected by the treasurer of the county an ad valorem tax in such amount as council may hereafter from time to time determine, provided said amount shall not exceed an annual amount of twelve (12) mills.
(Ord. of 5-17-94, § 3)

Sec. 11-67. Same—Collection.

All monies collected by the treasurer of the county pursuant to the authorization contained in this division shall be deposited in a separate and distinct fund and shall be used solely for the purpose of providing and/or improving fire protection and emergency services

within the Cherokee Creek Fire District. Special tax monies and revenues derived solely from the district shall not be disbursed for use by the district until such time as same have been actually collected unless otherwise determined by resolution of county council.
(Ord. of 5-17-94, § 3.01)

Secs. 11-68—11-70. Reserved.

DIVISION 5. CORINTH FIRE DISTRICT*

Sec. 11-71. Established.

There is hereby created and established a special tax district within Cherokee County, South Carolina, to be known as the Corinth Fire District, which shall include and be comprised of territory in Cherokee County described as follows, to-wit:

ALL that certain area shown and depicted by the attached Exhibit "A" which is incorporated herein and made a part hereof by reference.

(Ord. of 11-4-97, § 2)

Editor's note—Exhibit "A" attached to an ordinance adopted Nov. 4, 1997, has not been set out herein but is on file and available for inspection in the office of the county clerk.

Sec. 11-72. Purpose and function.

The Corinth Fire District is created and established for the purpose and function of procuring, providing, improving and/or funding fire protection and emergency services, by contract, grant or otherwise within the special tax district, and county council is hereby authorized to exercise any and all powers and to perform any and all duties in regard thereto as permitted by the laws of the State of South Carolina.
(Ord. of 11-4-97, § 2.01)

Sec. 11-73. Board of fire commissioners—Establishment; composition.

There is hereby created and established a board of fire commissioners for the Corinth Fire District, who shall manage the district pursuit to powers delegated to it by the county. The board of fire commissioners of the Corinth Fire District shall consist of five (5) members. The members of the board of fire commissioners must be residents of the area encompassed within the Corinth Fire District. Members of the Commission shall be nominated by the council member or members representing the district, and thereafter shall be appointed by a majority vote of council.
(Ord. of 11-4-97, § 2.02)

***Editor's note**—An ordinance adopted Nov. 4, 1997, did not specifically amend the Code; hence, inclusion of §§ 2—2.04, 3 and 3.01 of such ordinance as §§ 11-71—11-77 herein was at the discretion of the editor.

Sec. 11-74. Same—Terms; compensation; elections; meetings.

The members of the board of fire commissioners shall be appointed to serve initial terms as follows: one (1) member shall serve for a term of three (3) years; two (2) members shall serve for a term of two (2) years; and two (2) members for a term of one (1) year. Successors shall be appointed for terms of three (3) years. Any member whose term expires shall continue to serve until such time as a successor is duly appointed and qualified. The five (5) members, upon being appointed and qualified, shall take office at which time the terms shall commence and expire as indicated upon the certificate of each member. Any member of the board of fire commissioners shall be eligible for reappointment. The members of the board of fire commissioners shall serve without compensation or pay. The board of fire commissioners shall annually elect a chairman, a vice-chairman, a secretary, a treasurer and such other officers as it deems necessary. The board of fire commissioners shall meet at least monthly, and at such other times as called by the chairman or upon written request of a majority of its members or upon request of council.
(Ord. of 11-4-97, § 2.03)

Sec. 11-75. Same—Powers and duties.

The board of fire commissioners shall be directed, authorized and empowered to exercise the following powers and duties:

(1) To negotiate and recommend annual service contracts, agreements, grants and the like for the provision and/or improvement of fire protection and emergency services within the district and to enter into said agreements and/or carry out related acts necessary and incidental to accomplish the intended purposes, the foregoing being subject to the consent and approval of county council.

(2) Annually, at a time designated by council, submit to council, for approval, a budget for the ensuing fiscal year adequate to fund the operation and maintenance of the Corinth Fire District. Such budget will list all funds which the board of fire commissioners anticipates will be available for operations within the Corinth Fire District. All funds appropriated, earned, granted or donated to the Corinth Fire District, including funds appropriated by the Council, through its taxing authority shall be deposited and expended as provided in this ordinance. All funds appropriated, earned, granted, or donated shall be used exclusively for fire protection and emergency services within the district, and related matters. All financial procedures relating to the Corinth Fire District, including audits, shall conform to the practices and procedures established by the county council; no monies shall be expended by the commission unless pursuant to its approved budget or otherwise authorized by resolution of county council.

(3) Annually submit to the county council the amount of millage that it wishes to levy for the upcoming fiscal year not to exceed an amount of taxation amount of fifteen (15) mills.

(4) Annually file a detailed report of its operation and expenditures for the previous fiscal year with the county council and provide a copy of such report.

(5) To perform any and all other acts which, from time to time, may be delegated to said fire commissioners by resolution of county council.

This section may be amended and/or modified in any matter and at any time by resolution duly passed by county council.
(Ord. of 11-4-97, § 2.04)

Sec. 11-76. Ad valorem tax—Annual levy.

In order to provide for the operation and maintenance of the intended functions of the Corinth Fire District, there shall be levied annually by the auditor of the county and collected by the treasurer of the county an ad valorem tax in such amount as council may hereafter from time to time determine, provided said amount shall not exceed an annual amount of fifteen (15) mills.
(Ord. of 11-4-97, § 3)

Sec. 11-77. Same—Collection.

All monies collected by the treasurer of the county pursuant to the authorization contained in section 11-76 shall be deposited in a separate and distinct fund and shall be used solely for the purpose of providing and/or improving fire protection and emergency services within the Corinth Fire District. Special tax monies and revenues derived solely from the district shall not be disbursed for use by the district until such time as same have been actually collected unless otherwise determined by resolution of county council.
(Ord. of 11-4-97, § 3.01)

Secs. 11-78—11-80. Reserved.

DIVISION 6. BUFFALO FIRE DISTRICT*

Sec. 11-81. Established.

There is hereby created and established a special tax district within the county, to be known as the Buffalo Fire District, which shall include and be comprised of territory in the county described as follows, to-wit:

ALL that certain area shown and depicted by the attached Exhibit "A" which is incorporated herein and made a part hereof by reference.
(Ord. of 8-16-99, § 2)

Editor's note—Exhibit "A" attached to an ordinance adopted April 20, 1999, has not been set out herein but is on file and available for inspection in the office of the county clerk.

***Editor's note—**An ordinance adopted April 20, 1999, did not specifically amend the Code; hence, inclusion of §§ 2—2.04, 3, 3.01 of said ordinance as Div. 6, §§ 11-81—11-87 of this division was at the discretion of the editor.

Sec. 11-82. Purpose and function.

The Buffalo Fire District is created and established for the purpose and function of procuring, providing, improving and/or funding fire protection and emergency services, by contract, grant or otherwise within the special tax district, and county council is hereby authorized to exercise any and all powers and to perform any and all duties in regard thereto as permitted by the laws of the state.
(Ord. of 8-16-99, § 2.01)

Sec. 11-83. Board of fire commissioners—Establishment; composition.

There is hereby created and established a board of fire commissioners for the Buffalo Fire District, who shall manage the district pursuit to powers delegated to it by the county. The board of fire commissioners of the Buffalo Fire District shall consist of five (5) members. The members of the board of fire commissioners must be residents of the area encompassed within the Buffalo Fire District. Members of the commission shall be nominated by the council member or members representing the district, and thereafter shall be appointed by a majority vote of council.
(Ord. of 8-16-99, § 2.02)

Sec. 11-84. Same—Terms; compensation; elections; meetings.

The members of the board of fire commissioners shall be appointed to serve initial terms as follows: one (1) member shall serve for a term of three (3) years; two (2) members shall serve for a term of two (2) years; and two (2) members for a term of one (1) year. Successors shall be appointed for terms of three (3) years. Any member whose term expires shall continue to serve until such time as a successor is duly appointed and qualified. The five (5) members, upon being appointed and qualified, shall take office at which time the terms shall commence and expire as indicated upon the certificate of each member. Any member of the board of fire commissioners shall be eligible for reappointment. The members of the board of fire commissioners shall serve without compensation or pay. The board of fire commissioners shall annually elect a chairman, a vice-chairman, a secretary, a treasurer and such other officers as it deems necessary. The board of fire commissioners shall meet at least monthly, and at such other times as called by the chairman or upon written request of a majority of its members or upon request of council.
(Ord. of 8-16-99, § 2.03)

Sec. 11-85. Same—Powers and duties.

The board of fire commissioners shall be directed, authorized and empowered to exercise the following powers and duties:

(1) To negotiate and recommend annual service contracts, agreements, grants and the like for the provision and/or improvement of fire protection and emergency services within

the district and to enter into said agreements and/or carry out related acts necessary and incidental to accomplish the intended purposes, the foregoing being subject to the consent and approval of county council.

(2) Annually, at a time designated by council, submit to council, for approval, a budget for the ensuing fiscal year adequate to fund the operation and maintenance of the Buffalo Fire District. Such budget will list all funds which the board of fire commissioners anticipates will be available for operations within the Buffalo Fire District. All funds appropriated, earned, granted or donated to the Buffalo Fire District, including funds appropriated by the council, through its taxing authority shall be deposited and expended as provided in this division. All funds appropriated, earned, granted, or donated shall be used exclusively for fire protection and emergency services within the district, and related matters. All financial procedures relating to the Buffalo Fire District, including audits, shall conform to the practices and procedures established by the county council; no monies shall be expended by the commission unless pursuant to its approved budget or otherwise authorized by resolution of county council.

(3) Annually submit to the county council the amount of millage that it wishes to levy for the upcoming fiscal year not to exceed an amount of taxation amount of fifteen (15) mills.

(4) Annually file a detailed report of its operation and expenditures for the previous fiscal year with the county council and provide a copy of such report.

(5) To perform any and all other acts which, from time to time, may be delegated to said fire commissioners by resolution of county council.

This section may be amended and/or modified in any matter and at any time by resolution duly passed by county council.
(Ord. of 8-16-99, § 2.04)

Sec. 11-86. Ad valorem tax—Annual levy.

In order to provide for the operation and maintenance of the intended functions of the Buffalo Fire District, there shall be levied annually by the auditor of the county and collected by the treasurer of the county an ad valorem tax in such amount as council may hereafter from time to time determine, provided said amount shall not exceed an annual amount of fifteen (15) mills.
(Ord. of 8-16-99, § 3)

Sec. 11-87. Same—Collection.

All monies collected by the treasurer of the county pursuant to the authorization contained in section 11-86 shall be deposited in a separate and distinct fund and shall be used solely for the purpose of providing and/or improving fire protection and emergency services within the

Buffalo Fire District. Special tax monies and revenues derived solely from the district shall not be disbursed for use by the district until such time as same have been actually collected unless otherwise determined by resolution of county council.
(Ord. of 8-16-99, § 3.01)

Secs. 11-88—11-90. Reserved.

DIVISION 7. GAFFNEY FIRE DISTRICT*

Sec. 11-91. Established.

There is hereby created and established a special tax district within Cherokee County, South Carolina, to be known as the Gaffney Fire Protection Area, which shall include and be comprised of territory in Cherokee County described as follows, to-wit:

ALL that certain area shown and depicted by the attached Exhibit "A" which is incorporated herein and made a part hereof by reference.

(Ord. of 6-5-00, § 2)

Editor's note—Exhibit "A" attached to an ordinance adopted June 5, 2000, has not been set out herein but is on file and available for inspection in the office of the county clerk.

Sec. 11-92. Purpose and function.

The Gaffney Fire Protection Area is created and established for the purpose and function of procuring, providing, improving and/or funding fire protection and emergency services, by contract, grant or otherwise within the special tax district, and county council is hereby authorized to exercise any and all powers and to perform any and all duties in regard thereto as permitted by the laws of the State of South Carolina.
(Ord. of 6-5-00, § 2.01)

Sec. 11-93. Ad valorem tax—Annual levy.

In order to provide for the operation and maintenance of the intended functions of the Gaffney Fire Protection Area, there shall be levied annually by the auditor of Cherokee County and collected by the treasurer of Cherokee County an ad valorem tax in such amount as council may hereafter from time to time determine, provided said amount shall not exceed an annual amount of twelve (12) mills.
(Ord. of 6-5-00, § 3)

Sec. 11-94. Same—Collection.

All monies collected by the treasurer of Cherokee County pursuant to the authorization contained in this section 11-93 hereof shall be deposited in a separate and distinct fund and

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***Editor's note—**An ordinance adopted June 5, 2000, did not specifically amend the Code; hence, inclusion of §§ 2, 2.01, 3 and 3.01 of said ordinance as Div. 7, §§ 11-91—11-94 was at the discretion of the editor.

shall be used solely for the purpose of providing and/or improving fire protection and emergency services within The Gaffney Fire Protection Area. Special tax monies and revenues derived solely from the district shall not be disbursed for use by the district until such time as same have been actually collected unless otherwise determined by resolution of county council.
(Ord. of 6-5-00, § 3.01)

Secs. 11-95—11-100. Reserved.

DIVISION 8. CKC FIRE DISTRICT

Sec. 11-101. Established.

There is hereby created and established a special tax district within Cherokee County, South Carolina, to be known as the CKC Fire District, which shall include and be comprised of territory in Cherokee County described as follows, to-wit: ALL that certain area shown and depicted by the attached Exhibit "A" which is incorporated herein and made a part hereof by reference.
(Ord. of 7-23-01, § 2)

Editor's note—Exhibit "A" attached to an ordinance adopted July 23, 2001, has not been set out herein, but is on file and available for inspection in the office of the county clerk.

Sec. 11-102. Purpose and function.

The CKC Fire District is created and established for the purpose and function of procuring, providing, improving and/or funding fire protection and emergency services, by contract, grant or otherwise within the special tax district, and county council is hereby authorized to exercise any and all powers and to perform any and all duties in regard thereto as permitted by the laws of the State of South Carolina.
(Ord. of 7-23-01, § 2.01)

Sec. 11-103. Board of fire commissioners.

There is hereby created and established a board of fire commissioners for the CKC Fire District, who shall manage the district pursuit to powers delegated to it by the county. The board of fire commissioners of the CKC Fire District shall consist of five (5) members. The members of the board of fire commissioners must be residents of the area encompassed within the CKC Fire District. Members of the commission shall be nominated by the council member or members representing the district, and thereafter shall be appointed by a majority vote of council.
(Ord. of 7-23-01, § 2.02)

Sec. 11-104. Terms of board; elections; meetings.

The members of the board of fire commissioners shall be appointed to serve initial terms as follows: one (1) member shall serve for a term of three (3) years; two (2) members shall serve for a term of two (2) years; and two (2) members for a term of one (1) year. Successors shall be

appointed for terms of three (3) years. Any member whose term expires shall continue to serve until such time as a successor is duly appointed and qualified. The five (5) members, upon being appointed and qualified, shall take office at which time the terms shall commence and expire as indicated upon the certificate of each member. Any member of the board of fire commissioners shall be eligible for reappointment. The members of the board of fire commissioners shall serve without compensation or pay.

The board of fire commissioners shall annually elect a chairman, a vice-chairman, a secretary, a treasurer and such other officers as it deems necessary. The board of fire commissioners shall meet at least monthly, and at such other times as called by the chairman or upon written request of a majority of its members or upon request of council.
(Ord. of 7-23-01, § 2.03)

Sec. 11-105. Powers.

The board of fire commissioners shall be directed, authorized and empowered to exercise the following powers and duties:

(1) To negotiate and recommend annual service contracts, agreements, grants and the like for the provision and/or improvement of fire protection and emergency services within the district and to enter into said agreements and/or carry out related acts necessary and incidental to accomplish the intended purposes, the foregoing being subject to the consent and approval of county council.

(2) Annually, at a time designated by council, submit to council, for approval, a budget for the ensuing fiscal year adequate to fund the operation and maintenance of the CKC Fire District. Such budget will list all funds which the board of fire commissioners anticipates will be available for operations within the CKC Fire District. All funds appropriated, earned, granted or donated to the CKC Fire District, including funds appropriated by the council, through its taxing authority shall be deposited and expended as provided in this article. All funds appropriated, earned, granted, or donated shall be used exclusively for fire protection and emergency services within the district, and related matters. All financial procedures relating to the CKC Fire District, including audits, shall conform to the practices and procedures established by the Cherokee County Council; no monies shall be expended by the commission unless pursuant to its approved budget or otherwise authorized by resolution of county council.

(3) Annually submit to the Cherokee County Council the amount of millage that it wishes to levy for the upcoming fiscal year not to exceed an amount of taxation amount of fifteen (15) mills.

(4) Annually file a detailed report of its operation and expenditures for the previous fiscal year with the Cherokee County Council and provide a copy of such report.

(5) To perform any and all other acts which, from time to time, may be delegated to said fire commissioners by resolution of county council. This provision may be amended and/or modified in any matter and at any time by resolution duly passed by county council.

(Ord. of 7-23-01, § 2.04)

Sec. 11-106. Ad valorem tax.

In order to provide for the operation and maintenance of the intended functions of the CKC Fire District, there shall be levied annually by the Auditor of Cherokee County and collected by the Treasurer of Cherokee County an ad valorem tax in such amount as council may hereafter from time to time determine, provided said amount shall not exceed an annual amount of fifteen (15) mills.

(Ord. of 7-23-01, § 3)

Sec. 11-107. Collection of tax.

All monies collected by the Treasurer of Cherokee County pursuant to the authorization contained in this section hereof shall be deposited in a separate and distinct fund and shall be used solely for the purpose of providing and/or improving fire protection and emergency services within The CKC Fire District. Special tax monies and revenues derived solely from the district shall not be disbursed for use by the district until such time as same have been actually collected unless otherwise determined by resolution of county council.

(Ord. of 7-23-01, § 3.01)

Secs. 11-108—11-110. Reserved.

DIVISION 9. ANTIOCH FIRE DISTRICT

Sec. 11-111. Established.

There is hereby created and established a special tax district within Cherokee County, South Carolina, to be known as the Antioch Fire District, which shall include and be comprised of territory in Cherokee County described as follows, to-wit:

> ALL that certain area shown and depicted by the attached Exhibit "A"* which is incorporated herein and made a part hereof by reference.

(Ord. No. 2005-02, § 2, 3-21-05)

Editor's note—Exhibit "A" attached to Ord. No. 2005-02, has not been set out herein, but is on file and available for inspection in the office of the county clerk.

Sec. 11-112. Purpose and function.

The Antioch Fire District is created and established for the purpose and function of procuring, providing, improving and/or funding fire protection and emergency services, by

contract, grant or otherwise within the special tax district, and county council is hereby authorized to exercise any and all powers and to perform any and all duties in regard thereto as permitted by the laws of the State of South Carolina.
(Ord. No. 2005-02, § 2.01, 3-21-05)

Sec. 11-113. Board of fire commissioners.

There is hereby created and established a board of fire commissioners for the Antioch Fire District, who shall manage the district pursuit to powers delegated to it by the county. The Board of Fire Commissioners of the Antioch Fire District shall consist of five (5) members. The members of the board of fire commissioners must be residents of the area encompassed within the Antioch Fire District. Members of the commission shall be nominated by the council member or members representing the district, and thereafter shall be appointed by a majority vote of council.
(Ord. No. 2005-02, § 2.02, 3-21-05)

Sec. 11-114. Terms of board; elections; meetings.

The members of the board of fire commissioners shall be appointed to serve initial terms as follows: One (1) member shall serve for a term of three (3) years; two (2) members shall serve for a term of two (2) years; and two (2) members for a term of one (1) year. Successors shall be appointed for terms of three (3) years. Any member whose term expires shall continue to serve until such time as a successor is duly appointed and qualified. The five (5) members, upon being appointed and qualified, shall take office at which time the terms shall commence and expire as indicated upon the certificate of each member. Any member of the board of fire commissioners shall be eligible for reappointment. The members of the board of fire commissioners shall serve without compensation or pay. The board of fire commissioners shall annually elect a chairman, a vice-chairman, a secretary, a treasurer and such other officers as it deems necessary. The board of fire commissioners shall meet at least monthly, and at such other times as called by the chairman or upon written request of a majority of its members or upon request of council.
(Ord. No. 2005-02, § 2.03, 3-21-05)

Sec. 11-115. Powers.

The board of fire commissioners shall be directed, authorized and empowered to exercise the following powers and duties:

(1) To negotiate and recommend annual service contracts, agreements, grants and the like for the provision and/or improvement of fire protection and emergency services within the district and to enter into said agreements and/or carry out related acts necessary and incidental to accomplish the intended purposes, the foregoing being subject to the consent and approval of county council.

(2) Annually, at a time designated by council, submit to council, for approval, a budget for the ensuing fiscal year adequate to fund the operation and maintenance of the Antioch

Fire District. Such budget will list all funds which the board of fire commissioners anticipates will be available for operations within the Antioch Fire District. All funds appropriated, earned, granted or donated to the Antioch Fire District, including funds appropriated by the council, through its taxing authority shall be deposited and expended as provided in this division. All funds appropriated, earned, granted, or donated shall be used exclusively for fire protection and emergency services within the district, and related matters. All financial procedures relating to the Antioch Fire District, including audits, shall conform to the practices and procedures established by the Cherokee County Council; no monies shall be expended by the commission unless pursuant to its approved budget or otherwise authorized by resolution of county council.

(3) Annually submit to the Cherokee County Council the amount of millage that it wishes to levy for the upcoming fiscal year not to exceed an amount of taxation amount of eight (8) mills.

(4) Annually file a detailed report of its operation and expenditures for the previous fiscal year with the Cherokee County Council and provide a copy of such report.

(5) To perform any and all other acts which, from time to time, may be delegated to said fire commissioners by resolution of county council.

This provision may be amended and/or modified in any matter and at any time by resolution duly passed by county council.

(Ord. No. 2005-02, § 2.04, 3-21-05)

Sec. 11-116. Ad valorem tax.

In order to provide for the operation and maintenance of the intended functions of the Antioch Fire District, there shall be levied annually by the Auditor of Cherokee County and collected by the Treasurer of Cherokee County an ad valorem tax in such amount as council may hereafter from time to time determine, provided said amount shall not exceed an annual amount of eight (8) mills.

(Ord. No. 2005-02, § 3, 3-21-05)

Sec. 11-117. Collection of tax.

All monies collected by the treasurer of Cherokee County pursuant to the authorization contained in this section 11-117 hereof shall be deposited in a separate and distinct fund and shall be used solely for the purpose of providing and/or improving fire protection and emergency services within The Antioch Fire District. Special tax monies and revenues derived solely from the district shall not be disbursed for use by the district until such time as same have been actually collected unless otherwise determined by resolution of county council.

(Ord. No. 2005-02, § 3.01, 3-21-05)

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Chapter 12

HEALTH AND SANITATION

Art. I. In General, §§ 12-1—12-19
Art. II. Commission on Alcohol and Drug Abuse, §§ 12-20—12-29
Art. III. Litter Control, §§ 12-30—12-80
Div. 1. Generally, §§ 12-30—12-39
Div. 2. Determination of Litter, §§ 12-40—12-49
Div. 3. Distribution of Handbills on Private Property, §§ 12-50—12-59
Div. 4. Enforcement, §§ 12-60—12-80
Art. IV. Hazardous Waste, §§ 12-81—12-89

ARTICLE I. IN GENERAL

Secs. 12-1—12-19. Reserved.

ARTICLE II. COMMISSION ON ALCOHOL AND DRUG ABUSE*

Sec. 12-20. Establishment.

There is hereby established the county commission on alcohol and drug abuse to be designated the single county authority for alcohol and drug abuse programming pursuant to section 6 1-5-320 of the Code of Laws of South Carolina 1976.
(Ord. of 5-6-80, § 1; Ord. of 9-25-90, § 1)

Sec. 12-21. Membership and appointment.

The commission shall be composed of seven (7) members with expiration dates according to their appointment. Upon expiration date of a member, appointment shall be made by county council. Each appointment shall be for three (3) years. If a vacancy occurs, the county council shall fill the vacancy by appointment for the unexpired term.
(Ord. of 5-6-80, § 2; Ord. of 9-25-90, § 2)

Sec. 12-22. Removal of members.

Any commission member may be removed for cause by vote of a majority of the county council.
(Ord. of 5-6-80, § 3; Ord. of 9-25-90, § 3)

Sec. 12-23. Compensation; qualifications; council district representation.

(a) All members shall serve without compensation.

(b) Members shall be residents of the county.

***Cross reference—**Drug paraphernalia, § 15-21 et seq.

(c) The members shall be selected by the county council to represent each council district of the county.
(Ord. of 5-6-80, § 4; Ord. of 9-25-90, § 4)

Sec. 12-24. Selection of officers; by-laws.

(a) The commission shall meet within thirty (30) days of their appointment for the selection of officers.

(b) The commission shall be governed by the adopted by-laws for the conduct of its business not inconsistent with this article.
(Ord. of 5-6-80, § 5; Ord. of 9-25-90, § 5)

Sec. 12-25. Responsibilities and duties; executive director.

The county commission on alcohol and drug abuse shall be authorized:

(1) To develop and submit to county council for approval a comprehensive county alcohol and drug abuse plan which is:

a. In accordance with sections 44-49-10 through 44-49-80, Code of Laws of South Carolina 1976; and

b. Consistent with the South Carolina state plan on alcohol and drug abuse as required by section 44-49-10 of the Code of Laws of South Carolina 1976; and,

c. Inclusive of all alcohol and drug abuse programs operating in the county, to include the identification and accounting of all funds utilized for the implementation and execution of these programs.

(2) To submit an operating budget, approved by the commission on alcohol and drug abuse, to county council for approval each fiscal year beginning July first and ending June thirtieth for purposes of carrying out the comprehensive county alcohol and drug abuse plan.

(3) To receive and expend gifts, bequests, and devices which may be used to further the efforts of alcohol and drug abuse programs.

(4) To receive and expend contributions and appropriations from public and private sources and to enter into contracts; to seek financial support from private and corporate sources, foundations, and state and federal programs to carry out the programs outlined in the comprehensive county alcohol and drug abuse plan.

(5) The commission on alcohol and drug abuse shall be the county authority for alcohol and drug abuse programming to cooperate with the state commission on alcohol and drug abuse in the implementation of the state plan on alcohol and drug abuse.

(6) To employ an executive director who shall perform such duties as required to carry out the approved comprehensive county alcohol and drug abuse plan. Such other personnel as may be required may be employed by the director with the approval of the commission; designated compensation to be paid to the director and other person

nel. To develop personnel system policies and procedures for commission employees by which all commission employees will be regulated.

(7) The county commission on alcohol and drug abuse shall coordinate all alcohol and drug abuse prevention, intervention, and treatment programs operated by public agencies in the county.

(8) To facilitate the cooperation of all private agencies having programs directed toward the solving of the alcohol and drug abuse problem.

(9) Review and make recommendations concerning the application of any agency for alcohol and drug abuse program funds to be utilized in the county and to ensure that such program is consistent with the comprehensive county alcohol and drug abuse plan.

(10) Provide to the county council a programmatic progress report using a formula jointly agreed upon by the commission and the county council.

(11) Establish an efficient set of management and fiscal controls and as soon after the close of the fiscal year as practical and, in accordance with section 61-5-360 of the Code of Laws of South Carolina 1976, provide for an audit of commission operations with a copy of the audit of the commission to be filed with the county council.

(Ord. of 5-6-80, § 6; Ord. of 9-25-90, § 6)

Secs. 12-26—12-29. Reserved.

ARTICLE III. LITTER CONTROL*

DIVISION 1. GENERALLY

Sec. 12-30. Purpose.

The purpose of this article is to set standards and regulations for the control of litter in Cherokee County. The control of litter will have a lasting effect upon the county's environment and appearance. The goal of this article is the general up keep of the community for the health, safety, and welfare of it's citizens. Subjects such as: transporting loose materials, illegal dumping, unlawful disposal, handbills, nuisances, weeds and debris shall not be allowed within the boundaries of the county from any person or persons.

(Ord. of 11-7-88, § I)

***Editor's note**—Ord. of Nov. 7, 1988, did not specifically amend the Code, hence inclusion herein as Art. III, §§ 12-30—12-63 was at the discretion of the editor. See the Code Comparative Table for a detailed analysis of inclusion of said ordinance.

Cross reference—Solid waste disposal, § 8-50 et seq.

Sec. 12-31. Title.

This article shall be known as the "Litter Control and Regulation Ordinance of Cherokee County, South Carolina." The county litter officer shall now and hereafter be supervised by the Cherokee County Administrator.
(Ord. of 11-7-88, § I(1))

Sec. 12-32. Authority.

This article is adopted pursuant to the provisions of Section 4-9-30 et seq. South Carolina Code of Laws 1976 as amended. Personnel employed by the administrator shall be vested with the authority to enforce and administer litter control within Cherokee County in accordance with the provisions of Section 44-67-10 et seq. South Carolina Code of Laws 1976, as amended and all rules and regulations adopted thereunder and the same are incorporated herein by reference as fully as set forth verbatim and as they may be amended from time to time.
(Ord. of 11-7-88, § I(2))

Sec. 12-33. Application.

(a) No person shall dump, throw, drop, deposit, discard or otherwise dispose of litter or other solid waste upon any public property in the county or upon private property in this county or in the waters of this county whether from a vehicle or otherwise, including but not limited to any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

(1) When such property is designated by the county and/or state for the disposal of litter and other solid waste and such person is authorized to use such property for such purpose;

(2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters.

(b) Responsibility for the removal of litter from property or receptacles shall be upon the owners of the property or upon the owner of the property, except where litter has traveled through forces of elements onto property of another in which case the owner of property of origin is responsible. (See South Carolina Code Section 16-11-700.)
(Ord. of 11-7-88, § I(3))

Sec. 12-34. Definitions.

For the purpose of this article the following definitions shall apply:

Disposal package or container. All packages or containers defined as such by rules and regulations adopted by the Department of Health and Environmental Control. (See Section 44-67-10 South Carolina Code of Laws, as amended.)

Open dump. A land disposal site for solid waste which does not qualify for a sanitary landfill.

Public place. Any area that is used or held out for use by the public whether owned and operated by public or private interest.

Litter. All waste materials including but, not limited to disposable packages or containers, trash, garbage or refuse.

Litter receptacle. Those containers adopted by the department of health and environmental control which may be standardized as to size, shape, capacity and color and which may bear a state or county anti-litter symbol, as well as any other receptacle suitable for the depositing of litter.

Person. An individual, partnership, copartnership, cooperative, firm, company, public or private corporation, political subdivision, agency of the state, trust estate, joint structure company or any other legal entity or its legal representative, agent or assigns.

Sanitary landfill. A method of disposing of solid waste on land without creating pollution, nuisances, environmental threats or hazards to public health and safety.

Solid waste. Any garbage, refuse or sludge from a waste treatment facility, water supply plant or air pollution control facility and other discarded material, including solid, liquid, semi-solid or contained gaseous materials resulting from the industrial, commercial, mining and agricultural operations and from community activities.

The term does not include solid or dissolved materials in domestic sewage or solid or dissolved materials from irrigation return flows, or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Vehicle. Every device capable of being moved upon a public highway and in, upon or by which any personal property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Water craft. Any boat, ship, vessel, barge or any other floating craft.
(Ord. of 11-7-88, § I(4))

Secs. 12-35—12-39. Reserved.

DIVISION 2. DETERMINATION OF LITTER

Sec. 12-40. Responsibility of loose material on property.

(a) To help prevent and reduce litter in areas where fast food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, motels, hospitals and educational institutions or any other commercial establishments are located, owners and operators are responsible for the loose materials that are produced on the establishment's property by the patronizer or by the establishment itself. Such materials are subject to

spreading into areas nearby and it is not the responsibility of the property owners to clean up litter which was produced elsewhere. Thus it is the responsibility of the owners and operators of publicly patronized establishments to maintain their surrounding areas.

(b) It shall be unlawful for any person, firm, corporation, institution or organization to transport any loose materials by truck or other motor vehicle within the corporate limits of the county unless said material is covered and secured in such a manner as to prevent litter on public and private property.

(c) Lack of adequate covering and securing of material while the loaded truck or other motor vehicle is in motion shall in itself constitute a violation of this section.
(Ord. of 11-7-88, § II (1))

Sec. 12-41. Driver to be held liable.

The driver of any vehicle shall be held in violation of this article in the event it can not be determined which vehicle occupant committed any acts in violation of this section.
(Ord. of 11-7-88, § II (2))

Sec. 12-42. Request of adequate receptacles by certain establishments.

(a) To help prevent or reduce litter by pedestrians and motorists, owners of publicly patronized establishments, the Cherokee County Health Department requests that the owners of the establishments provide and maintain on their premises litter receptacles. This requirement shall be applicable, but not be limited to, fast food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, motels, hospitals, schools, colleges and universities.

(b) The placement of large litter receptacles such as dumpsters, must be situated at a reasonable distance from public thoroughfares to prevent blockage of view from state or county right-of-ways.
(Ord. of 11-7-88, § II (3))

Sec. 12-43. Unlawful disposal.

It shall be unlawful for any owner, manager, employee, agent or independent contractor, who works for a retail, commercial, or institutional establishment (such persons include solicitors, vendors, etc.) to deposit litter from that business in any receptacle other than a litter receptacle maintained on premises, except after having received permission from the Cherokee County Litter Officer for disposal or transport to a state or county permitted landfill.
(Ord. of 11-7-88, § II (4))

Secs. 12-44—12-49. Reserved.

DIVISION 3. DISTRIBUTION OF HANDBILLS ON PRIVATE PROPERTY

Sec. 12-50. Generally.

It shall be unlawful for any person to hand out or distribute or sell any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said private premises a conspicuous notice indicating in any manner that the occupants of said premises do not desire to be molested, or have their right of privacy disturbed, or to have any such handbills left upon said premises.
(Ord. of 11-7-88, § III)

Sec. 12-51. Obstruction of traffic.

It shall be unlawful for any commercial or noncommercial handbill or newspaper in a manner which would obstruct or interfere with pedestrian or vehicular traffic in or upon any street or other public place.
(Ord. of 11-7-88, § 111(1))

Secs. 12-52—12-59. Reserved.

DIVISION 4. ENFORCEMENT

Sec. 12-60. Generally.

All law enforcement officers employed by the sheriffs department or any other duly authorized deputy and the Cherokee County Litter Office are required to enforce the provisions of this article. Any person violating the provisions of this article is guilty of a misdemeanor and upon conviction, must be fined not less than one hundred dollars ($100.00) and no more than two hundred dollars ($200.00) for each offense. In addition to any fine and a second offense under the provisions of this section, the court must also impose a minimum of five (5) hours of littering-gathering labor or other such public service as the court may order because of physical or other incapacities, and which is under the supervision of the court.

The fine for a deposit of a collection of litter or garbage in an area facility not intended for public deposit for litter or garbage is two hundred dollars ($200.00). The provisions of this item apply to a deposit of litter or garbage as is defined by the provisions of this article and section 34-67-30(4) South Carolina Code of Laws 1976, as amended, in an area or facility not intended for public deposit of litter or garbage, provided, however, it shall not prohibit a private property owner from depositing litter or garbage as a property enhancement so long as the depositing does not violate applicable local or state health and safety regulations, and no portion thereof migrate through the elements to property of another.
(Ord. of 11-7-88, § IV)

Sec. 12-61. Inspection of premises.

The anti-litter officer shall be authorized and required to cause the inspection of any premises within the limits of the county whenever it shall be necessary to enforce the provisions of this article.
(Ord. of 11-7-88, § IV(1))

Sec. 12-62. Power and duty of the anti-litter officer for cleaning up lots and premises.

Whenever it shall appear to the anti-litter officer that there are lying within the county limits any lots or premises in a condition which shall constitute a present or potential hazard to the public health, the anti-litter officer shall issue a written notice to the owner requiring the owner within fifteen (15) days to bring such property within the provision of this article.
(Ord. of 11-7-88, § IV (2))

Sec. 12-63. Failure to abate; duty of the anti-litter officer.

Any person who refuses or neglects to abate any condition in violation of this article shall be subject to the provisions of Division 4 of this article. In the event of such refusal or neglect it shall be the duty of the anti-litter officer of the county to have removed or abated such nuisance and all expense incurred in so abating or removing such nuisance shall be recoverable from the owner or the premises from which the nuisance shall be removed or abated, or from any person causing or maintaining the same, in the same manner as debts of like amounts are now recoverable by law.
(Ord. of 11-7-88, § IV (3))

Secs. 12-64—12-80. Reserved.

ARTICLE IV. HAZARDOUS WASTE*

Sec. 12-81. Purpose.

It is the purpose of this article to provide for the recovery of costs associated with the clean-up of hazardous waste cleanups from spills and/or hazardous materials picked up and disposed of by Cherokee County Emergency Management Division, it's hazardous materials team, or any agent, department, or assignees directed to do so by the appropriate official of Cherokee County.
(Ord. No. 2003-01, § 1, 2-20-03)

***Editor's note—**Ord. No. 2003-01, §§ 1—9, effective Feb. 20, 2003, was not specifically amendatory of the Code and has been included as art. IV, §§ 10-81—10-89 at the editor's discretion.

Cross reference—Emergency preparedness, ch. 10.

Sec. 12-82. Background.

For the health, safety and general welfare of the citizens of Cherokee County, it is the intention and desire of the Cherokee County Council to maintain a properly trained, equipped and prepared Haz-Mat Team to respond to any hazardous material mishap that may arise within Cherokee County and to charge the cost associated to the responsible party or parties.
(Ord. No. 2003-01, § 2, 2-20-03)

Sec. 12-83. Scope.

The scope and application of this article shall be to those who transport, spill or release hazardous materials in or through Cherokee County.
(Ord. No. 2003-01, § 3, 2-20-03)

Sec. 12-84. Fees.

In the event of an occasion or mishap to which the Haz-Mat Team responds, the owner/operator/transporter/responsible party of the materials is liable for payment of all costs associated the response. The EMD will present the owner/operator/transporter/responsible party with an itemized list of materials, equipment and other costs used by the Haz-Mat Team in responding to the incident, and an invoice of the total. All fees due and collected shall be paid to the Cherokee County Treasurer and all checks will be written to the Cherokee County Treasurer for proper deposit and accounting.
(Ord. No. 2003-01, § 4, 2-20-03)

Sec. 12-85. Violations.

(a) Invoices submitted to an owner/operator/transporter/responsible party of hazardous materials for which Haz-Mat responses occurred, are all due and shall be paid within sixty (60) days of the postmark date of the bill. Late payments shall accrue a penalty of one and one-half (1.5) percent per month or any portion thereof.

(b) Cherokee County reserves the right to and will take any and all necessary legal or administrative actions, civil and/or criminal, to collect fees and recover costs. These fees are legal obligations to a local government body and as such as legally enforceable.
(Ord. No. 2003-01, § 5, 2-20-03)

Sec. 12-86. Official's right of entry.

(a) The EMD director, or his designee, may at all reasonable times request access to any building whether completed or under construction, or to any property for the purpose of making an inspection or investigation to enforce any of the provisions of this article. If the request is denied, and a belief exists as to probably cause that hazardous materials are present, then such official shall obtain a search warrant to allow inspection of the premises.

(b) If an emergency appears to exist, the county may petition for a court order enjoining the owner or occupant of the premises from conducting business or storing the product in question.

(c) No person, owner, or occupant of any building or premise shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the appropriate official designated by the county, or a duly authorized agent, for the purpose of inspection pursuant to this article. Any person violating this section shall be guilty of misdemeanor and, upon conviction, sentenced to a two hundred dollar ($200.00) fine and/or thirty (30) days in jail for each offense.
(Ord. No. 2003-01, § 6, 2-20-03)

Sec. 12-87. Vehicle inspection.

No materials shall be transported in any vehicle, which has physical, mechanical, or electrical defects which could cause or contribute to fire, explosion, spillage, or release, or which is improperly placarded or equipped, as provided in the United State Department of Transportation Regulations. The appropriate official shall have the authority to inspect a vehicle transporting materials for such defects or violations and shall prohibit a defective vehicle or improperly placarded or equipped vehicle from transporting materials on road and highways within the county.
(Ord. No. 2003-01, § 7, 2-20-03)

Sec. 12-88. Disposal.

Disposal of materials shall be by methods meeting all requirements of local, state, and federal regulations and laws. Upon registration of hazardous materials, a list of materials for disposal, storage site, and location of disposal site shall be supplied by each company. Chemical or chemicals, which are not produced within the county, shall not be disposed of within the county.
(Ord. No. 2003-01, § 8, 2-20-03)

Sec. 12-89. Mandatory information.

(a) All facilities who submit a Tier II report affected by this article are required to install and maintain a "knox box" at a location readily available to emergency personnel in case of hazardous substance incident. The only facilities exempt from the "knox box" requirement are fuel and fuel oil retain distributors, facilities manned twenty-four (24) hours a day, or persons who are not subject to the Tier II reporting but possess a UST permit.

(b) "Knox boxes" shall be installed and operational within twelve (12) months of the receipt of the 2003 Tier II forms by Cherokee County Emergency Management Department or March 1, 2004, whichever comes later. The Cherokee County Emergency Management Department will be responsible for verifying the information contained in the "knox box" with the facility owner.

(c) The "knox box" will be required to contain the following items: a facility map, emergency contacts, material safety data sheets (MSDS) information or its location, emergency response plan, and the location of emergency equipment. The facility owner shall keep these items current.

(d) The National Fire Protection Association identification system (NFPA-704) will be adopted and used by all companies filing Tier II reports to Cherokee County. The same time frame as noted in subsection 10-85(b) will apply to this paragraph also. This marking system will apply to building and storage areas where hazardous materials are present.

(e) All businesses and industries that are affected by this article, that are operating prior to December 31, 2002, are hereby "grandfathered" with regards to the "knox box" and NFPA-704 compliance. All businesses are encouraged to voluntarily to participate in these programs for the safety of Cherokee County citizens and emergency responders.

(f) The owner/operator of a facility where containers of chemicals/wastes are stored which are subject to this article who are unable to identify or substantiate the contents of the container through process knowledge or documentation shall be required to sample and analyze such container at the owner's expense and report the results to the appropriate county official. If the owner/operator cannot or will not perform the required analysis, the county may do so and bill the owner/operator. In the event of a spill or release of hazardous materials, chemicals substances or wastes requiring a response by Haz-Mat personnel the above analysis requirements apply. Sampling analysis shall be in accordance with standard laboratory techniques by a DHEC certified lab or method.
(Ord. No. 2003-01, § 9, 2-20-03)

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Chapter 13

LAND DEVELOPMENT REGULATIONS*

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ARTICLE I. AUTHORITY AND JURISDICTION

Sec. 13-1. Authority.

These land development regulations are adopted under authority granted by S.C. Code 1976, §§ 6-29-710—6-29-960, 6-29-1110—6-29-1200 (otherwise known as Article 7 of the Comprehensive Planning Enabling Act of 1994, S.C. Code 1976, Tit. 6, Ch. 29).
(Ord. of 1-2-00, § 1.1)

Sec. 13-2. Jurisdiction.

These regulations shall apply to all land development projects within the unincorporated areas of Cherokee County as now or hereafter established.
(Ord. of 1-2-00, § 1.2)

Secs. 13-3—13-20. Reserved.

ARTICLE II. GENERAL PROVISIONS

Sec. 13-21. Findings.

As development continues to occur in unincorporated Cherokee County, many issues have been cited. These problems have been brought to the attention of the county council to be addressed in this chapter. Three (3) major areas of concern with regard to development are as follows:

(1) *Road quality.* As a result of increased development, road quality has deteriorated or roads are not built to acceptable standards, leaving residents with poor access to and from their homes, as well as posing a threat to the public health and safety by limiting access to emergency vehicles.

***Editor's note—**With the permission of the county, the county land development regulations, adopted Jan. 2, 2000, have been included within this Code as a new Ch. 13.

Cross references—Buildings, construction and related activities, Ch. 2; county utilities and services, Ch. 8; planning and development, Ch. 17.

(2) *Lot size.* Compact development is occurring on minimum sized lots, creating congestion and impacting infrastructure.

(3) *Buffering of certain uses.* Certain development has occurred that is incompatible with adjacent uses. In some areas, these uses have impacted the quality of life for adjacent properties.

(Ord. of 1-2-00, § 2.1)

Sec. 13-22. Purpose and intent.

The purpose of this chapter is to protect and promote the public health, safety and general welfare of Cherokee County, South Carolina, by providing for the orderly development of land. These regulations are established for the following specific purposes, among others, as stated in the Comprehensive Planning Enabling Act of South Carolina (S.C. Code 1976, § 6-29-1120):

(1) To encourage the development of an economically sound and stable county;

(2) To assure the timely provision of required streets, utilities and other facilities and services to new land development;

(3) To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

(4) To assure the provision of needed public open space and building sites in new land developments through the dedication or reservation of land for recreational, educational, transportation and other public purposes; and

(5) To assure, in general, the wise and timely development of new areas or redevelopment of areas in harmony with the county's adopted comprehensive plan.

(Ord. of 1-2-00, § 2.2)

Sec. 13-23. Short title.

This chapter shall be known and cited as the "Cherokee County Uniform Land Development Regulations Ordinance."

(Ord. of 1-2-00, § 2.3)

Sec. 13-24. Applicability.

The requirements contained in this chapter apply to land development in unincorporated Cherokee County, and include the changing of land characteristics through development, redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, commercial and industrial structures, mobile home parks, and similar developments for sale, lease, or any combination of owner and rental characteristics (S.C. Code 1976, § 6-29-1110(1)).

(Ord. of 1-2-00, § 2.4)

Secs. 13-25—13-50. Reserved.

ARTICLE III. SUBDIVISION REQUIREMENTS

Sec. 13-51. Applicability.

These requirements shall apply to any subdivision created, or any re-subdivision submitted, following the enactment of this chapter by the county council.
(Ord. of 1-2-00, Art. 3)

Sec. 13-52. Minimum lot size.

Lot size shall not include right-of-way. Lot area and width at the building line shall meet South Carolina Department of Health and Environmental Control or public utility provider requirements, based on such factors as topography or soil characteristics. At no time following the adoption of this chapter shall any lot be created that is less than one-half (½) acre in size, unless otherwise specified in this chapter.
(Ord. of 1-2-00, § 3.1)

Sec. 13-53. Minimum lot frontage.

All lots shall have a minimum of fifty (50) feet of frontage on a public road right-of-way or other roadway complying with Cherokee County roadway specifications as set forth in section 13-82 et seq. of this Code, except that a subdivision may be created with a maximum of one (1) lot that has a road frontage of less than fifty (50) feet; however such frontage must be a minimum of twenty-five (25) feet and must be on a public road right-of-way or other roadway complying with Cherokee County roadway specifications as set forth in section 13-82 et seq. of this Code. In addition, any parcel with less than fifty (50) feet of right-of-way access shall not be eligible for further subdivision.
(Ord. of 1-2-00, § 3.2; Ord. of 6-25-01(3); Ord. No. 2006-12, § 201, 11-20-06)

Sec. 13-54. Minimum lot size for billboards.

The one-half (½) acre minimum lot size, as established in section 13-52 of this article, shall not apply to individual lots that are occupied solely by a billboard as defined in this article. If there are to be any parcels that are to be conveyed for the sole purpose of locating a billboard on the premises, such parcels shall not be subject to the minimum lot size requirement. Lots for this purpose shall not include right-of-way. All lots shall have a frontage on a public road right-of-way or other roadway complying with Cherokee County roadway specifications as set forth in section 13-82 et seq., of this Code.
(Ord. No. 2008-16, 8-18-08)

Sec. 13-55. Flag lots.

Definition: Flag lots are defined as a tract of land or lot with a developable area connected to a road by a narrow strip of land (referred to as a pole) that includes a driveway.

(a) *Regulations:* The flag section of the flag lot shall meet or exceed the minimum lot area requirements of the Cherokee County Land Development Regulations Ordinance as adopted by Cherokee County.

(b) The front yard setback shall be measured from the front of the principal structure on the lot to the property line faced by the principal structure.

(c) The rear setback for a flag lot shall be twenty-five (25) feet.

(d) The driveway section, or pole, of the flag lot shall have a minimum width of twenty-five (25) feet at the point where it adjoins the public right-of-way or road complying with the Cherokee County Roadway specifications set forth in section 13-82 et seq. of the Cherokee County Land Development Regulations.

(e) Access driveways for flag lots shall be a minimum of twenty-five (25) foot in width.

(f) A maximum of two (2) driveway sections, or poles, may intersect at a public right-of-way or other road complying with the Cherokee County roadway specifications as set forth in section 13-82, et seq., of the Cherokee County Land Development Regulations, within one hundred (100) feet of each other.

(g) An access drive with a minimum width of fifty (50) feet shall serve no more than two (2) parcels. An access drive with a width of less than fifty (50) feet shall serve no more than one (1) parcel.

(Ord. of 6-25-01(4); Ord. No. 2006-12, § 202, 11-20-06)

Secs. 13-56—13-80. Reserved.

ARTICLE IV. GENERAL DEVELOPMENT STANDARDS

Sec. 13-81. Enumerated.

General development standards include the following sections:

(1) Streets and related improvements.

(2) Drainage and stormwater.

(3) Water facilities.

(4) Wastewater facilities.

(5) Natural gas.

(6) Lot development.

(7) Construction standards.

(Ord. of 1-2-00, Art. IV)

Sec. 13-82. Streets and related improvements.

The following requirements shall apply to any public road in the county.

(1) *General standards.*

a. *Adoption of existing roads.* The right-of-way adopted by the county encompassing an existing road shall meet the following specifications:

1. Rights-of-way widths are as follows:

Primary roads and farm-to-market roads*	66 feet

Collector roads	50 feet
Local roads and all other roads with ditches	50 feet
Local roads all other roads with curb and gutter	25 feet

* (Roads must also meet South Carolina Department of Transportation width requirements.)

1) The road must be bounded by two (2) or more property owners who are not of the same household; and

2) The road must not be a dead end street unless the street shall have a cul-de-sac with a minimum fifty-foot radius.

2. If a newly adopted right-of-way contains structures, fences, or other obstructions, the individual property owner from whom the right-of-way was obtained shall be responsible for removing all such obstructions, prior to the adoption of the road by the county.

3. The county will maintain existing drainage ditches within the road right-of-way.

4. The county shall maintain the current existing road condition of a newly adopted road following acceptance into the county road system. The road condition categories are:

   i. Graded dirt road.

   ii. Gravel road.

   iii. Paved road.

5. The county reserves the right to widen and improve the roadway when at any time it is determined by the county council that traffic or safety conditions warrant such improvement.

6. The procedure for adoption into the county road system is as follows:

   i. Any citizen may initiate the process for having a road adopted into the county road system by filing a road adoption petition with the county public works department;

   ii. For a road to be adopted, all property owners abutting the road shall submit a right-of-way form conveying land to the county;

   iii. An inspection must be made to determine road condition, to identify drainage problems, to ensure that all right-of-way forms are filed, and to verify title of land. Such inspection shall be performed by the county public works department;

   iv. The county council shall adopt only roads that meet the requirements of this chapter. Adoption of any road meeting these requirements into the county road system shall be at the discretion of the county council.

b. *Continuation of adjoining road system.* The proposed road layout shall extend existing roads on a logical course at a width that meets the minimum required in section 13-82(b). A minimum ten (10) to one (1) taper section shall be used to transition from one width to another.

c. *Road system coordination.*

1. The road system of a new subdivision or land development project shall be coordinated with existing, proposed, and anticipated roads outside the project or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding roads").

2. Roads shall intersect with surrounding collector or arterial roads at safe and convenient locations and shall connect with surrounding roads where necessary to permit the convenient movement of traffic between residential neighborhoods by emergency service vehicles or for other sufficient reasons.

3. Whenever connections to surrounding roads are required by this section, the road right-of-way shall be extended and the street developed to the property line of the developed property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected.

4. In addition, temporary turnarounds shall be required to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Such temporary turnarounds shall have a minimum right-of-way diameter of seventy-five (75) feet.

5. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of one thousand (1,000) feet shall be created unless no other practicable alternative is available.

d. *Maintenance of existing roads.*

1. The county shall maintain all county roads in a safe manner in accordance with the road condition category at which it is developed or adopted into the county road system. The county reserves the right to widen or improve road conditions when at any time it is determined by county council that traffic or safety conditions warrant such conditions.

2. Liability permits. Any person, company, agency, or other entity engaging in any activity for which it is determined to have potential for damaging county roads and rights-of-way shall be required to obtain a liability permit prior to engaging in said activity within the public right-of-way. Such activities shall be determined by resolution of the county council. The county reserves the right to establish a fee for these permits.

3. Any person who causes damage to a county road, ditch, or drainage facility or who deposits any debris on a road right-of-way shall be held liable and shall be required to make proper repairs or remove said debris.

4. Any repairs to a county road or drainage facility required through the liability permit or due to individual negligence shall be inspected and approved by the county road foreman prior to the release of the individual's responsibility to the county. Inspection and approval of both the road base and surface paving shall be obtained.

e. *Half roads.* Half roads are prohibited. Whenever a road is planned adjacent to the project's property boundary, the entire road right-of-way shall be included.

f. *Road names.*

1. In accordance with state law, the planning commission is responsible for approving street names in unincorporated Cherokee County and shall coordinate with the county's E-911 department in its decision-making.

2. A proposed road that is obviously in alignment with or an extension of an existing named road shall bear the name of the existing road.

3. Except for the above, in no case shall the name of a proposed road duplicate or be phonetically similar to an existing road name, irrespective of the use of suffix (road, avenue, boulevard, drive, place, court, lane, etc.).

4. It shall be unlawful for any person in laying out any new road to name such road on any plat or plan or in any deed or instrument, without first obtaining the approval of the designated ordinance administrator. Such approval may be a component of the plat approval.

5. A person laying out a street is guilty of a misdemeanor if he shows an unapproved street name on a deed or instrument of transfer.

6. After a fifteen-day notice in a newspaper of general circulation in the county (S.C. Code 1976, § 6-29-1200(c)), the planning commission may change the name of an existing street or road within unincorporated Cherokee County.

7. The planning commission can make a change to a street or road name when one (1) of the following occurs:

   i. There is duplication of names which tends to confuse the public or persons delivering mail, orders or messages;

   ii. A change may simplify markings or giving directions to persons looking for an address and any other good and just reason that may appear to the commission.

8. After such public hearing, if the planning commission issues a certificate designating the change, the clerk of court records it, then the changed and certified name becomes the legal name of the street (S.C. Code 1976, § 6-29-1200).

9. A petitioner for a road name change must submit a written application, along with a fee established by county council to cover the cost of the public hearing advertisements and the cost of new signage.

g. *Posting of address.* Each lot with a house shall have its address posted on the house and at its driveway.

h. *Street signs.* Street signs shall be installed at all intersections within a subdivision or land development project. The location and design shall be subject to the county E911 ordinance, as amended.

(2) *Road design.* The following requirements shall be met for the development of any new road by the county or for any privately developed road providing access to or internal to a single family home or subdivision, multifamily housing project, mobile home park, commercial or office project, or industrial project. Also, the county shall only accept subdivision streets into the county road system that meet the requirements included herein. In general, geometric criteria for road design shall be in accordance with standards of the state department of transportation. Said standards are those contained in the latest edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials. All roads, as noted in this paragraph, shall be designed in accordance with the following standards.

a. *Right-of-way.*

1. *Standard streets.* Minimum right-of-way and pavement width shall be as follows:

Road Type	*Right -of-Way Width*	*Pavement Width*
Roads and drives* (curb and gutter)	25'	20'
Roads and drives* (swale/ditch)	50'	20'
Local (curb and gutter)	25'	20'
Local (swale/ditch)	50'	20'
Collector	50'	24'
Primary/farm to market/arterial	66'	24'

* Roads and drives include privately developed roads providing access to or internal to a single-family home or subdivision, multi-family housing projects, mobile home parks, commercial, office, or industrial projects.

Additional right-of-way or pavement width will be provided as determined necessary by the public works department for high density residential or nonresidential land development projects, or portions thereof.

2. *Culs-de-sac.*

i. Culs-de-sac shall have a turnaround with one hundred (100) feet minimum diameter to right-of-way line. Dead-end streets without turnarounds are prohibited.

ii. Culs-de-sac shall have a sixty-foot minimum diameter to pavement edge.

3. *Variance to right-of-way width requirements.* The county council shall have the authority to develop and adopt, by ordinance, a variance policy to adjust the minimum requirement for the width of the right-of-way for new roads developed by the county, existing roads adopted by the county, and subdivision roads to be dedicated to the county. The variance policy shall be based on the existence of an unusual circumstance, which would make strict adherence to the minimum requirements unreasonable.

b. *Road intersections.*

1. Roads shall be designed to intersect as nearly as possible at right angles but no less than seventy-five (75) degrees. Minimum radius of curb or pavement edge at intersections shall be at least twenty (20) feet at intersections with local roads and twenty-five (25) feet at intersections with all other roads.

2. Proposed intersections on one side of a road shall coincide with existing or proposed intersections on the opposite side. Minimum centerline offset for intersections on opposite sides of a road shall be one hundred fifty (150) feet. No two (2) roads shall intersect on the same side of a road at a centerline separation distance of less than four hundred (400) feet.

c. *Road grade.*

1. Except as specified herein, the minimum and maximum road grade shall be one (1) percent and twelve (12) percent respectively. For short stretches of roadway for which unique topographical features makes the construction of a twelve (12) percent road grade infeasible, the Cherokee County Administrator or his/her authorized representative shall be authorized to allow a portion of the road to be constructed at a grade to not exceed fifteen (15) percent, provided that the increased road grade does not pose a substantial threat to the public safety. Before allowing such an exception, the Public Works Director shall notify and seek comment from the Cherokee County Fire Marshall and the Superintendent of the Cherokee County Public School System regarding access to fire trucks and school buses.

(3) *Road construction.* In general, all public roads shall be constructed in accordance with the SCDOT's "Standard Specifications for Highway Construction" (latest edition) as it relates to earthwork, bases/sub-bases, paved surfaces, etc. In addition, all privately developed roads or drives internal to a multi-family housing development, mobile home park, commercial or office project, or any industrial project must meet the following road construction requirements. The following requirements for roads include:

a. *Paved road requirements.*

1. Cherokee County shall only accept subdivision streets into the county road system that meet the requirements of section 13-82(3) paved.

2. Paved road surfaces are required for all privately developed roads or drives providing access to or internal to a single family home or subdivision, multi-family housing development, mobile home park, commercial or office project, or any industrial projects, meeting the requirements of section 13-82(3).
3. New roads developed by the county, if paved, shall meet the requirements of section 13-82(3).
4. The surface paving shall have not less than a two and one-half (2½) percent crown.

b. *Construction standards for public roads.*

1. *Clearing and grubbing.* All work shall be required to conform to requirements and standards as set forth in the "clearing and grubbing" section of the most recent edition of SCDOT specifications.
2. *Subgrade.* Shall be constructed as specified in the "subgrade" section in the SCDOT specifications, or sound, undisturbed residual soils. In fill areas, all subgrade soils shall be compacted in accordance with the "construction requirements" section of the SCDOT specifications.

   All areas under pavement shall be proofrolled. The proofroll is good for twenty-four (24) hours. The proofrolling shall be performed using a fully loaded tandem dump truck weighing not less than thirty (30) tons gross, or equivalent. Any areas which show visible deflection will be required to be repaired, and a second proofroll may be required prior to verify the repairs. Compaction tests by a geotechnical engineering firm may also be required in problem areas as directed by the county administrator or his/her authorized representative.
3. *Roadway specifications.*
   a. *Granular base courses.* The granular base course shall be one of the following types, compacted and tested in accordance with sound engineering principles as outlined in procedures adopted by the American Association of State Highway and Transportation Officials; or the Portland Cement Institute; or the Asphalt Institute. All designs shall be subject to review and approval by the Cherokee County Administrator or his/her authorized representative.
   b. *Asphaltic base courses.* An asphaltic base may be used in place of or in conjunction with granular bases. All base courses will comply with the applicable sections of the South Carolina Department of Transportation's Standard Specifications for Highway Construction. The asphalt base is to be constructed in accordance with the requirements set forth in the appropriate sections of the most current edition of the SCDOT specifications. All designs shall be subject to review and approval by the Cherokee County Administrator or his/her authorized representative.

c. *Surface course.* The surface course is to adhere to general specifications set forth in the SCDOT specifications for bituminous pavement and for rigid pavement. Hot Laid Asphaltic Surface Course, Type 3 or latest equivalent approved by the SCDOT. Types 1, 2, and 4 or latest equivalent approved by the SCDOT may be used with the prior authorization of the Cherokee County Administrator or his/her authorized representative.

The following tables list the requirements for roadway specifications for granular and asphaltic base course roadways as set out by this section.

Granular Base Roadway Specifications**		
Local* or collector roads	Sub-grade	Compacted to 95% maximum dry density
	Base	8-inch crusher run stone
	Topping	ASTM Type 3 — 1.5-inch
Arterial roads	Sub-grade	Compacted to 95% maximum dry density
	Base	6-inch crusher run stone
	Binder	3-inch binder with tack coat
	Topping	ASTM Type 3 — 1.5-inch

Asphaltic Base Roadway Specifications**		
Local* or collector roads	Sub-grade	Compacted to 95% maximum dry density
	Asphalt base	4-inch aggregate asphalt base course
	Binder	2-inch binder with tack coat
	Topping	ASTM Type 3 — 1.5-inch
Arterial roads	Sub-grade	Compacted to 95% maximum dry density
	Asphalt base	4-inch aggregate asphalt base course
	Binder	3-inch binder with tack coat
	Topping	ASTM Type 3 — 1.5-inch

* Local roads shall include subdivision streets.

** Pavement design requirements for subdivisions and land development activities shall be in accordance with sound engineering principles as outlined in procedures adopted by the American Association of State Highway and Transportation Officials; or the Portland Cement Institute; or the Asphalt Institute. All designs shall be subject to review and approval by the county designated ordinance administrator. In no case shall the paving standard be less than the standard required for new land development projects.

c. *Restrictions on asphalt paving work.*

1. No surface asphalt paving shall be installed on a wet surface, when the temperature is below forty (40) degrees Fahrenheit in the shade, or when the weather conditions are otherwise unfavorable. Temperatures must be 35 degrees Fahrenheit and rising for binder placement.

2. The asphalt shall be delivered and placed in accordance with the SCDOT Specifications, with the exception that prime must be cured for a minimum of twenty-four (24) hours if used.

3. The asphalt shall be delivered to the spreader at a temperature between two hundred fifty (250) degrees Fahrenheit and three hundred twenty-five (325) degrees Fahrenheit and, with the exception of sand asphalt mixture for base course construction, within twenty (20) degrees Fahrenheit of the temperature set at the plant.

4. Where prime coat is used, the prime coat must cure for a minimum of twenty-four (24) hours prior to paving and shall be applied as specified in the SCDOT specifications. Prime will be used at the discretion of the county engineer or his/her authorized representative and not required if stone base is paved within twenty-four (24) hours of being set up and approved.

d. *Road and right-of-way maintenance.*

1. *Responsibility.* The developer is responsible for maintaining slopes and all areas along newly developed roads until the road rights-of-way are adopted by the county. Maintenance of slopes shall include seeding in order to prevent soil erosion.

2. *Lawn maintenance within right-of-way.* Individual property owners are responsible for maintaining lawns within the portions of the right-of-way that form part of a yard.

3. *Road maintenance signs.* Where land development project roads are not to be dedicated to the state or county for public maintenance, the developer shall install and maintain signs at the beginning of the private land development project roads that state "state/county maintenance ends."

e. *Ditches, swales and drainage.*

1. Road swales and channels. All roadway ditches and channels shall be designed to contain, at minimum, a peak flow from a fifty (50) year frequency storm. All roadway ditches and channels shall be designed so that the velocity of flow expected from a fifty (50) year frequency storm shall not exceed the permissible velocities for the type of lining used. Riprap shall be placed for stops in road drainage swales as instructed by the Cherokee County Administrator or his/her authorized representative. Swales shall be stabilized against erosion by grassing for year-round growth. Road swales shall be installed at a maximum depth of three (3) feet and be designed to enable mowing by adjoining property owners.

2. Swales and six (6) foot wide shoulders (12:1 slope) in the right-of-way, subject to the following provisions:
   i. Road grade shall meet the requirements of the South Carolina Land Resources Commission.
   ii. Side ditches shall be used, constructed along both sides of the road. Each ditch shall be located sixteen (16) feet from the center of the road.
   iii. If curbs and gutters are used, such shall be located contiguously to both edges of the pavement.

(4) *Utility and pipe installation within a road right-of-way.* This policy is established to regulate the location, manner, installation and adjustment of utility and or pipe facilities on the county road system and also the issuance of permits for such work, in the interest of the public safety and of protection, utilization, and future development of the roadways.

a. *Authorization.* No person or entity shall enter upon the rights-of-way of any county road or structure to construct, alter, or relocate any utility installation without issuance of a liability permit (as specified in section 13-82(1)d.2.).

b. *Permit required.*
   1. The applicant shall submit a permit application with a detailed plan (drawing and text) to the Cherokee County Administrator or his/her authorized representative for review and approval outlining the location and manner of installation. In addition, measures shall be taken to address the safe and free flow of highway traffic, structural integrity of the roadway or highway structure, highway maintenance, appearance of the highway, and the integrity of the utility facility and shall be described in the plan. The applicant shall also submit plans to return the road base and road surface to county standards and shall reconstruct the damaged road to county standards.
   2. The Cherokee County Road and Bridges Department shall maintain copies of utility installation permits.
   3. Any necessary permits, including the accommodation of utilities on highway right-of-way and environmental controls, shall be the responsibility of the applicant.

c. *Sound engineering principles and economic factors.* In all cases, full consideration shall be given to measures reflecting sound engineering principles and economic factors necessary to preserve and protect the integrity and visual quality of the highway, its maintenance, efficiency, and the safety of highway traffic. All construction and maintenance operations shall be planned with full regard to safety and to keep traffic interference to an absolute minimum.

d. *Traffic controls.* Traffic controls shall conform to the "South Carolina Manual on Uniform Traffic Control Devices for Streets and Highways." Construction shall comply with the current edition of the "South Carolina S.C. DOT Standard Specifications for Highway Construction."

e. *Utility relocation.* Utility relocation or adjustments performed in conjunction with road projects in the county shall be coordinated to produce a more efficient design and to minimize construction costs and delays for the utility, consumer, road contractor, and road user.

f. *Utility facilities.* Utility facilities shall be located to minimize need for later adjustments to accommodate future highway improvements and to permit servicing such lines with minimal interference to highway traffic.

g. *Longitudinal installations.* Longitudinal installations shall be located parallel and as close as practical to the right-of-way line so as to provide a safe environment for traffic operation and to preserve space for future highway improvements or other utility installation. Where irregular shaped portions of the right-of-way extend beyond the normal right-of-way limits, variations in the location from the right-of-way line shall be allowed as necessary to maintain a reasonably uniform alignment for longitudinal overhead and underground installations.

h. *Utility line crossings.* To the extent feasible, utility line crossings of the road shall cross on a line generally perpendicular to the highway alignment.

i. *Horizontal and vertical considerations.* The horizontal and vertical location of utility lines within the highway right-of-way limits shall conform to the clear roadside policies applicable for the system, type of highway, and specific conditions for the particular highway section involved. The location of above ground utility facilities shall be consistent with the clearances applicable to all roadside obstacles for the type of highway involved.

j. *Right-of-way installation standards.*

1. The utility shall be responsible for the design of the utility facility to be installed within the highway rights-of-way or attached to a highway structure. The county shall be responsible for review and approval of the utility's proposal.

2. All utility installations on, over, or under highway rights-of-way or highway structures, shall be of durable material designed for long service life expectancy and relatively free from routine servicing and maintenance.

3. Utility installation on, over, and/or under the rights-of-way of county roadways and utility attachments to highway structures shall, as a minimum, meet the following requirements:

i. Electric power and communication facilities shall conform to the currently applicable National Electric Safety Code.

ii. Water lines shall conform to the currently applicable specifications of the American Water Works Association.

iii. Pressure pipelines shall conform with the currently applicable section of The Standard Code for Pressure Piping of the American National

Standards Institutes; Title 49 CFR, Parts 191, 192, and 195; and applicable industry codes, including current issues of: Power Piping, Petroleum Refinery Piping, Liquid Petroleum Transportation Piping Systems, and Gas Transmission and Distribution Piping Systems.

iv. Liquid petroleum pipelines shall conform to the currently applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways.

v. Any pipeline carrying hazardous material shall conform to the rules and regulations of the U.S. Department of Transportation governing the transportation of such materials.

k. *Ground-mounted utility facilities.* Ground-mounted utility facilities shall be of a design compatible with the visual quality of the specific highway section being traversed.

l. *New installations or adjustments of existing utility lines.* On new installations or adjustments of existing utility lines, provisions shall be made for known or planned expansion of the utility facilities, giving particular attention to those located underground or attached to highway structures. They must be planned so as to minimize hazards and interference with highway traffic when additional overhead or underground lines are installed at some future date.

m. *Underground installations.* Underground installations shall be designed so that the facility can be located without disturbing the roadway structure. If necessary, locator lines will be placed in conjunction with the utility line.

n. *Water line repair in right-of-way.* In the specific case of a water line located within a county road right-of-way needing immediate repair, a utility installation permit shall be obtained within one (1) business day from the time the repair work begins. The road that is damaged shall be repaired to county standards.

o. *Future improvements.*

1. Should an improvement or relocation to a county road at some future date necessitate the movement of utility lines, the utility shall be responsible for relocating lines.

2. The provisions of this chapter shall apply to the installation or improvement of any utility lines installed subsequent to the adoption of this chapter.

p. *Driveway pipes/aprons.* The installation of driveway pipes and paved aprons is the responsibility of the property owner or developer of a subdivision or a land development project. Driveway pipes and aprons shall be installed by the property owner or developer to the standards that are in effect in the county at the time the driveway is to be constructed. A county liability permit shall be obtained for such installation. In addition to any other standards, the standard for driveway length shall be twenty-four (24) feet.

Driveway pipe and apron installation shall be the responsibility of the property owner unless such responsibility is assigned to the subdivider or developer

through the contract to sell. Nothing in this chapter shall be construed as to assign the county any liability or responsibility with respect to any dispute or legal action between the property owner and the subdivider or developer concerning the installation of the driveway pipe and apron.

(5) *Acceptance, one-year warranty, and construction defects bond.*

a. *Acceptance.*

1. At completion of all paving, storm drainage system installation, major utility installation, curbing, sidewalk installation (if applicable) and grassing/mulching of the right-of-way, the county administrator or his/her authorized representative shall conduct an inspection of the project or project phase to determine if it is substantially complete. If the project is approved, a written notice of acceptance will be issued.

b. *One year warranty.*

1. As a condition of the notice of acceptance, the subdivider, either an individual, partnership, corporation, or other legal entity, will enter into an agreement with Cherokee County wherein (s)he agrees that (s)he will repair, upon written notification by Cherokee County and at his/her own expense, all defects in material and workmanship which occur in the roadways or drainage system accepted by Cherokee County pursuant to the granting of such acceptance for a period of one (1) year from the date such work is accepted by Cherokee County.

2. The one-year warranty period shall begin immediately after acceptance and shall cover all defects in materials, installation, and workmanship for the roadway pavement, storm drainage system, drainage outfall channels, curbs, sidewalks, and grassing/erosion control. Any significant problems, failures or defects observed during the warranty period shall be repaired by the developer at his/her expense, as deemed necessary by the Cherokee County Administrator or his/her authorized representative.

c. *Construction defects bond.*

1. A contingency bond to cover the repair costs for possible defects to the roadway, curbs, sidewalks, and catch basins caused by defects or construction activities shall be posted by the developer at the start of the one-year warranty period. The bond shall remain in effect for a period of one (1) year. The required bond amount shall be determined by the Cherokee County Administrator or his/her authorized representative based on the cost of installation of the facilities. During the bonding period, the developer shall repair all significant structural damage to the roadways, curbs, sidewalks, and catch basins as deemed necessary by the Cherokee County Administrator or his/her authorized representative.

(Ord. of 1-2-00, § 4.1; Ord. of 3-20-00, § 2; Ord. of 8-8-00, § 1; Ord. of 6-25-01(5); Ord. No. 2002-03, § 1, 4-15-02; Ord. No. 2006-12, § 203, 11-20-06; Ord. No. 2012-15, § 1(Exh. A), 10-15-12)

Sec. 13-83. Drainage and storm water.

(a) In accordance with S.C. Code 1976, § 6-29-1130.A, no land development plan, including subdivision plats, shall be approved unless all land intended for use as building sites can be used safely for building purposes without danger from a flood or other inundation.

(b) The requirements of this section shall be deemed to have been met for any land development project for which there is an approved stormwater management and sediment control plan from the South Carolina Department of Health and Environmental Control in accordance with S.C. Code 1976, Tit. 48, Ch. 14, relating to erosion and sediment control and stormwater management and South Carolina Department of Health and Environmental Control Regulations section 72-305 relating to stormwater management, erosion and sedimentation management. For projects requiring a South Carolina Department of Health and Environmental Control stormwater management permit, the submission of a copy of such permit shall qualify as compliance with this provision. For projects that require only a stormwater management plan be submitted to South Carolina Department of Health and Environmental Control, the submission of a copy of that plan shall qualify as compliance with this provision.
(Ord. of 1-2-00, § 4.2)

Sec. 13-84. Water facilities.

If public water is to be provided to a subdivision or land development project, approval of the water distribution system is at the discretion of the Town of Blacksburg or the rural water district charged with serving the area. If the subdivision or land development project is to be served by wells, approval of wells shall be at the discretion of South Carolina Department of Health and Environmental Control.
(Ord. of 1-2-00, § 4.3)

Sec. 13-85. Wastewater facilities.

If public sewer is to be provided to a subdivision or land development project, approval of the wastewater collection system is at the discretion of the Town of Blacksburg or the Gaffney Board of Public Works. If the subdivision or land development project is to be served by septic tank(s), approval of septic tanks shall be at the discretion of South Carolina Department of Health and Environmental Control.
(Ord. of 1-2-00, § 4.4)

Sec. 13-86. Natural gas.

When gas lines are located in a road right-of-way, where possible, such lines shall be located outside the portion of the road to be surfaced to prevent having to cut into the paved surface to serve abutting properties.
(Ord. of 1-2-00, § 4.5)

Sec. 13-87. Lot development.

(a) Unless otherwise stated in Article V, Development Standards for Specific Uses, the minimum building setback line for a primary structure shall be at least twenty (20) feet from the front property lines on lots abutting local roads and thirty-five (35) feet from the front property line on lots abutting collector, arterial, or primary roads. Corner lot setbacks shall be at least ten (10) feet from the side road. Provision shall be made for a side yard setback of ten (10) feet from each side property line, and a rear yard setback twenty-five (25) feet from the rear property line on each lot.

(b) Unless otherwise stated in Article V, Development Standards for Specific Uses, accessory structures shall maintain the same front and side setbacks as required by primary structures; however, the minimum rear setback shall be eight (8) feet.
(Ord. of 1-2-00, § 4.6)

Sec. 13-88. Construction standards.

(a) The county has adopted the Southern Standard Building Code. This code shall apply to the construction of all structures and buildings that come under its scope and jurisdiction.

(b) Any mobile home or manufactured housing unit brought into the county, or relocated within the county, subsequent to the enactment of this chapter shall bear a stamp from the U.S. Department of Housing and Urban Development signifying that the unit meets all HUD standards (1976). In addition, mobile homes shall be placed on a permanent foundation (in accordance with S.C. Code 1976, Tit. 40, Ch. 29 and section 19-425 of the S.C. Code of Regulations), underpinned, and a solid masonry or vinyl type skirting shall be installed within ninety (90) days from the receipt of the building permit for the mobile home or manufactured housing unit.
(Ord. of 1-2-00, § 4.7)

Secs. 13-89—13-120. Reserved.

ARTICLE V. DEVELOPMENT STANDARDS FOR SPECIFIC LAND USES

Sec. 13-121. Standards of this article additional to general development standards.

The standards in this article are in addition to the General Development Standards in Article IV.
(Ord. of 1-2-00, Art. V)

Sec. 13-122. Multifamily housing.

(a) *Parcel size.* Multifamily projects shall be located on a parcel that is at least one-half (½) acre in size.

(b) *Building lines.*

(1) *Primary structures.* The minimum setbacks are as follows:

Front yard:	20 feet - abutting local roads
	35 feet - abutting collector, arterial or primary roads
Corner lot:	10 feet from the side road
Side yard:	10 feet from each side property line
Rear yard:	25 feet from the rear property line on each lot

(2) *Accessory structures.* Accessory structures shall maintain the same front and side setbacks as required by primary structures; however, the minimum rear setback shall be eight (8) feet.

(3) *Buffer requirements.* In addition to any applicable requirements as stated above, buffer requirements shall apply for any multifamily development. In an effort to protect adjacent single-family residential areas from potential impacts due to a proposed multifamily development project, extra depth in parcels adjacent to an existing or potential residential development and a permanently landscaped buffer strip shall be required. Buffer types, including walls and fences, are specified in Appendix A of this chapter.

(Ord. of 1-2-00, § 5.1)

Sec. 13-123. Mobile home parks.

(a) *Parcel size.* Mobile home parks shall be located on a parcel that is at least three (3) acres in size.

(b) *Density.* Mobile home parks shall have a maximum density of two (2) manufactured housing units per acre, if parks are not served by a South Carolina Department of Health and Environmental Control (SCDHEC) approved public water and sewer system. If parks are served by a SCDHEC approved public water and sewer system, a maximum density of six (6) manufactured housing units per acre is allowed.

(c) *Building lines.*

(1) *Permanent primary structures in a mobile home park.* The minimum setbacks [for permanent primary structures in a mobile home park] are as follows:

Front yard:	20 feet - abutting local road
	35 feet - abutting collector, arterial or primary roads
Corner lot:	10 feet from the side road
Side yard:	10 feet from each side property line
Rear yard:	25 feet from the rear property line on each lot

(2) *Mobile homes located in mobile home parks.* Mobile homes located in mobile home parks shall maintain the same front and rear setbacks as required by permanent

primary structures (external boundaries of park). In addition, the minimum distance between mobile homes, as well as between mobile homes and any permanent structures, shall be twenty-five (25) feet on any side.

(3) *Accessory structures.* Accessory structures shall maintain the same front and side setbacks as required by primary structures; however, the minimum rear setback shall be eight (8) feet.

(d) *Buffer requirements.* In addition to any applicable requirements as stated above, buffer requirements shall apply for any mobile home park development project. In an effort to protect adjacent single family residential areas from potential impacts due to a proposed mobile home park project, extra depth in parcels adjacent to an existing or potential residential development and a permanently landscaped buffer strip shall be required. Buffer types, including walls and fences, are specified in Appendix A of this chapter.
(Ord. of 1-2-00, § 5.2; Ord. No. 2005-17, 7-18-05)

Sec. 13-124. Commercial or office uses.

(a) *Parcel size.* Commercial and office uses shall be located on parcels of at least one-half (1/2) acre in size.

(b) *Building lines.*

(1) *Primary structures.* The minimum setbacks are as follows:

Front yard:	25 feet - abutting local roads
	40 feet - abutting collector, arterial or primary roads
Corner lot:	15 feet from the side road
Side yard:	15 feet from each side property line
Rear yard:	25 feet from the rear property line on each lot

(2) *Accessory structures.* Accessory structures shall maintain the same front and side setbacks as required by primary structures; however, the minimum rear setback shall be ten (10) feet.

(3) *Buffer requirements.* In addition to any applicable requirements as stated above, buffer requirements shall apply for any commercial development project. In an effort to protect adjacent single-family residential areas from potential impacts due to a proposed commercial land development project, extra depth in parcels adjacent to an existing or potential residential development and a permanently landscaped buffer strip shall be required. Buffer types, including walls and fences, are specified in Appendix A of this chapter.

(Ord. of 1-2-00, § 5.3)

Sec. 13-125. Industrial uses.

(a) *Parcel size.* Industrial projects shall be located on parcels of at least one-half (1/2) acre in size.

(b) *Roads and drives.* All roads and drives within the interior of an industrial development shall be paved.

(c) *Public utilities.* Public utilities, including, water, sewer, and storm water drainage shall be required for all parcels, except where topography or other conditions are such as to make their installation impractical.

(d) *Building lines.*

(1) *Primary structures.* The minimum setbacks are as follows:

Front yard:	25 feet - abutting local roads
	40 feet - abutting collector, arterial or primary roads
Corner lot:	15 feet from the side road
Side yard:	15 feet from each side property line
Rear yard:	30 feet from the rear property line on each lot

(2) *Accessory structures.* Accessory structures shall maintain the same front and side setbacks as required by primary structures; however, the minimum rear setback shall be ten (10) feet.

(3) If a lot(s) is unusually designed, building lines must be designated on the plat.

(e) *Buffer requirements.* In addition to any applicable requirements as stated above, buffer requirements shall apply for any industrial development project. In an effort to protect adjacent single family residential areas from potential impacts due to a proposed industrial land development project, extra depth in parcels adjacent to an existing or potential residential development and a permanently landscaped buffer strip shall be required. Buffer types, including walls and fences, are specified in Appendix A of this chapter.
(Ord. of 1-2-00, § 5.4)

Sec. 13-126. Townhomes and patio homes.

Due to the unique features and impacts of townhomes and patio homes, they are established as a conditional use development project. Unlike single-family dwelling units or mobile homes, townhomes and patio homes are constructed in accordance with safety standards that are applied to multifamily housing. As a result, in certain locations, it is safe and in the general interest of the public to permit these types of housing units on lots that are less than one-half (1/2) acre in size. However, because this type of housing is of a greater density than single family or mobile home development, special requirements are included to ensure that the development of these units does not pose a threat to the public health, safety, or welfare of the community, as well as to ensure that such development does not impose deleterious impacts upon surrounding properties.

(1) *Standards for conditional townhome and patio home development projects.* Townhome and patio home developments shall meet the following standards.

a. Townhome and patio home projects shall have a minimum of one and five-tenths (1.5) acres. This applies to the entire project, not individual lots.

b. The one-half-acre minimum lot size, as established in sections 13-52 and 13-87, shall not apply to individual lots within a townhome or patio home development. However, for a townhome project, the overall density shall not exceed ten (10) units per acre. For a patio home project, the minimum lot size for a lot that will be conveyed as a dwelling parcel shall be seven thousand (7,000) square feet. If there are to be any parcels that are to be conveyed to a homeowners association, such parcels shall not be subject to the minimum lot size requirement.

c. The following setbacks for dwellings and other principal buildings shall apply to individual lots within a townhome or patio home development:

Front:	20 feet
Rear:	25 feet
Side:	0 feet or 10 feet (unless the structure is built on the side property line, the minimum side setback shall be 10 feet).

Accessory structures shall not be permitted in the front or side yard. They shall be permitted in rear yards, with a minimum setback of eight (8) feet.

d. Not more than eight (8) townhomes may be joined together in a single structure.

e. Public utilities, including, water and sewer shall be required for all townhome and patio home developments.

f. Townhome and patio home developments shall have the same street and road requirements as are applied to multifamily housing in sections 31-82(2) and 31-82(3), of this chapter.

g. Each unit within a development must be provided with two (2) paved parking spaces (which may be covered or in a garage) or a paved driveway that is large enough to park two (2) automobiles. Access to driveways and parking spaces shall be from interior subdivision roads or local roads only.

h. In establishing a townhome or patio home development, the developer shall prepare and file papers for the establishment of a homeowners association to maintain common areas of the development.

i. Townhome and patio home developments will include a buffer along the exterior of the development, constructed and maintained in compliance with Appendix A of this chapter. The buffer shall be located on an individually platted parcel to be conveyed to a homeowners association.

j. Townhome and patio home developments may (but are not required to) include a club house, recreation center, swimming pool, tennis courts, open field, or similar amenities for the use of residents. If such amenities are included, they shall be located on platted lots that are to be conveyed to the homeowners association. Provisions for the management of these amenities shall be included in the documentation creating the homeowners association.

k. Townhome and patio home projects shall be approved as an overall plan, showing all buildings, drives, buffer, and other applicable project requirements.

l. Because of the conditional nature of townhome and patio home developments, the approval of a subdivision plat shall be by the county citizens planning commission, not by administrative staff. Consideration of approval shall be preceded by a public hearing, which shall be advertised in a newspaper of general circulation in the community at least fifteen (15) days prior to the date of the hearing.

m. Approval of a townhome and patio home development shall be based upon both a determination of the planning commission that the minimum requirements of this chapter are met and that the proposed development is compatible with the surrounding development. Factors of compatibility shall include overall density, the expected performance of the buffer in separating uses of differing intensity, and traffic generation. The meeting of minimum requirements on the part of the applicant does not obligate the planning commission to approve a proposal if the planning commission finds that the development is incompatible with surrounding uses.

n. An application for a townhome or patio home conditional use development project shall include all information as required for subdivision submittal, as specified in

section 13-154, all information required for land development/site plan submittal, as specified in section 13-156 of this chapter, as well as the following additional information:

1. The plat shall include a notation that it is approved for townhome or patio home development only and that usage of any lot within the subdivision shall be limited to townhomes or patio homes.
2. A copy of the documentation to establish a homeowners association.
3. A notation on the plat of all parcels that are to be conveyed to the homeowners association.
4. Detailed notation on the design and composition of the buffer.

If information provided is not adequate for the planning commission to determine that the proposal meets all requirements with this chapter, or if the information is inadequate for the planning commission to determine that the proposed development will be compatible with surrounding uses, planning commission shall reject the proposal. Nothing in this clause shall prohibit the planning commission from postponing action, upon mutual agreement with the applicant, to allow the applicant to modify the plan or provide additional information.

(Ord. of 1-2-00, § 5.5)

Sec. 13-127. Communication towers.

To reduce the impacts of communication towers on neighboring land use activities, to provide separation between communication towers and residential land uses, and to encourage the co-location of towers when technically feasible, the following regulations are established:

(1) *Demonstration of needs.* No new communication tower may be constructed unless the applicant provides written certification that the proposed antenna cannot be located on existing towers, buildings, or other structures within a one thousand two hundred (1,200) foot radius of the proposed tower location.

(2) *Setbacks.* Any tower constructed subsequent to the enactment of this section shall be set back from all property lines a distance equal to the height of the tower, except as modified below:

a. No communication tower shall be located within one thousand (1,000) feet of an existing tower.

b. The following setbacks shall apply to any tower located;

•On or within one thousand (1,000) feet of the nearest point of any parcel located in any platted subdivision containing twenty-five (25) or more lots;

•On or within one thousand (1,000) feet of any parcel containing a multi-family housing development or mobile home park containing twenty-five (25) or more dwelling units.

1. For towers which are no greater than two hundred (200) feet in height from the ground, the setback shall be two (2) times the height of the tower.

2. For towers which are greater than two hundred (200) feet in height from the ground, the setback shall be three (3) times the height of the tower.

   For the purposes of this section, a platted subdivision shall be any subdivision that has been accepted and recorded by the Cherokee County Clerk of Court.

c. In order to encourage tower locations in commercial and industrial areas, if a proposed tower location is on property that is not subject to the requirements of paragraph a. above, and is on property which has been listed on the Cherokee County Assessor's tax rolls for the previous year as commercial or industrial, the required setback shall be at least thirty (30) feet. In addition, no tower shall be located within a distance, equal to, or less than, its height from a residential dwelling unit, school, church or similar place of worship, stadium, park or playground.

d. All guy wires shall be located within the setback area.

(3) *Fencing and landscaping.* Access to the tower shall be controlled through the construction and maintenance of a continuous and solid wood, brick, or treated masonry fence, or through the construction of a continuous link fence of at least eight (8) feet in height to surround the base of the structure. The fence may include a gate to provide authorized access.

In addition, a row of evergreen shrubs capable of forming a continuous hedge of at least five (5) feet in height (at the time of installation) shall be provided around the perimeter of the fence, except that the hedge is not required adjacent to the access gate.

(4) *Accommodation of tower co-location.* All towers shall be constructed so as to accommodate at least one (1) additional communication antenna below the primary antenna, which shall be made available to other users on a commercially reasonable basis.

(5) *Stealth towers.* Paragraphs (1) through (5) above shall not apply to stealth towers, provided that the antenna does not extend more than twenty (20) feet higher than the structure upon which it is attached.

(6) *Prohibition of advertising.* No advertising of any type shall be attached to a communication tower.

(7) *Removal of obsolete towers.* Any communication tower, whether constructed prior or subsequent to the adoption of this ordinance, shall be removed within one hundred twenty (120) days of the date such tower ceases to be used for its intended purposes.

(8) *Airport and aeronautical safety.*

a. With the exception of towers used for aeronautical purposes, communication towers shall not penetrate any imaginary surface, as described in Chapter 14 of the Code of Federal Regulations, Federal Aviation Regulation (FAR) Part 77, as amended, associated with the existing or proposed runways at any publicly

owned airport, regardless as to whether said airport is located in Cherokee County. All communication towers located within the first twelve thousand (12,000) feet of the approach surface of an existing or proposed runway, or within the horizontal surface associated with such a runway as described in FAR Part 77 shall be lighted. Such towers shall be illuminated by strobe lights during daylight and twilight hours and red lights during evening hours. Prior to the issuance of a building permit, applicants shall provide documentation that the proposed communication tower has been reviewed and approved by the Federal Aviation Administration, if required in accordance with FAR Part 77.

b. All communication towers shall be lighted in accordance with the most recent amendment of the Federal Aviation Administration Circular 70-7460, "Obstruction Marking and Lighting."

(9) *Site plan requirements.* In addition to the site plan requirements as specified in section 13-156 of this chapter, the following information shall be included on any land development plan submitted for a communication tower:

a. The height of the proposed tower;

b. Guy anchors;

c. The distance from all guy anchors to the closest property line; and

d. Any proposed fences or landscaped areas.

These additional site plan requirements (a.—d.) do not apply to stealth towers. For stealth structures, the applicant is required only to submit the proposed height of the antenna from the ground, as well as the height above the structure upon which it is to be attached.

(10) *Permit requirements.* Subsequent to the adoption of this section, no communication tower shall be constructed within the unincorporated portions of Cherokee County unless a communication tower permit shall have first been issued by the designated ordinance administrator.

Permit issuance shall be subject to the requirements and provisions of this section, as well as upon approval of a land development project site plan, as described herein.

The permit fee for construction of a communication tower or stealth tower shall be ten thousand ($10,000.00) dollars.

(Ord. of 10-16-00, § 5.6)

Secs. 13-128—13-150. Reserved.

ARTICLE VI. ADMINISTRATION

Sec. 13-151. Process.

Approval of a subdivision or land development plan by the designated ordinance administrator is a pre-requisite to recording a subdivision plat or site development. The county council shall select the designated ordinance administrator.
(Ord. of 1-2-00, § 6.1)

Sec. 13-152. Subdivisions already approved or under construction.

(a) Individual lots and subdivisions that are recorded prior to the adoption of this chapter are valid, legal lots of record.

(b) Should a subdivision exist where improvements are in progress but the subdivision is not yet recorded, such project shall be allowed to continue as long as any permits (required as part of the installation of improvements), obtained prior to the adoption of this chapter remain valid. Once the issued permits have expired, the project shall meet all applicable requirements of this chapter.
(Ord. of 1-2-00, § 6.2)

Sec. 13-153. Land development projects already approved or under construction.

The completion of existing land development projects where applicable county building permits have been issued prior to the enactment of these regulations shall be allowed to continue as long as all building permits remain valid. Once the issued permits have expired, the project shall meet all applicable requirements of this chapter.
(Ord. of 1-2-00, § 6.3)

Sec. 13-154. Subdivision submittal requirements.

All applications to create or modify a subdivision shall contain the information required by this section and submitted to the county designated ordinance administrator.

(1) A complete application form, as provided by the designated ordinance administrator, and approved by the county council.

(2) Ownership information; statement of ownership. If the applicant represents the property owner, a notarized affidavit letter is required from the owner to authorize the request.

(3) A warranty deed showing every individual person or entity having legal and/or equitable ownership interest in the property upon which the application is sought.

(4) Legal description and boundary survey. The survey must bear the seal of a registered land surveyor to certify that the survey was completed in compliance with all applicable state regulations and survey standards. This requirement shall not apply if the subdivision meets the criteria for the exception, as stated in subsection (6) of this section.

(5) Subdivision plat drawing. The subdivision plat must, at a minimum, include the following information:

a. Proposed lot boundaries;

b. Existing roads within or abutting the proposed subdivision;

c. Existing community driveways, if any;

d. Existing utilities lines, transformers, pump stations, or similar facilities;

e. Existing easements;

f. Proposed roads, if any, consistent with section 13-82. Inspection and approval of the roadbed, surface paving, driveway pipes, and stormwater runoff management shall be obtained from the county public works department prior to final approval and adoption into the county road system by the county council;

g. The means of access to each lot, either through a public road, private road, or easement;

h. Floodplain, as shown on the most current FEMA (Federal Emergency Management Agency) Army Corps of Engineers maps available in the county; and

i. The subdivision plat must be drawn to scale and must bear the seal of a registered land surveyor to certify that the plan was completed in compliance with all applicable state regulations and survey standards. The county council shall have the authority to approve standards for plat requirements as recommended by the designated ordinance administrator.

This requirement shall not apply if the subdivision meets the criteria for the exception, as stated in subsection (6) of this section.

(6) Exceptions to subdivision application, survey and plat drawing requirements.

a. For each of the types of subdivisions listed herein, the application, application fee, and boundary survey, as required in subsection (4) of this section, and the subdivision plat drawing, as required in subsection (5) of this section shall not be required. Instead, the applicant shall have the option of submitting a scaled drawing of the proposed subdivision, which must include the following information.

1. Existing and proposed lot boundaries;

2. Existing roads within or abutting the proposed subdivision;

3. Existing community driveways;

4. Existing easements;

5. The means of access to each lot, either through a public road, private road, or easement;

6. A notation shall be included on the plat to state whether a registered land surveyor prepared the plat. If the plat is prepared by a registered land

surveyor in accordance with all applicable state regulations and survey standards, then the plat shall bear the seal of the surveyor who prepared it.

7. Nothing in this section is to be construed as relieving the applicant of compliance with any regulations for recording subdivisions as applied by the County Clerk of Court.

b. Subdivisions qualified for this exception include:

1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the governing authority.

2. The division of land into parcels of five (5) acres or more where no new street is involved.

3. The combination or recombination of entire lots of record where no new street or change in existing streets is involved.

(7) Fees. Applicable fees shall be paid at the time of submittal. Such fees shall be as approved by the county council.

(Ord. of 1-2-00, § 6.4; Ord. No. 2006-12, § 204, 11-20-06)

Sec. 13-155. Recording of a plat.

No person shall submit a subdivision plat to the clerk of court unless the designated ordinance administrator has approved it as meeting the requirements of this chapter (S.C. Code 1976, § 6-29-1150.B).

(Ord. of 1-2-00, § 6.5)

Sec. 13-156. Land development plan/site plan submittal requirements.

All applications to create or modify a land development project, pursuant to Article V of this chapter, shall contain the information required by this section and submitted to the county designated ordinance administrator. This information is not required for the subdivision of property, but shall be required to obtain a building permit for a land development project, as defined herein.

(1) A complete application form, as provided by the designated ordinance administrator, and approved by the county council.

(2) Ownership information; statement of ownership. If the applicant represents the property owner, a notarized affidavit letter is required from the owner to authorize the request.

(3) A warranty deed showing every individual person or entity having legal and/or equitable ownership interest in the property upon which the application is sought.

(4) Boundary survey. The survey must bear the seal of a registered land surveyor to certify that the survey was completed in compliance with all applicable state regulations and survey standards.

(5) Site plan drawing. The site plan must, at a minimum, include the following information:

a. Location map;

b. Existing lot boundaries;

c. Existing roads within or abutting the proposed project;

d. All driveways and roadways proposed for the site;

e. Existing utilities lines, transformers, pump stations, or similar facilities, (if any);

f. Existing easements, (if any);

g. Proposed buildings and structures;

h. Proposed parking areas, driveways and sidewalks, (if any);

i. Setback lines;

j. Buffer yard details, consistent with Appendix A of this chapter;

k. Drainage features and conceptual stormwater management systems, (as required under S.C. Code 1976, Tit. 48, Ch. 14, relating to erosion and sediment control and South Carolina Department of Health and Environmental Control Regulations sections 72-101 through 72-440, relating to the permit application and approval process). Attachment of the South Carolina Department of Health and Environmental Control permit or the stormwater management and sedimentation control plan filed with South Carolina Department of Health and Environmental Control fulfills this requirement.

l. Floodplain, as shown on the most current FEMA (Federal Emergency Management Agency) Army Corps of Engineers maps available in the county.

m. The site plan must be drawn to scale and must bear the seal of a registered land surveyor to certify compliance with all applicable state regulations and standards. The county council shall have the authority to approve standards for site plan requirements as recommended by the designated ordinance administrator.

(Ord. of 1-2-00, § 6.6)

Sec. 13-157. Procedures for county acceptance of a street.

The procedure for the acceptance of a street by the Cherokee County Council is as follows:

(1) For a road to be adopted, all property owners abutting the road shall submit a right-of-way form conveying land to the county.

(2) After preliminary plat approval is granted, detailed construction drawings for all proposed roadways shall be submitted for review and approval to the public works department prior to construction. Construction drawings for roadways for all subdivisions of ten (10) lots or more shall be developed and signed by a registered professional engineer (P.E.) For subdivisions of less than ten (10) lots, construction drawings will not require the signature of a registered P.E.

(3) Inspections and approvals. Inspection and approval of the roadbed, surface paving, driveway pipes, and stormwater runoff management shall be obtained from the Cherokee County Administrator or his/her authorized representative prior to final approval and adoption into the county road system by the county council.

Prior to inspection by the county the applicant must show documentation that the registered P.E. inspected and signed off on the "as-builts" for the project to ensure that the designs for the project were followed and adhered to. Roads will not be inspected by or accepted into the county road system without this certification by a registered P.E.

(4) All of the applicable road standards of section 13-82 must be met.

(Ord. of 1-2-00, § 6.7; Ord. No. 2012-15, § 1(Exh. A), 10-15-12)

Sec. 13-158. Applicability of other laws and regulations.

Approval by the designated ordinance administrator implies compliance with this chapter only. Nothing in this chapter relieves any property owner or developer of any applicable laws or regulations of any federal or state agency or utility.
(Ord. of 1-2-00, § 6.8)

Sec. 13-159. Nonconformities.

(a) *Substandard lots of record.* Any lot created prior to the enactment of this chapter, whether individually, or as a part of a subdivision, that does not conform to the one-half (1/2) acre dimensional requirements of this chapter may nonetheless be used as a building site. If undeveloped at the time of enactment of this chapter, the development of any such lot shall be restricted to only one (1) principal building or mobile home. The designated ordinance administrator shall determine appropriate setbacks and buffer requirements for the use of such lots. If developed at the time of enactment of this chapter, any buildings or activities may be continued, modified, rebuilt, or reestablished after discontinuance. However, the total area of all existing buildings or structures cannot be increased. Also, if reconstruction or the alteration of a building is sought, the designated ordinance administrator may establish reasonable setbacks and buffer requirements.

Any legally substandard lot of record must be identifiable by an official recording date at the clerk of court's office to be considered legally nonconforming.

(b) *Nonconforming buildings or uses.* Nonconforming buildings or uses are buildings or land use activities that were established prior to the enactment of this chapter and that do not meet one (1) or more requirement(s) of this chapter. To avoid undue hardship, the lawful use of any building or activity present at the time of enactment of this chapter may be continued even though such use does not conform to the provisions of this chapter. However, except for nonconformities that apply to the substandard lots of record provision above, a nonconforming building or activity shall not be;

(1) Changed to a different nonconforming use;

(2) Reused or re-occupied after discontinuance of use or occupancy for a period exceeding twelve (12) consecutive months;

(3) Re-established, re-occupied, or replaced with the same or similar building or land use after physical removal or re-location from its site (except that a mobile home which is removed may be replaced by another mobile home within ninety (90) days of removal; also any structure that is significantly damaged or destroyed through fire, flood, wind, or similar natural disaster may be rebuilt), or

(4) Enlarged or altered in a manner that increases the nonconformity. Alterations and modifications that do not increase the degree of nonconformity are permitted, as are routine maintenance and repair.

(Ord. of 1-2-00, § 6.9)

Sec. 13-160. Transfer or sale of lots.

Any transfer or sale of parcel(s), before such subdivision plat has been approved by the designated ordinance administrator, and recorded by the county clerk of court shall be considered a violation of this chapter and punishable as provided herein. The description of metes and bounds in the instrument of transfer or other documents used in the process of selling or transfer shall not exempt the transaction from these penalties. The county may enjoin such transfer or sale or agreement by appropriate action (S.C. Code 1976, § 6-29-1190). (Ord. of 1-2-00, § 6.10)

Sec. 13-161. Surety instruments.

In lieu of the completion of the physical development and installation of the required improvements of Article IV prior to the recording of the plat, the county council shall require security, in the form of a surety bond or irrevocable letter of credit with payment assigned to Cherokee County, issued by a bank or branch of a bank in South Carolina (FDIC Insured), in an amount that is equal to at least one hundred twenty-five percent (125) of the projected cost of improvements and with conditions satisfactory to it, to guarantee the actual construction and installation of such improvements and utilities within a period specified by the council. (Ord. of 1-2-00, § 6.11; Ord. No. 2007-01, § 1, 5-7-07)

Sec. 13-162. Enforcement, violations and penalties.

(a) *Enforcement.* The county shall enforce the following, as applicable, to ensure that all subdivisions and land development projects (new or revised) meet the requirements of this chapter.

(1) *Recording.* Subdivisions or other land development projects not properly approved are not permitted to be filed or recorded.

(2) *Building permit.* Building permits shall not be issued until the plan or plat bears the stamp of approval and is properly signed by the designated ordinance administrator (S.C. Code 1976, § 6-29-1140).

(3) *Bond.* A surety bond shall be posted by the developer to cover the costs for the county to install the required improvements (S.C. Code 1976, § 6-29-1180).

(b) *Violations.* The designated ordinance administrator has the authority to determine whether a property owner/developer/subdivider is in violation of county land development regulations. Any violation of this chapter shall be a misdemeanor and, upon conviction, is punished in the discretion of the court. No transfer of title shall be permitted for any lot(s) created subsequent to enactment of this chapter unless approved first by the county. The clerk of court must record the approved plan or plat. A transfer violating this provision is a misdemeanor. If convicted, the court decides the punishment. A description by metes and bounds in the instrument or transfer or other document used in the transfer process does not exempt the transaction from these penalties (S.C. Code 1976, § 6-29-1140).
(Ord. of 1-2-00, § 6.12)

Sec. 13-163. Appeals.

(a) Any person who believes that he is aggrieved by an error made by an administrative official of Cherokee County in the enforcement of this ordinance shall have the right to appeal any order, requirement, decision, or determination issued by an administrative official to the appropriate appeals body, as established by Cherokee County Council.

(1) Appeals related to Article 3, sections 13-82, 13-83, 13-84, 13-85, 13-86, and 13-152 of this chapter shall be directed to the Cherokee County Citizens Planning Commission.

(2) Appeals related to sections 13-87, 13-88, all of Article V of this chapter, and sections 13-153, 13-159, and 13-197 shall be directed to the Cherokee County Board of Appeals.

(3) Appeals shall be submitted to the designated administrator of this section. Appeals shall be submitted on a form as approved by the designated ordinance administrator and must be filed within thirty (30) days from the date that the appealing party has received notice of the action from which the appeal is taken.

(4) An appeal shall stay all legal proceedings in furtherance of the action appealed, unless the designated ordinance administrator determines that a stay would cause imminent peril to life and property.

(5) In considering an appeal, the appropriate appeals board, as cited in paragraphs (1) and (2) above, shall conduct a public hearing on the matter, with public notice advertised in a newspaper of general circulation in the community at least fifteen (15) days prior to the hearing date.

(6) In rendering a decision on the appeal, the board may affirm, reverse, or modify the order, requirement, decision, or determination issued by the administrative officer.

(7) All final decisions on orders and decisions of the board must be in writing and must be permanently filed with the clerk to council.

(8) a. Any person who may have a substantial interest in any decision of the Cherokee County Citizens Planning Commission or the Cherokee County Compliance Board of Appeals may appeal from a decision of the commission or board to the circuit court in and for the county, by filing with the clerk of court petition in writing setting forth plainly, fully and distinctly why such decision is contrary to law. Such an appeal shall be filed within thirty (30) days after the decision of the commission or board is mailed.

b. A property owner whose land is the subject of a decision of the Cherokee County Citizens Planning Commission or the Cherokee County Compliance Board of Appeals may appeal either:

1. As provided in subsection (a); or

2. By filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with S.C. Code § 6-29-825.

[(b) Applications.]

(1) Applications for a variance shall be submitted to the designated ordinance administrator on a form approved by the designated ordinance administrator.

(2) In considering an application for a variance the Board of Appeals shall conduct a public hearing on the matter, with public notice advertised in a newspaper of general circulation in the community at least fifteen (15) days prior to the hearing date.

(3) All decisions of the Board of Appeals with respect to variance applications shall be in writing and must be permanently filed with the clerk to council.

(c) Any notice of appeal and request for pre-litigation must be filed within thirty (30) days after the decision of the commission or board is postmarked.

(d) If a request for pre-litigation mediation is filed, the request must be granted. The mediation process shall proceed in accordance with S.C. Code §§ 6-29-825—6-29-890.
(Ord. of 1-2-00, § 6.13; Ord. No. 2004-2, § 1, 5-17-04; Ord. No. 2006-12, §§ 205A, 205B, 206, 11-20-06)

Sec. 13-164. Division of land made pursuant to will, inheritance, under the statute of descent and distribution, or by family member to family member.

The division of land by will, or by inheritance under the statute of descent and distribution, conveyed by deed, shall be exempt from the provisions of the land use regulations. The conveyance of land by one family member to another family member, either by gift or transfer, shall be exempt from the provisions of the land use regulations. Exemption of conveyance from family member to family member shall be limited to immediate family members defined as follows: Mother, father, spouse, children, grandchildren, brothers and sisters.

Approval of any plats submitted for approval pursuant to this section shall be considered for recording purposes only.

In order to be considered for transfer to another person not otherwise defined under the exemption created herein, or to transfer or dedicate to the County, any property conveyed pursuant to this section must comply with the applicable sections of the land use regulations.
(Ord. of 11-20-06)

Editor's note—The provisions of an ordinance adopted Nov. 20, 2006, being nonspecific in nature, have been included as § 13-164 at the discretion of the editor.

Secs. 13-165—13-190. Reserved.

ARTICLE VII. LEGAL STATUS PROVISIONS

Sec. 13-191. Interpretation.

The regulations expressed in this document shall be considered as the minimum provisions for the protection of the health, safety, economy, good order, appearance, convenience, and welfare of the general public.
(Ord. of 1-2-00, § 7.1)

Sec. 13-192. Conflict with other laws, ordinances, or regulations.

Nothing in this chapter shall override any state law or regulation. Whenever the requirements made under authority of these regulations impose higher standards than are required in any statute or local ordinance or regulation, provisions of the regulations shall govern. Whenever the provisions of any other statute or local ordinance or regulation impose higher standards than are required by these regulations, the provisions of such statute or local ordinance or regulations shall apply.
(Ord. of 1-2-00, § 7.2)

Sec. 13-193. Separability.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the ordinance as a whole, or any other part thereof, other than the part so declared to be unconstitutional or invalid.
(Ord. of 1-2-00, § 7.3)

Sec. 13-194. Repeal of certain ordinances.

The following ordinances or parts of ordinances in conflict with any of the provisions of this chapter are hereby repealed upon enactment of this chapter:

(1) Chapter 19, Roads and Bridges, of the Cherokee County Code of Ordinances.

(Ord. of 1-2-00, § 7.4)

Editor's note—The Roads and Bridges Ordinance is included in its entirety in Article IV of this chapter.

Sec. 13-195. Amendments.

The county may adopt and amend land development regulations by ordinance following a public hearing. Such hearing must be advertised by publishing a notice at least thirty (30) days prior to the hearing, including time and place of such hearing, in a general circulation newspaper in the community.
(Ord. of 1-2-00, § 7.5; Ord. No. 2004-03, § 1, 5-17-04)

Sec. 13-196. Effective date of Articles I through VIII of this chapter.

While it is desired that the intent of the regulations included in Articles I through VIII of this chapter be enacted immediately, to allow for the establishment of administrative

procedures and public education or ordinance requirements, these regulations shall take effect on and after July 1, 2000. During the period subsequent to the adoption of Articles I through VIII of this chapter by the county council and its effective date, Articles I through VIII of the chapter shall be considered pending.
(Ord. of 1-2-00, § 7.6)

Sec. 13-197. Pending ordinance doctrine.

After approval of Articles I through VIII of this chapter upon third reading of the county council, but prior to the effective date as set forth in section 13-196, the designated ordinance administrator shall not approve any land development project or issue any permit for a use that is contrary to or inconsistent with the regulations included within Articles I through VIII of this chapter.
(Ord. of 1-2-00, § 7.7)

Secs. 13-198—13-220. Reserved.

ARTICLE VIII. DEFINITIONS

Sec. 13-221. Definitions.

When used in this chapter, the following words and terms shall have the meanings indicated. Words and terms not herein defined shall have their customary dictionary definitions. The term "shall" is mandatory. When not inconsistent with the content, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future.

Communication tower means a tower of greater than sixty (60) feet in height which supports communication (broadcast or receiving) equipment utilized by commercial, governmental, or other public or quasi-public users, including amateur radio operators, as licensed by the Federal Communications Commission. This definition does not include private home use of satellite dishes or television antennas.

County code enforcement board of appeals. Pursuant to S.C. Code 1976, § 6-29-780, the board is established as the board of zoning appeals. Powers and required findings of the board of appeals is consistent with S.C. Code 1976, § 6-29-800.

Developer. An individual, partnership or corporation (or agent therefor) that undertakes the activities covered by these regulations.

Land development project. The changing of land characteristics through development, redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, commercial and industrial structures, and similar developments for sale, lease, or any combination of owner and rental characteristics.

Lot. A single parcel or tract of contiguous land intended as a unit for transfer of ownership, or for building development, or both.

(1) *Area.* The total gross area of the lot including easements.

(2) *Corner.* A lot with frontage on each of two (2) intersecting roads located at the point of intersection.

(3) *Depth.* The mean horizontal distance between the front and rear lot lines.

(4) *Double frontage lot.* A parcel having frontage on two (2) or more roads, which is not located at any intersection of such roads.

Lot width. The horizontal distance between the side lot lines at the building setback line measured parallel with the front lot line or in the case of a curvilinear road measured parallel to the chord of the arc between the intersection of the side lot lines and the road right-of-way line.

Manufactured housing. Factory-built, single-family structure that meet the National Manufactured Home Construction and Safety Standards Act (42 USC § 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code. Includes mobile homes, modular homes, and system homes, consistent with the National Manufactured Home Construction and Safety Standards Act of 1976, but does not include travel trailers and/or recreational vehicles.

Manufactured housing subdivision. A parcel of land that has been planned, developed and improved, for sale or transfer, to receive the placement of mobile homes for non-transient use. For the purposes of this chapter, manufactured housing subdivisions shall be subject to the same regulations as single-family residential subdivisions.

Mobile home. Manufactured housing.

Mobile home park. A tract or parcel of land containing four (4) or more mobile homes or spaces for mobile homes that are rented or leased as a residential unit. See *Manufactured housing*.

Mobile/manufactured home permit. A document or certificate issued by the county authorizing the placement, alteration, or moving of a mobile home or manufactured home.

Multifamily development project. A development project which includes four (4) or more residential units on one (1) tract or parcel of land. A multifamily development project may include either four (4) or more dwellings constructed in one (1) building, or dwelling units constructed in separate buildings. Multifamily development projects include both:

(1) Condominium complexes, in which individual units are privately owned but grounds are retained in common ownership; and

(2) Apartments, in which all units and grounds are held by a single owner and are rented or leased to residents.

Multifamily housing. Multifamily development project.

Open space site. A tract of land provided in residential subdivisions, apartment complexes and mobile home parks to meet the local recreational needs and desires of residents. Such tracts shall include play areas, small parks, natural woods and areas of unusual scenic beauty.

Patio home. A single-family, free-standing, site-built residential dwelling designed and constructed with a small deck or patio at the rear of the home, the elimination of operational and/or translucent windows on one side of the home for privacy, and narrow lot designs in order for the construction of small enclosed courtyards, if desired, in the rear of each dwelling. The ground under each dwelling, as well as the surrounding yards, are individually platted and owned on a fee simple basis by the owner of the individual dwelling unit.

Planning commission. The county citizens' planning commission.

Plat. A map or drawing that is an accurate graphical representation of a developer's plan for a subdivision.

Private road. A road is private unless its right-of-way has been dedicated to and accepted by the state or the county council.

Public road. This means, relates to, and includes the entire right-of-way of roads, avenues, boulevards, highways, freeways, lanes, courts, thoroughfares, collectors, local roads, cul-de-sacs and other ways considered public and both dedicated to and accepted by the state or the county council.

(1) *Primary road.* A street of exceptional continuity, either existing or proposed, that is intended to carry the greater portion of through traffic from one area to another.

(2) *Arterial road.* A major road that serves as an avenue for circulation into, out of, or around the county. Also "farm-to-market road."

(3) *Collector road.* A road that has the primary purpose of intersecting traffic from intersecting local roads and handling movements to the nearest arterial road. A secondary function is to provide direct access to abutting properties.

(4) *Local road.* A road that has the primary purpose of providing access to abutting properties. Also "subdivision road."

Sanitary sewer. A constructed conduit connected with or as a sewer system for the carrying of liquids and solids other than storm waters to a sanitary treatment facility.

Setback line. The line indicating the minimum distance permitted between the road right-of-way line and any building, or any projections thereof, other than steps, eaves, chimneys, bay windows, and fire escapes.

Septic systems. A system for the treatment and disposal of domestic sewage by means of a septic tank and soil absorption systems.

Stealth tower means a communication tower designated and installed in a manner such that the antenna, supporting apparatus and associated structures are aesthetically and architec-

turally complimentary and appropriate with regard to an existing structure or immediate environment in which the communication tower is located. Examples include, without limitation, church steeples, bell towers, flag poles, and similar structures.

Subdivision. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivisions which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record (S.C. Code 1976, § 6-29-1110(2)).

Surveyor. A registered land surveyor in good standing with the state board of registration for professional engineers and land surveyors. The terms "practice of land surveying," "land surveying," "the preparation or submission of plats," or other related terms within the meaning and intent of this chapter shall include measuring and locating lines, angles, elevations, natural and manmade features in the air, on the surface of the earth, with underground workings, or on the beds or bodies of water for the purpose of determining areas and volumes, for the monumenting or marking of property boundaries and for the platting and laying out of lands and subdivisions thereof, including the topographic alignment and grades of streets and for the preparation of maps, plats and property descriptions that represent the surveys. Also "land surveyor".

Townhome (town house). A structure, or grouping of structures, each of which contains two (2) or more residential dwelling units. The ground under each dwelling unit, as well as surrounding yards, are individually platted and transferred as unique, separate, and individual lots. This definition does not preclude some areas under common ownership within the townhome complex.

Transfer or sale of lots. Any agreement to sell or negotiate to sell land(s) to be developed by reference to, or exhibition of, or by other use of a plat of subdivision of such land.

Utilities. Utilities shall consist of any and all utility services to a land development, including water, electricity, telephone, cable television, gas, and sanitary sewerage, whether such utilities are supplied by a private individual, private company, or a governmental entity.

Yard. A space on the same lot with a principal building that is open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings and structures are expressly permitted.

(1) *Yard (front).* A yard situated between the front building line and the front lot line extending the full width of the lot.

(2) *Yard (rear).* A yard situated between the rear building line and the rear lot line extending the full width of the lot.

(3) *Yard (side).* A yard between side building line and a side lot line extending from the front yard to the rear yard.

(Ord. of 1-2-00, Art. VIII; Ord. of 10-16-00, § 5.6)

Secs. 13-222—13-230. Reserved.

ARTICLE IX. SEXUALLY ORIENTED BUSINESSES*

Sec. 13-231. Purpose and findings.

(a) *Purpose.* It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of Cherokee County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented business within the unincorporated areas of Cherokee

*__Cross reference—__Businesses, Ch. 7.

County. It is the purpose and intent of the ordinance to establish a permit requirement for sexually oriented businesses that will ensure that sexually oriented businesses are operated in a manner that is in full compliance with all applicable laws of the United States of America, the State of South Carolina and Cherokee County. The purpose of such permit requirements is to ensure that sexually oriented businesses are operated in a manner that minimizes the adverse impacts on the community and to insure that sexually oriented businesses do not pose a threat to the public health, safety, and general welfare of the citizens of Cherokee County. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) *Findings.* Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Cherokee County Council, including the statement submitted by the Cherokee County Sheriff, and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.,* 475 U. S. 41 (1986), *Young v. American Mini Theaters,* 427 U. S. 50 (1976), *Barnes v. Glen Theater, Inc.,* 501 U.S. 560 (1991), and in *City of Erie, et al., v. Pap's A.M. tdba "Kandyland",* No. 98-1161 (Decided March 29, 2000) as well as studies and/or findings reasonably believed to be relevant to the problems in Cherokee County that have been incorporated in ordinances and regulations in other communities including, but not limited to, other counties and municipalities in South Carolina; as well as studies and/or findings reasonably believed to be relevant to the problems in Cherokee County from other states, including but not limited specifically to, Arizona; Texas; California; North Carolina; and from residential property owners and citizens of Cherokee County, the Cherokee County Council finds:

(1) There exists a present and future potential for further establishment of sexually oriented businesses in Cherokee County and it is in the interest of the public health, safety, and welfare, of the citizens of Cherokee County to provide for minimum standards and regulations for sexually oriented businesses, as well as for the health, safety, and general welfare of the owners, operators, employees, and patrons of such businesses.

(2) Sexually oriented businesses generate secondary effects which are detrimental to the public health, safety, and welfare of the general population. Additionally, sexually oriented businesses are frequently used for unlawful sexual activities, including public sexual indecency, prostitution, and sexual encounters of a casual nature. Such businesses are of particular concern to the community when they are located in close proximity to each other, or close to residences, schools, churches, parks, playgrounds day care centers and nursing homes. Increased crime and unhealthy conduct tend to accompany, concentrate around and be aggravated by sexually oriented businesses including but not limited to prostitution, pandering, exposing minors to harmful

materials, possession and distribution of obscene materials and child pornography, possession and sale of controlled substances and violent crimes against persons and property.

(3) The concern over sexually transmitted diseases is an additional legitimate concern for the County, which demands reasonable regulation of sexually oriented businesses in order to protect the health and well being of citizens.

(4) Live entertainment at sexually oriented businesses sometimes involves a considerable amount of bodily contact between patrons and seminude and/or nude employees, dancers or entertainers, including physical contact such as hugging, kissing, and sexual fondling of employees or patrons. Many sexually oriented businesses have "couch," "straddle" or "lap" dancing, in which employees do such things as sit in a patron's lap, place their sexual organs against a patron while physical contact is maintained, or gyrate in a manner so as to simulate sexual intercourse. Such activity can be defined as obscene and illegal in accordance with the laws of South Carolina. The Cherokee County Council recognizes that the prevention of these and similar activities that pose a threat to the health, safety, and general welfare of the citizens of Cherokee County is clearly within the police powers of the County. The Cherokee County Council further believes that prohibiting contact between performers and patrons at sexually oriented businesses is a reasonable and effective means of addressing these legitimate governmental interests. Cherokee County further finds that a number of courts have upheld distance limitations between performers and patrons, prohibition against physical contact between performers and patrons, and direct payment and receipt of gratuities between performers and patrons at sexually oriented business establishments that provide live entertainment as a means of further addressing secondary effects associated with these activities. *BSA, Inc. v. King County,* 804 F. 2d 1104, 1110-11 (9th Cir. 1986) (Six Feet); *Kev, Inc. v. Kitsap County,* 793 F. 2d 1053 (9th Cir. 1986) (Ten Feet); *Zanganeh v. Hymes,* 844 F. Supp. 1087, 1091 (D. Md. 1994) (Six Feet); *T-Marc, Inc. v. Pinellas County,* 804 F. Supp. 1500, 1506 (M.D. Fla. 1992) (Three Feet); *DLS, Inc. v. City of Chattanooga,* 894 F. Supp. 1140 (E.D. Tenn 1995) (Six Feet and prohibiting direct payment and receipt of gratuities); *Parker v. Whitfield County,* 463 S.E. 2d 116 (Ga. 1995) (prohibiting tipping and contact between dancers and patrons); *Hang On, Inc. v. City of Arlington,* 63 F.3d 1248 (5th Cir. 1995) (aff'd prohibition on touching or any contact between dancers and patrons). Cherokee County Council recognizes that regulating the location of sexually oriented businesses is an additional reasonable and effective means of addressing secondary effects associated with these activities. It is not the intent of the County to place any impermissible burden on any constitutionally protected expression or expressive conduct by the enactment or enforcement of such regulations.

(5) The requirement of a permit is a legitimate and reasonable means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regula-

tions to facilitate the enforcement of legitimate distancing requirements, and to ensure that operators do not allow their establishments to be used as places of illegal activities or solicitation.

(6) The location of sexually oriented businesses close to residential areas, schools, churches, parks, or playgrounds leads to the decline in the general welfare of the area, leads to conditions that give rise to crime, and places society as a whole, and particularly children, in a position such that they are endangered by secondary effects of these activities.

(7) It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment nor is it the intent to unreasonably limit alternative avenues of communication, but rather the intent is to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; nor is it the intent of this ordinance to depart from the rulings as set forth in *Connor v. Town of Hilton Head,* 314 S.C. 251, 442 S.E.2d 608 (1994), and *Diamonds v. Greenville County,* 325 S.C. 154, 480 S.E.2d 718 (1997), wherein those courts stated that municipalities and counties in South Carolina do not have the power to enact local ordinances prohibiting public nudity nor do municipalities or counties in South Carolina have the power to enact ordinances inconsistent with the Constitution or general laws of the State of South Carolina; but rather the intent of the Cherokee County Council is to enact a content neutral regulation that addresses the secondary effects produced by sexually oriented businesses that jeopardize or threaten the public health, safety, and general welfare of the citizens of Cherokee County.

(8) The county council has determined that location criteria alone does not adequately protect health, safety and general welfare of the citizens of Cherokee County and thus certain regulations with respect to the ownership and operation of sexually oriented businesses is in the public interest.

(9) The county council, consistent with sale and consumption of alcohol and outside advertising limitation, further finds that restricted hours of operation will further prevent the adverse secondary effects of sexually oriented business.

(Ord. of 4-3-00, § I; Ord. of 6-26-00, § I)

Sec. 13-232. Definitions.

For purposes of this article, certain terms and words are specifically defined as set forth more fully hereinafter:

Chief building official as used in the article means and includes all those county departments, offices, agents and officials designated from time to time by the county administrator to administer, implement and enforce this article.

Church or other religious institution means any church, synagogue, mosque, temple, building or structure which is used primarily for religious worship or related religious activities.

Commercial establishment means any establishment, whether private or public, that can be classified as a sexually oriented business as defined herein.

Employee means a person who works or performs in or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

Establishment means and includes any of the following:

(1) The opening or commencement of any such business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;

(3) The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or

(4) The relocation of any such sexually oriented business.

Nudity or *state of nudity* means: (a) the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male genitals, female genitals, pubic region, or areola or nipple of the female breast.

Operator means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted premises.

Permitted premises means any premises that requires a permit and that is classified as a sexually oriented business.

Permittee means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Proper filing means the applicant has submitted all the required information to properly evaluate the respective application pursuant to this ordinance.

Public building means any building owned, leased or held by the United States, the State of South Carolina, Cherokee County, Cherokee County School District, any special district, or any other agency or political subdivision of Cherokee County, of the State of South Carolina, or the United States, which building is used for governmental purposes.

Public park or *recreation area* means public land which has been designated for parks or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the county which is under the control, operation, or management of the county parks and recreation authorities, school districts or under control of a profit or nonprofit corporation or association such as a landowner's association.

School means any public or private educational facility including but not limited to child care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexually oriented business means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.

Sexually oriented businesses are those businesses defined as follows:

(1) *Adult arcade* means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(2) *Adult bookstore, adult novelty store* or *adult video store* means a commercial establishment which, has the major portion of its stock-in-trade and derives the major portion of its revenues from the sale, rental for any form of consideration, of any one or more of the following:

    (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," or

    (b) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for sadomasochistic use or physical abuse of themselves or others.

(3) *Adult cabaret* means a nightclub, bar, restaurant, "bottle club," or any other similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

    (a) Persons who appear in a state of nudity or seminude; or

    (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

    (c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) *Adult motel* means a hotel, motel or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this sexually oriented type of material, or advertises the availability of this sexually oriented type of material by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(c) Allows a tenant or occupant to sub-rent the sleeping room for a period of time that is less than ten (10) hours.

(5) *Adult motion picture theater* means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

(6) *Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or persons involved in live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) *Escort* means a person who, for any form of consideration, acts as, agrees, or offers to act as a companion, guide, or date for another person, or who acts as, agrees, or offers to privately model lingerie or to privately perform a striptease for another person, or engage in sexual intercourse or copulation.

(8) *Escort agency* means a person or business association who furnishes, offers to furnish, or advertises to furnish escort(s) as one of its primary business purposes for a fee, tip, or other consideration; does not maintain an open office, employs or contracts with or refers escorts who do not produce accurate identification cards or proof.

(9) *Massage parlor* means any place where, for any form of consideration or gratuity, a massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with "specified sexual activities" or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented businesses shall not include the practice of massage therapy in any licensed hospital, nor by a licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, massage therapist, chiro-

practor, or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor, semiprofessional or professional athlete or athletic team or school athletic program.

(10) *Nude model studio* means any place where a person, who regularly appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Nude model studio shall not include a proprietary school licensed by the State of South Carolina or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. (See exemptions hereinafter).

(11) *Sexual encounter establishment* means a business or commercial establishment, which as one of its major business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" for activities when one or more of the persons are in a state of nudity or seminude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of South Carolina engages in medically approved and medically recognized sexual therapy.

Specified anatomical areas as used in this division means and includes any of the following:

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola.

Specified criminal act includes the following: sexual crimes against children, sexual abuse, rape or other sexual crimes and crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, or buggery; and the out of state or federal counterparts to the preceding sexual offenses whether or not referred to by a different name.

Specified sexual activities as used in this division, means and includes any of the following.

(1) The fondling or other erotic or intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; or

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

(3) Masturbation, actual or simulated; or

(4) Human genitals in a state of sexual stimulation, arousal or tumescence;

(5) Excretory functions as part of or in connection with any of the activities set forth in (1) through (4) of this subsection.

Substantial enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than fifteen (15) percent as the floor areas exist on the date this article takes effect.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

(1) The sale, lease, or sublease of the business; or

(2) The transfer of stock or securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. of 4-3-00, § II; Ord. of 6-26-00, § II)

Sec. 13-233. Business regulation established by ordinance.

(a) *Location requirements:*

(1) The establishment of a sexually oriented business shall be permitted subject to the following restrictions. No person shall cause or permit the establishment of any of the sexually oriented businesses named hereinabove within one thousand (1,000) feet of the uses identified below. It shall be a violation of this ordinance if he/she/it operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of any of the existing:

a. Churches or other religious institutions as defined hereinabove; or

b. Schools as defined hereinabove;

c. Public parks, public recreation areas, or private recreation areas (structure shall include the entire parcel on which the facility is located),

d. Licensed or certified day care centers;

e. Group day care homes;

f. Nursing homes; or

g. Sexually oriented businesses.

(2) A sexually oriented business shall not be located within two hundred (200) feet of the property line of any single or multi-family residential dwelling.

(b) *Distances measurement technique.* For purposes of this article, measurement of the distances set forth in subsection (a) shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line of any lot on

which any part is used as a sexually oriented business to the nearest portion of the property line of the uses listed in paragraph (a), at a point where the property line is not within a dedicated road right-of-way.

No more than one (1) sexually oriented business shall be located on a permitted premise.

(c) *Restrictions for businesses regulated and penalties.* Cherokee County hereby requires that sexually oriented businesses shall be permitted only as provided in paragraph (a) in which such use is listed as permissible. Permits for sexually oriented businesses shall be required and governed by the procedures and policies specified in paragraph (a), *et. seq.,* of this section. In addition, any sexually oriented business shall be subject to the following restrictions:

(1) The person commits a misdemeanor, if he/she operates or causes to be operated a sexually oriented business except as provided in paragraph (a), *et seq.,* of this section.

(2) A person commits a misdemeanor if he/she causes or permits the operation, establishment, or maintenance of more than one sexually oriented business within the same building, structure, or portion thereof, or causes the substantial enlargement of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

(d) *Regulations governing existing sexually oriented businesses.* Any existing establishment subject to the provisions of this section shall apply for the permit provided for by section 13-240, *et. seq.,* within thirty (30) days of the effective date of this article. Any establishment existing prior to the effective date of this article shall comply with the regulations contained herein within sixty (60) days of the effective date of this ordinance. The distance requirements of subsection (a) shall not apply to the location of an existing sexually oriented business, except as provided for in subsection (e).

(e) *Sexually oriented businesses as a nonconforming use.* Any sexually oriented business operating on the date that this article is enacted that is found to not be in conformance with the locational requirements, as specified in subsection (a) shall be designated as a nonconforming use. Such business shall be permitted to remain in operation without a permit but shall adhere to the regulations and procedures of this article, including the procedures as specified in subsection (d), and shall be eligible to be issued a permit. Upon issuance of the permit, the chief building official or his designee, shall make a notation on the permit that the use is designated as nonconforming.

(f) *Supplemental regulation applied to sexually oriented businesses that are designated as a nonconforming use.*

(1) No nonconforming use shall be increased, enlarged, extended, or altered, except the use may be voluntarily changed by the operator to a conforming use.

(2) Any sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use due to the subsequent location of any of the activities listed in subsection (a) within the applicable distance stated in subsection (a) of the parcel upon which the sexually oriented business is located.

(3) The nonconforming status of any sexually oriented business shall be terminated if the business ceases to operate for a period of at least thirty (30) consecutive days, or if the business's permit is revoked in accordance with section 13-247, or the permit lapses, or if the building in which the business is housed suffers damage to such an extent that the cost of repair would exceed fifty (50) percent of the value of the building before it was damaged. In such case, no new permit shall be issued for any business that is not in compliance with subsection (a).

(4) Upon the termination of the nonconforming status of the sexually oriented business, the permit shall be permanently revoked.

(5) An existing sexually oriented business which does not comply with the distance requirements of subsection (a) will be permitted to continue to operate for a period of one year with a possible extension of one additional year to be granted by the chief building official for Cherokee County only upon a showing of extreme financial hardship which is defined as the recovery of the initial financial investment in the nonconforming use, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more.

(g) *Injunction.* A person who operates or causes to be operated a sexually oriented business without complying with these regulations is subject to a suit for injunction as well as prosecution for the criminal violation. Such violation shall be punishable by a fine of up to five hundred dollars ($500.00) and/or up to thirty (30) days imprisonment, and if an injunction must be sought, attorneys fees and costs will be assessed at the discretion of the court against the sexually oriented business.
(Ord. of 4-3-00, § III; Ord. of 6-26-00, § III)

Sec. 13-234. Prohibitions regarding minors and sexually oriented businesses.

A person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article, and knowingly or with reasonable cause to know, permit, suffer, or allow:

(1) Admittance of a person under eighteen (18) years of age to the business premises; or

(2) A person under eighteen (18) years of age to remain at the business premises; or

(3) A person under eighteen (18) years of age to purchase goods or services at the business premises; or

(4) A person who is under eighteen (18) years of age to work at the business premises as employee.

(Ord. of 4-3-00, § IV; Ord. of 6-26-00, § IV)

Sec. 13-235. Advertising, visibility and lighting regulations.

(a) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article, and advertises the presentation of any activity prohibited by any applicable State statute or local ordinance.

(b) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this ordinance, and displays or otherwise exhibits the materials and/or performances at such sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.

(c) The permittee shall not allow any portion of the interior premises to be visible from outside the premises.

(d) All off-street parking areas and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot of candle light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premise.

(e) Nothing contained in this section of the article shall relieve the operator(s) of a sexually oriented business from complying with regulations of the Cherokee County Council as may be enacted or amended from time to time.

(f) Any fencing used to secure the premises or parking areas of the sexually oriented business shall not prevent unobstructed visibility or access of those premises or parking areas during hours of operation of the sexually oriented business.
(Ord. of 4-3-00, § V; Ord. of 6-26-00, § V)

Sec. 13-236. Hours of operation.

(a) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this ordinance, and allows such business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 1:00 a.m. and 9:00 a.m. on any particular day.

(b) It shall be unlawful and a person commits a misdemeanor if, working as an employee of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this ordinance, said employee engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service between the hours of 1:00 a.m. and 9:00 a.m. on any particular day.
(Ord. of 4-3-00, § VI; Ord. of 6-26-00, § VI)

Sec. 13-237. Regulations pertaining to live entertainment.

(a) For purposes of this section, "live entertainment" is defined as a person who appears nude, semi-nude, or a performance which is characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(b) No person shall perform live entertainment for patron(s) of a sexually oriented business establishment except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patron(s). No patron shall be permitted within ten (10) feet of the stage while the stage is occupied by a performer.

(c) The sexually oriented business establishment shall provide separate dressing room facilities for female and male performers which shall not be occupied or used in any way by anyone other than performers.

(d) The sexually oriented business establishment shall provide access for performers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the establishment shall provide a minimum four (4) feet wide walk aisle for performers between the dressing room area and the stage, with a railing, fence, or other barrier separating the patrons and the performers which prevents any physical contact between patrons and performers.

(e) No entertainer, either before, during or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after a performance. This subsection shall only apply to physical contact while in or on the premises of the establishment.

(f) Fixed rail(s) or bar(s) at least thirty (30) inches in height from floor level shall be maintained establishing the separations between performers and patrons required by this article.

(g) No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and a performer. No performer shall solicit any gratuity from any patron.

(h) No operator of a sexually oriented business establishment shall cause or allow a performer to contract or engage in any entertainment such as "couch", "straddle" or a "lap" dance with a patron while in or on the establishment premises. No performer shall contract to or engage in a "couch", "straddle", or "lap" dance with a patron while in or on the establishment premises. For purposes of this subsection, "couch", "straddle", or "lap" dance is defined as an employee of the establishment intentionally touching or coming within ten (10) feet of any patron while engaged in the display or exposure of any "specified anatomical area," or any "specified sexual activity." For purposes of this subsection, employee is defined as it is in section 13-232.

(i) Section 13-237 shall not apply to any employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bartender, comes within ten (10) feet of a patron, provided the employee is not engaged in any "specified sexual activity" or displaying or exposing any "specified anatomical area" while acting as a waiter, waitress, host, hostess, or bartender.

(j) Compliance with section 13-237:

(1) No establishment shall be in compliance with this section 13-237 until the county's designated agent(s) have inspected and approved of the establishment's compliance. The county shall have ten (10) days from the date it receives written notice from the operator that the establishment is ready for inspection to approve or disapprove of compliance required by section 13-237. Failure to approve or disapprove of compliance within ten (10) days shall constitute a finding of compliance under section 13-237 only.

(2) The operator of an establishment, that has been operating under a valid permit for another classification of sexually oriented business and who wishes to provide live entertainment at that establishment, shall comply with section 13-237 before any live entertainment is provided at that establishment.

(3) The applicant for a permit to operate a new establishment, who wishes to provide a live entertainment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided. No permit shall be issued until the establishment is approved as being in full compliance with section 13-237 and all other applicable requirements of this article.

(Ord. of 4-3-00, § VII; Ord. of 6-26-00, § VII)

Sec. 13-238. Prohibition of distribution of sexually abusive devices.

(a) It is unlawful for anyone to distribute, for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for sado-masochistic use or abuse of themselves or others.

(b) Such devices, instruments or paraphernalia include but are not limited to muzzles, whips, chains, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sado-masochistic abuse.

(c) A violation of this section is a misdemeanor punishable by a fine of up to five hundred dollars ($500.00) and/or up to thirty (30) days incarceration.

(Ord. of 4-3-00, § VIII; Ord. of 6-26-00, § VIII)

Sec. 13-239. Regulations pertaining to exhibition of sexually explicit films or videos in video booths.

(a) A person who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued to said business under this ordinance, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing the floor and rooms plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight (8) feet. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The county department may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the chief building official for Cherokee County.

(4) It is the duty of the owners and operator of the premises to insure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It is shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises to insure that the view area specified in subsection (5) just above, remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to insure that no patron is

permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to section 13-239(a).

(7) No viewing room may be occupied by more than one (1) person at any one time. No holes, permitting viewing shall be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or restroom.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than one (1) foot of candle light as measured at the floor level.

(9) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present on the premises.

(b) A person having a duty under section 13-239(a) (1)—(9) commits a misdemeanor, punishable by a fine of up to five hundred dollars ($500.00) and/or up to thirty (30) days incarceration, if he/she knowingly fails to fulfill that duty.
(Ord. of 4-3-00, § IX; Ord. of 6-26-00, § IX)

Sec. 13-240. Business permit requirement.

Purpose and intent of permit: It is the purpose of this article to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of Cherokee County, and to establish reasonable and uniform regulations to prevent deleterious effects of sexually oriented businesses within the county. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this article to in any way condone or legitimize the distribution of obscene or harmful to minors' material.

(1) Every person or entity engaged or intending to engage in a sexually oriented business, as defined in this article, is required and shall obtain a sexually oriented business permit (hereinafter referred to as permit) from Cherokee County before initiating operation of the business. Any person or entity engaging in such business shall have a valid permit in effect at any time in which the business is in operation. It shall be unlawful and a person commits a misdemeanor, punishable by a fine of up to five hundred dollars ($500.00) and/or up to thirty (30) days incarceration, if he/she operates or causes to be operated a sexually oriented business without said permit.

(2) Applications for a permit shall be acquired from the chief building official for Cherokee County and upon completion said application shall be filed with the chief building official for Cherokee County.

(3) The applicant shall be required to pay a non-refundable application fee of fifty dollars ($50.00) at the time of filing an application under this section of this article.

(4) The chief building official, or his designee, is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses. The chief building official is also responsible for ascertaining whether a proposed sexually oriented business, for which a permit is being applied, complies with all locational requirements of this ordinance, and all applicable land use ordinances and regulations.

(5) The Cherokee County Sheriff's Office is responsible for providing information of whether an applicant has been convicted of a specified criminal act during the time period hereinafter set forth.

(6) The chief building official, or its designee is responsible for inspecting a proposed, permitted or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes, ordinances and regulations.

(7) An application for a permit must be made on a form provided by the county. Any person desiring to operate a sexually oriented business shall file with the county an original and two copies of a sworn application on the standard application form supplied by the chief building official's department.

(8) The completed application shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

   a. An individual, the individual shall state his/her legal name, date and place of birth, any aliases, and submit satisfactory proof that he/she is eighteen (18) years of age;

   b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement;

   c. A corporation, the corporation shall state its complete named, the date of its incorporation, evidence that the corporation is in good standing under the laws of South Carolina, the names and capacity of all officers, directors, and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

   d. Any other business organization, it shall furnish such information as required by the Chief Building Official.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, it must state: a) the sexually oriented business's fictitious or trade name; and b) submit copies of the required South Carolina business documents, if any.

3. Whether the applicant or any of the other individuals listed pursuant to section 13-240 of this article has, within the two (2) or five (5) year period as specified hereinafter in section 13-242(c)(1)(i) immediately preceding the date of the application, been convicted of a specified criminal act, and if so, the specified criminal act involved, the date of conviction and the place of conviction.
4. Whether the applicant, or any of the other individuals listed pursuant to section 13-240, and or permittees of this ordinance has had a previous permit under this article or other similar sexually oriented business ordinances from another state, city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individual listed pursuant to section 13-240 has been a partner in a partnership or an officer, director or principal stockholder of a corporation, or any other business organization that is permitted under this article whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
5. Whether the applicant or any other individual listed pursuant to section 13-240 holds any other permits under this ordinance or other similar sexually oriented business ordinance or statute from another state, city or county and, if so, the names and locations of such other permitted businesses.
6. The type of sexually oriented business, as defined hereinabove, for which the applicant is filing for a permit.
7. The location of the proposed sexually oriented business, including a legal description of the property, legal owner, recording references, street address, and telephone number(s).
8. The applicant's mailing addresses and residential address.
9. A copy of the applicant's driver's license number, Social Security number, and state or federally issued tax identification number.
10. A sketch or diagram showing the configuration and floor plan of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the rooms and interior of the premises. This shall be submitted at the time the applicant applies for a site development inspection.
11. A current certificate and straight—line drawing prepared by a South Carolina registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this ordinance, specifically showing those uses set forth in section 13-233(a)(1) within one thousand (1,000) feet of the property to be certified, and showing those uses set forth in section

13-233(a)(2) within two hundred (200) feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. This shall be submitted at the time the applicant applies for a site development inspection.

12. If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than a single individual, each individual who has a ten (10) percent or greater interest in the business must sign the application for a permit as applicant. If a corporation, or any other business organization is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a ten (10) percent or greater interest in the corporation must sign the application for a permit as applicant.

13. If a person wished to operate a sexually oriented business which shall exhibit on the premises films, video cassettes, or other video production which depict specified sexual activities or specified anatomical areas, or provides live entertainment, then said person or entity shall comply with the application requirements stated in this article.

Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the chief building official shall be grounds for suspension of a permit.

(9) In the event that the chief building official determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, it shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application, except as provided for in section 13-247(a)(1). (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

(10) The applicant must be qualified according to the provisions of this ordinance and the premises must be inspected and found to be in compliance with health, fire and building codes and laws.

(11) Prior to obtaining any permit to operate any sexually oriented business defined in this article, and as part of any application for a permit under this section, the applicant shall obtain from the chief building official certification that the proposed location of such business complies with the locational requirements of this ordinance, provisions of the Cherokee County Land Use Regulations or other land use enactments existing at the time of application.

(12) The fact that a person possesses other types of state or county permits does not exempt him/her from the requirement of obtaining a sexually oriented business permit.

(13) The applicant shall be required to provide the county with the names of any and all employees who are required to be permitted pursuant to section 13-250 of this article. This shall be a continuing requirement even after a permit is granted or renewed.

(Ord. of 4-3-00, § X; Ord. of 6-26-00, § X)

Sec. 13-241. Investigation and application.

(a) Upon receipt of an application properly filed with the county and upon payment of the non-refundable application fee, the chief building official shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the sheriff's office and any other county agencies responsible for enforcement of health, fire, and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this article. Said agency or department investigations shall be completed within twenty-five (25) days of receipt of the application by chief building official. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and in the event it disapproves, state the reasons therefor and return to the chief building official. The Cherokee County Sheriff's Office shall only be required to certify the criminal records request check mentioned at section 13-240. The sheriff's office shall not be required to approve or disapprove applications.

(b) A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the county. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the chief building official.

(Ord. of 4-3-00, § XI; Ord. of 6-26-00, § XI)

Sec. 13-242. Issuance of business permit.

(a) The chief building official shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing. Upon the expiration of the 30th day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the county department notifies the applicant of a denial of the application and states the reason(s) for that denial in writing.

(b) Grant of application for permit.

(1) The chief building official shall grant the application unless one or more of the criteria set forth in section 13-242(c) below is present.

(2) The permit, if granted, shall state on its face the mane of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall also indicate that the sexually oriented business whether permitted or not may be subject to prohibitions against public nudity and indecency pursuant to the United State Supreme Count decision in *Barnes v. Glen Theater, Inc., 501 U.S. 560 (1991).*

(3) The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be read easily at any time.

(c) Denial of application for permit.

(1) The chief building official shall deny the application for any of the following reasons:

a. An applicant is under eighteen years of age.

b. An applicant is overdue on his/her payment to the county of taxes, fees, fines, or penalties assessed against him/her in relation to a sexually oriented business.

c. An applicant has failed to provide information required by this section or permit application for the issuance of the permit or has falsely answered a question or request for information on the application form.

d. The premises to be used for the sexually oriented business have not been approved as being in compliance with health, fire and building codes by the department or agency responsible under law for investigating said compliance.

e. The application or permit fees required by this section have not been paid.

f. An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this ordinance including but not limited to the location requirements for a sexually oriented business.

g. The granting of the application would violate a statute, ordinance, or court order.

h. The applicant has a permit under this ordinance which has been suspended or revoked.

i. An applicant has been convicted of a "specified criminal act" for which:

1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal acts" as defined in section 13-232;

2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense for the "specified criminal acts" as defined in section 13-242;

3. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses for "specified criminal acts" as defined in section 13-242; or

4. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

An applicant who has been convicted of the above described "specified criminal acts" may qualify for a sexually oriented business permit only when the time period required above in section 13-242(c)(1)(i) has elapsed.

k. An applicant knowingly has in his or her employ, an employee who does not have a valid permit as required hereinafter in Section 13-250.

(2) If the chief building official denies the application, it shall notify the applicant in writing of the denial, and state the reason(s) for the denial.

(3) If a person applies for the permit for a particular location within a period of twelve (12) months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

(Ord. of 4-3-00, § XII; Ord. of 6-26-00, § XII)

Sec. 13-243. Annual business permit fee.

The annual fee for a sexually oriented business permit is two hundred dollars ($200.00) to be paid at the beginning of each calendar year no later than May 1.

(Ord. of 4-3-00, § XIII; Ord. of 6-26-00, § XIII)

Sec. 13-244. Inspection.

(a) An applicant or permittee shall permit representatives of the sheriff's office, health department, fire departments, and the county departments to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(b) It shall be unlawful for a person who operates a sexually oriented business, regardless of whether or not a permit has been issued for said business under this ordinance, and his/her agent or employee commits a misdemeanor, punishable by a fine of up to five hundred dollars ($500.00) and/or up to thirty (30) days incarceration, if he/she refused to permit such lawful inspection of the premises at any time that it is occupied or open for business.

(c) All employees subject to permitting as defined in section 13-250, "sexually oriented business employee permit," shall have that permit on the premises for ready for presentation to and inspection by any lawful representative of the county or state.

(Ord. of 4-3-00, § XIV; Ord. of 6-26-00, § XIV)

Sec. 13-245. Expiration of business permit.

Each permit shall expire on the last day of April each calendar year and may be renewed only by making application as provided in section 13-240, *et. seq.,* (for renewals, filing of the original drawing as required by section 13-240(h)(11) shall be sufficient) of this article.

Application for renewal made less than thirty (30) days before the permit expiration date, may result in a period during which a licensee may not possess a permit to operate pursuant to this article.
(Ord. of 4-3-00, § XV; Ord. of 6-26-00, § XV)

Sec. 13-246. Suspension of permit.

(a) The chief building official shall suspend a permit if it determines that a permittee, or an employee of a permittee, has:

(1) Violated or is not in compliance with any one section of this article; except as provided in section 13-240(I) of this article;

(2) Refused to allow an inspection of sexually oriented business premises as authorized by this article;

(3) Operated the sexually oriented business in violation of building, fire, health, or land use rules, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the chief building official shall promptly notify permittee of the violation and shall allow the permittee a seven (7) day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven (7) day period, the chief building official shall forthwith suspend the permit and shall notify the permittee of the suspension;

(4) Engaged in permit transfer contrary to section 13-249 of this article. In the event that the chief building official suspends a permit on the ground that a permittee engaged in a permit transfer contrary to section 13-249 of this article, the chief building official shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this article has been satisfied;

(5) Operated the sexually oriented business in violation of the hours of operation provided in section 13-236; or

(6) Knowingly employs a person who does not have a valid permit as required hereinafter in section 13-250 of this article.

(b) The suspension shall remain in effect until the violation of the statute, Code, ordinance or regulation in question has been corrected or complied with.
(Ord. of 4-3-00, § XVI; Ord. of 6-26-00, § XVI)

Sec. 13-247. Revocation of permit.

(a) The chief building official shall revoke a permit upon determining that:

(1) A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit;

(2) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances as defined by state or federal law in or on the premises;

(3) A permittee or an employee has knowingly allowed prostitution on the premises;

(4) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;

(5) A permittee has been convicted of a "specified criminal act" for which the time period required in section 13-242(c)(1)(i) of this article has not elapsed;

(6) On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a "specified criminal act" for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit;

(7) A permittee is convicted of tax violations for any taxes or fees related to a sexually oriented business;

(8) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises;

(9) A permittee has been operating more than one (1) sexually oriented business on the same permitted premise.

(c) When the chief building official revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation is effective.
(Ord. of 4-3-00, § XVII; Ord. of 6-26-00, § XVII)

Sec. 13-248. Judicial review of permit denial, suspension or revocation.

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may appeal and seek prompt review of the chief building official's administrative action.

All such appeals shall be made to the Cherokee County Board of Appeals on a form developed by Cherokee County and maintained by the chief building official.

All appeals shall be submitted by personal service or certified mail, return receipt requested, to the chief building official within ten (10) business days after notification has been received by the applicant, person or entity of the decision that is detrimental to the applicant, person or entity.

Before making a determination on an appeal, the board of appeals shall conduct a public hearing on the matter. Upon submission of an application for appeal, the board of appeals shall establish the date, time and location for the public hearing, which shall be within thirty (30) days of the submission of the application for appeal.

Notification of the public hearing shall be published in a newspaper of general circulation in Cherokee County at least fifteen (15) days prior to the public hearing. Notice of the public hearing shall also be displayed in the office of the chief building official. The applicant for appeal shall be provided notification of the location, date, and time of the public hearing by registered mail with return receipt, or by personal service of an agent of Cherokee County who is authorized to execute such service.

The hearing procedure shall be as follows:

The applicant or any party in interest may appear in person or by agent or attorney. The board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.

Parties in interest may present testimony under oath. All witnesses shall be subject to cross-examination from the opposing party.

Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chairman of the board of appeals will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

The hearing before the board of appeals shall be conducted as follows:

(1) Chairman of the board of appeals shall present a statement of the matter to be heard.

(2) Presentation of appeal by applicant.

(3) Presentation of response to appeal by official appealed; or

(4) Presentation by opponents;

(5) Rebuttal to responses to appeal by applicant;

(6) (Unsworn public comment when appropriate);

(7) The board of appeals may question any participant at any point in the hearing;

(8) Matters in which additional time is granted may be moved to the end of the agenda.

The decision of the board of appeals shall be made solely on findings of fact and shall be based on the South Carolina law or ordinances of Cherokee County. The board has the authority to affirm, reverse or modify the chief building official's actions. The board may deliberate and make a final disposition of a matter by majority vote of members at the hearing and said decision shall be rendered in a written form within five (5) business days of the public hearing; upon issuance of said order, it shall immediately be available for public review at the office of the chief building official.

An order shall be issued in a form setting forth the disposition of the matter, either by granting, denying or modifying the relief requested, and setting forth fully the basis of the decision, including all findings of fact and conclusions of law.

The board of appeals shall deliver to all parties in interest a copy of the order by certified mail or personal service upon execution of the order by the board.

If a decision of the chief building official is appealed, such decision is stayed from the time the appeal is filed until the board of appeals renders its decision. If the board of appeals upholds the order of the chief building official, then the period of suspension, revocation or denial shall commence upon the date that the decision of the board is rendered.

Following receipt of the board of appeals order, the applicant or permittee may appeal such decision through the circuit court for Cherokee County. All appeals made to the circuit court for Cherokee County shall be made within thirty (30) days of receipt of the order issued by the Cherokee County Board of Appeals.

Following service of the notice of appeal by the applicant, if the matter is not heard by the circuit court for Cherokee County at the next term of Court, or within sixty (60) days following the board of appeals decision, whichever is longer, then the applicant shall be granted a temporary permit by the chief building official, for the use requested in the original permit, which shall only be effective until a final determination of the matter appealed from is made by the circuit court for Cherokee County and an order is issued by that court.
(Ord. of 4-3-00, § XVIII; Ord. of 6-26-00, § XVIII)

Sec. 13-249. Transfer of business permit.

(a) A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

(b) A permittee shall not transfer his/her business permit to another person or business unless and until such other person or business satisfies the following requirements:

(1) Obtains an amendment to the permit from the chief building official which provides that he/she is now the permittee, which amendment may be obtained only if he/she has completed and properly filed an application with the chief building official setting forth the information called for under section 13-240, *et seq.,* of this article in the application; and

(2) Pays a transfer fee of twenty (20) percent of the annual permit fee set by this article.

(c) No permit may be transferred when the county department has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

(d) A permittee shall not transfer his permit to another location.

(e) An attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void and the permit shall be deemed revoked.
(Ord. of 4-3-00, § XIX; Ord. of 6-26-00, § XIX)

Sec. 13-250. Sexually oriented business employee permit.

(a) Each individual, either employed or to be employed, in a sexually oriented business, as defined in section 13-232 of this article, shall be required to obtain a sexually oriented business employee permit. Each applicant shall pay a non-refundable permit application fee of twenty-five dollars ($25.00). Said fee is to cover reasonable administrative costs of the permitting application process.

(b) Before any applicant may be issued a sexually oriented business employee permit, the application shall submit or attach to a form to be provided by the chief building official the following information:

(1) The applicant's name and any other names (including "stage" or "show" names) or aliases used by the individual;

(2) Age, date, and place of birth;

(3) Height, weight, hair and eye color;

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) Copy of State driver's license and identification number;

(7) Copy of Social Security number; and

(8) Acceptable written proof that the individual is at least eighteen (18) years of age.

(9) Attach to the application form as provided above, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Cherokee County Sheriff's Office.

(10) A statement detailing the permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or country has ever had a permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocations permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(11) Whether the applicant has been convicted of a "specified criminal act" as defined in section 13-232 of this article. This information shall include the date, place, nature of each conviction or plea of nolo contender and identifying the convicting jurisdiction.

(12) The chief building official shall refer the sexually oriented business employee permit application to the Cherokee County Sheriff's Office for an investigation to be made of such information as is contained on the application. The application process shall be completed within fifteen (15) days from the date the completed application is filed. After the investigation, and no later than the 15th day following the date the original

employee application was submitted to and received by the chief building official, the chief building official shall issue a permit unless the report from the sheriff's department finds that one (1) or more of the following findings is true:

a. That the applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit, or in any report or record required to be filed with the sheriff's office or other department of the county; or

b. That the applicant is under eighteen (18) years of age; or

c. That the applicant has been convicted of a "specified criminal act" as defined in section 13-240 of this article; or

d. That the sexually oriented business employee permit is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this article; or

e. That the applicant has had a sexually oriented business employee permit revoked by the county within two (2) years of the date of the current application.

(c) Renewal of permit required:

(1) A permit granted pursuant to this section shall be subject to annual renewal by the chief building official upon the written application of the applicant and a finding by the chief building official and the Cherokee County Sheriff's Office that the applicant has not been convicted of any "specified criminal act" as defined in section 13-232 of this article or committed any act during the existence of the previous permit period which would be grounds to deny the initial permit application.

(2) The renewal of the permit shall be upon payment of a non-refundable fee of twenty-five dollars ($25.00) at a time no later than May 1 of each calendar year.

(3) Each permit shall expire on the last day of April of each calendar year. Application for renewal made less than fifteen (15) days before the expiration date, may result in a period during which a licensee may not possess a permit to operate pursuant to this article.

(d) Temporary permit available: A temporary permit may be summarily issued, provided the information submitted does not violate section 13-250(b)(12), for a fourteen (14) day period to performers upon filing of a temporary employee permit application with the chief building official. Upon payment of a non-refundable twenty five dollar ($25.00) application fee, the applicant shall complete the temporary employee permit application and present their NCIC record check, current within twenty (20) days of presentation and certified in form and seal acceptable as probative by the Cherokee County Sheriff's Department. At that time the applicant shall submit a recent color photo for his/her temporary permit.
(Ord. of 4-3-00, § XX; Ord. of 6-26-00, § XX)

Sec. 13-251. Additional criminal prohibitions for the operation of a sexually oriented business without a valid permit.

(a) In addition to the criminal provisions found in other sections of this article, the following additional criminal provisions shall also apply to sexually oriented businesses.

(b) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this ordinance, and said person knows or should know that:

(1) The business does not have a sexually oriented business permit under this ordinance for any applicable classification, or

(2) The business has a permit which is under suspension; or

(3) The business has a permit which has been revoked; or

(4) The business has a permit which has expired.

(Ord. of 4-3-00, § XXI; Ord. of 6-26-00, § XXI)

Sec. 13-252. Exemptions.

(a) It is a defense to prosecution for any violation of this article if a person appearing in a state of nudity did so in a nudist colony which complies as such with all requirements therefor by law and regulations; or in a modeling class operated:

(1) By a proprietary school, licensed by the State of South Carolina; a college, junior college, or university supported entirely or partly by taxation; or

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure.

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

b. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

c. Where no more than one nude model is on the premises at any one time.

(b) It is a defense to prosecution for a violation of this ordinance that an employee of a sexually oriented business, regardless of whether or not is permitted under this article, exposed any specific anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(Ord. of 4-3-00, § XXII; Ord. of 6-26-00, § XXII)

Sec. 13-253. Criminal penalties and additional legal, equitable, and injunctive relief.

(a) In addition to whatever penalties are applicable under the South Carolina Code of Laws, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this article, such person upon conviction of such offense, shall be guilty of a misdemeanor

and shall be subject to and punished by a fine not to exceed five hundred dollars ($500.00) and/or by imprisonment not to exceed thirty (30) days in jail, with said sentence being in the discretion of the court. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.

(b) Nothing herein contained shall prevent or restrict the county from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

(c) Further, nothing in this section shall be construed to prohibit the county from prosecuting any violation of this article.

(d) All remedies and penalties provided for in this section shall be cumulative and independently available to the county, and the county shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.
(Ord. of 4-3-00, § XXIII; Ord. of 6-26-00, § XXIII)

Sec. 13-254. Administrative policies and forms.

The county administrator is authorized to promulgate such administrative policies and procedures, including permit applications, permits and other forms, as he may deem appropriate for the proper administration and enforcement of this article and to amend the same from time to time as he may deem required by the circumstances.
(Ord. of 4-3-00, § XXIV; Ord. of 6-26-00, § XXIV)

Sec. 13-255. Severability of article.

If any section, subsection or clause or this article shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and or clauses shall not be affected.
(Ord. of 4-3-00, § XXV; Ord. of 6-26-00, § XXV)

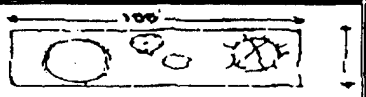
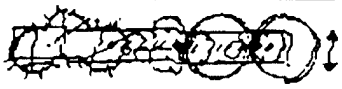
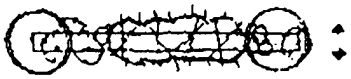
Sec. 13-256. Effective date of article.

This article shall be effective and enforced from and after June 26, 2000.
(Ord. of 4-3-00, § XXVI; Ord. of 6-26-00, § XXVI)

APPENDIX A

BUFFERYARD 1: MULTIFAMILY RESIDENTIAL/MOBILE HOME PARK/TOWNHOMES/ PATIO HOMES DEVELOPED ADJACENT TO SINGLE-FAMILY RESIDENTIAL, AGRICULTURAL, UNDEVELOPED USES, OR NATIONAL OR STATE PARKS

Required Plants Per 100' of Length	
2	Canopy Trees
4	Understory Trees
4	Evergreens/Conifers
4	Shrubs
14	Total

Percentage of Required Plant Material		Buffer Yard Width
25%	Proposed Use Adjacent Use	30 feet
50%		20 feet
75%	 Fence or Wall Required	10 feet
100%	 Fence or Wall Required	5 feet

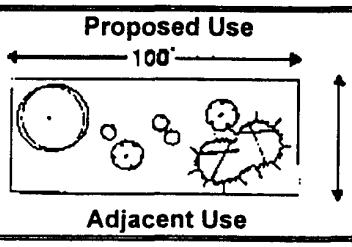
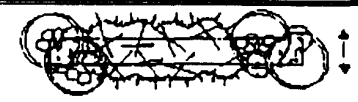
BUFFERYARD 1

(Ord. of 1-2-00, App. A; Ord. of 3-20-00, § 1)

BUFFERYARD 2: OFFICE/COMMERCIAL USES ADJACENT TO SINGLE-FAMILY RESIDENTIAL, AGRICULTURAL, UNDEVELOPED USES,OR NATIONAL OR STATE PARKS

Required Plants Per 100' of Length

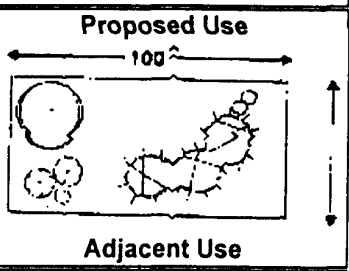
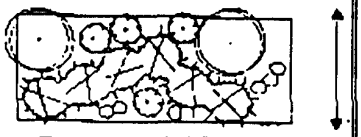
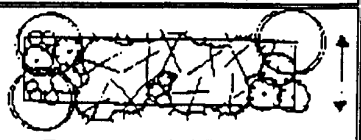
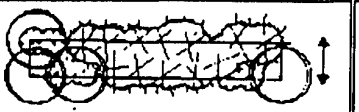
4	Canopy Trees
6	Understory Trees
8	Evergreen/Conifers
10	Shrubs
28	Total

Percentage of Required Plant Material		Buffer Yard Width
25%		40 feet
50%		30 feet
75%	Fence or Wall Required	20 feet
100%	 Fence or Wall Required	10 feet

BUFFERYARD 3: INDUSTRIAL USES ADJACENT TO SINGLE-FAMILY RESIDENTIAL, AGRICULTURAL, UNDEVELOPED USES,OR NATIONAL OR STATE PARKS

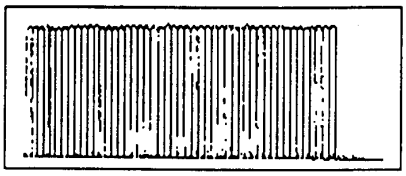
Required Plants Per 100' of Length

4	Canopy Trees
8	Understory Trees
12	Evergreens/Conifers
12	Shrubs
36	Total

Percentage of Required Plant Material		Buffer Yard Width
25%		50 feet
50%		40 feet
75%		25 feet
100%		15 feet

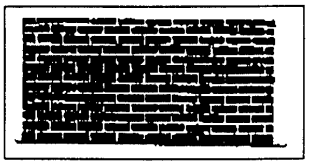
FENCE AND WALL REQUIREMENTS

- All fences and walls must have a finished side facing outward, with the interior side finish as the owner deems appropriate.
- Residential lots greater than one (1) acre in size shall be exempt from fence and wall requirements.
- Fences shall be between six (6) and eight (8) feet, measured from the finished right-of-way grade. Fence materials shall consist of opaque materials, including wood stockade (non-perishable supports). Other opaque materials are subject to review and approval by the designated ordinance administrator.



Fence Example

- Walls shall be between six (6) and eight (8) feet, measured from the finished right-of-way grade. Wall materials shall consist of masonry wall (poured concrete, stucco, concrete block, brick, etc.). Other opaque materials are subject to review and approval by the designated ordinance administrator.



Wall Example

- Berms. The designated ordinance administrator may approve berms, in lieu of the required fence or wall.

(Ord. of 1-2-00, App. A)

APPENDIX B

UTILITY AND PIPE INSTALLATION PERMIT

(a) *General.*

(1) A permit of use of right-of-way letter must be issued by the department before any utility is installed or any other work is performed on county right-of-way. This applies to both aerial and underground installations, except as noted in this policy.

(2) A permit shall be required for trenching within the county road right-of-way that is longitudinal to the right-of-way and is two (2) inches or greater in width.

(b) *Application.*

(1) The application shall contain a concise description of the work to be performed along with a drawing showing a north arrow, the pavement width, the right-of-way lines, and the location of the work to be performed as referenced to the edge of the pavement, the right-of-way line, and a nearby intersecting road.

(2) Two copies of the permit and drawings shall be submitted.

(c) *Processing.*

(1) The application shall be submitted to the public works director for review and approval. Following approval, one (1) copy of the drawing and permit shall be retained by the county and one (1) shall be retained by the applicant.

(2) Where new utilities are to be placed on the right-of-way of a road under construction, a permit is needed and the contractor must concur with placement of the utility if the utility company wants to place the utility prior to final acceptance of the roadway by the county.

(d) *Activities not requiring encroachment permits.*

(1) *Overhead installation.* A permit will not be required for aerial service connections from an existing distribution line on county right-of-way unless it is anticipated that there will be an interference with the normal flow of vehicular traffic on or along the highway or a new pole is to be placed on the county's right-of-way.

(2) *Underground installation.* A permit will not be required for a service connection from a distribution line on county right-of-way where there is to be no excavation closer than five (5) feet to the paved roadway. If the installation will involve undue interference with the normal flow of vehicular traffic, drainage facilities or appurtenances are affected, or a roadway crossing is involved, a permit will be necessary.

(3) *Maintenance.* A permit will not be required for normal maintenance such as replacing existing poles, cables, pedestals, markers, etc. unless such repairs will entail alterations of normal traffic flow.

(e) *Accommodations.* The accommodation of utilities by permit or service connections as outlined above, shall be in conformance with the provision as set forth in this policy for the accommodation of utilities on highway right-of-way.

(f) *Liabilities and controls.*

(1) The permittee shall agree, and bind his heirs, successors and assigns, to assume any and all liability the county might otherwise have in connection with accidents, injuries to persons, or damage to property (including the highway) that may be caused by the construction, maintenance, use of, as well as moving or removing of the encroachment

contemplated. The permittee shall further agree to indemnify the county for any liability incurred, injury or damage sustained by reason of the past, present, or future existence of said encroachment.

(2) The county and its employees shall not be held responsible or liable for injury or damage that may occur to facilities covered by the permit or to any connection thereto by reason of highway maintenance and construction activities or highway contractor or permittee operations. During the initial installation and construction of [and] during any miscellaneous operation, the applicant shall at all times maintain such flaggers, signs, lights, barricades, and other safety devices, as it deemed necessary to properly guide an protect traffic upon the highway, and to warn and safeguard the public against injury or damage. As a minimum, the permittee must comply with the SCMUTCD. The permittee shall provide a watchman, as required, to maintain said signs, lights, barricades, and other safety devices, during non-work hours, and shall provide the county with the telephone number so that he may be contacted if needed.

(3) The permittee shall conduct his operations so there will be a minimum of interference with or interruption of traffic upon and along the highway. This applies to both the initial construction and continuing maintenance and operation of facilities. Except in emergencies, there shall not be a lane closure until a satisfactory plan for handling traffic has been approved by county. The county reserves the right to prohibit any work that may interfere with traffic movement during time peak traffic flow. The county reserves the right to inspect the work of the permittee to ensure compliance with the permit.

(4) Where numerous permits are anticipated by one (1) applicant, the director may allow a permittee to furnish a bond on a periodic basis to cover all permits issued to the permittee during the period specified in the bond. The periodic bond shall be in an amount recommended by the public works director.

(Ord. of 1-2-00, App. B)

APPENDIX C

LIABILITY PERMIT

Any person, company, agency, or other entity engaging in any activity for which it is determined to have potential for damaging county roads and right-of-way shall be required to obtain a liability permit prior to engaging in said activity within the public right-of-way. Such activities shall be determined by resolution of the county council.

An application and surety bond shall be submitted to the public works director for review and approval. Following approval, the county shall retain one (1) copy of the permit and the applicant shall retain one (1).

The public works director shall set the amount of the surety bond.

(Ord. of 1-2-00, App. C)

[The next page is 991]

Chapter 14

LIBRARY

Sec. 14-1. System established.

Pursuant to the provisions of section 4-9-35, Code of Laws of South Carolina 1976, there is hereby established the Cherokee County Library System.
(Ord. of 4-24-79, § 1)

Sec. 14-2. Funding of system.

The county public library system shall be funded by annual appropriations by the county council, including millage, if any, levied specifically for the county public library system plus aid provided by the state and federal governments and other sources. If the county council levies a tax specifically for the support of the county public library system, such tax shall apply to all persons subject to school taxes.
(Ord. of 4-24-79, § 5)

State law reference—Authority to levy taxes to provide for libraries, S.C. Code 1976, § 4-9-30(5).

Sec. 14-3. Board of trustees—Established; members.

The county public library system shall be controlled and managed by a board of trustees consisting of nine (9) members appointed by county council from each county council district and two (2) members appointed at-large to serve staggered terms of three (3) and two (2) years and until successors are appointed and qualify. Previous service on a county library board prior to the enactment of the ordinance from which this section is derived establishing the board shall not limit service on the board. Vacancies shall be filled in the manner of the original appointment for the unexpired term.
(Ord. of 4-24-79, § 1; Ord. of 6-11-91; Ord. of 7-19-94)

Sec. 14-4. Same—Officers; frequency of meetings.

(a) The board shall annually elect a chairman, vice-chairman, secretary, treasurer and such other officers as it deems necessary.

(b) The board shall meet not less than four (4) times each year and at other times as called by the chairman or upon the written request by a majority of the members.
(Ord. of 4-24-79, § 1)

Sec. 14-5. Same—Powers relating to policies of library.

The board of trustees shall be authorized to exercise powers as to the policies of the county library which shall not be inconsistent with the general policies established by the council, and pursuant to that authority shall be empowered to:

(1) Employ a chief librarian whose qualifications and credentials shall meet the certification requirements of the state library board, and who shall be responsible to the

county library board of trustees for the administration of the program and the selection of library staff members required to carry out the functions of the library system;

(2) Purchase, lease, hold and dispose of real and personal property in the name of the county for the exclusive use of the county public library system; provided, however, any such conveyance, lease or purchase of real property shall be by the county council;

(3) Acquire books and other library materials and provide for use thereof throughout the county;

(4) Accept donations of real property, services, books and other items suitable for use in the library system;

(5) Designate or mark equipment, rooms and buildings, and other library facilities to commemorate and identify gifts and donations made to the library system;

(6) Cooperate or enter into contracts or agreements with any public or private agency which result in improved services or the receipt of financial aid in carrying out the functions of the library system; provided, however such contracts and agreements shall be subject to approval by the county council;

(7) Enter into contracts or agreements with other counties to operate regional or joint libraries and related facilities; provided, however, such contracts and agreements shall be subject to approval by the county council;

(8) Receive and expend grants, appropriations, gifts and donations from any private or public source for the operation, expansion or improvement of the library system;

(9) Take any actions deemed necessary and proper by the board to establish, equip, operate and maintain an effective library system within limits of approved appropriations of county council.

(Ord. of 4-24-79, § 2)

Sec. 14-6. Same—Providing and regulating library service; budget; use of funds; financial report.

In addition to the powers and duties prescribed in section 14-5 the board of trustees shall:

(1) Provide and make available to the residents of the county, books and library materials and in the fulfillment of this function shall establish a headquarters library and may establish branches and subdivisions thereof in appropriate geographical areas of the county within the limits of available funds. The board may operate one or more bookmobiles over routes determined by the board.

(2) Adopt regulations necessary to ensure effective operation, maintenance and security of the property of the library system; provided, however, such regulations shall not be in conflict with policy or regulations established by the county council.

(3) Annually at a time designated by the county council submit to the council a budget for the ensuing fiscal year adequate to fund the operation and programs of the library system. Such budget shall list all funds which the board anticipates will be available for the operation of the library system. All funds appropriated, earned, granted or donated to the library system or any of its parts shall be used exclusively for library purposes. All financial procedures relating to the library system, including audits, shall conform to the procedures established by the county council.

(4) Annually file a detailed report of its operation and expenditures for the previous fiscal year with the county council.

(Ord. of 4-24-79, § 3)

Sec. 14-7. Applicability of state law.

(a) All state laws and regulations relating to county public library systems shall apply to the library system created pursuant to section 14-1.

(b) All employees of a county public library shall be subject to the provisions of subsection (7) of section 4-9-30 of the Code of Laws of South Carolina 1976.

(Ord. of 4-24-79, § 4)

Editor's note—Said subsection (7) refers to personnel policies and procedures.

Sec. 14-8. Transfer of assets and property to county.

All assets and property, both real and personal, owned by any county library prior to the creation of a library system under this chapter shall be transferred to the county by the persons of entities owning title thereto; provided, however, that all such assets and property shall be used exclusively for library purposes.

(Ord. of 4-24-79, § 6)

[The next page is 1091]

Chapter 15

OFFENSES AND MISCELLANEOUS PROVISIONS

Art. I. In General, §§ 15-1—15-20
Art. II. Drug Paraphernalia, §§ 15-21—15-40
Art. III. Alarm Systems, §§ 15-41—15-60
Art. IV. Noise Regulations, §§ 15-61—15-68

ARTICLE I. IN GENERAL

Sec. 15-1. Sale and possession of copper, copper products and equipment containing copper.

(a) It is unlawful to purchase a heat pump unit or air conditioning unit and copper wire, copper pipe, copper sheeting, copper metal of an aggregate weight of more than one (1) pound but less than ten (10) pounds from a person in the county who is not a holder of a retail license or an authorized wholesaler, or unless the purchaser obtains and can verify the name and address of the seller by a valid state driver's license, an identification card issued by the state containing a photograph or a military identification card. The purchaser of these materials will maintain a record containing the date of purchase, name and address of the seller, weight or length, and the size or other description of heat pump unit, air conditioning unit, copper wire, copper pipe, copper sheeting, or copper metal purchased and amount paid for it. Records must be maintained and kept open for inspection by law enforcement officials or local and state governmental agencies during regular business hours. The records must be maintained for one (1) year from the date of purchase.

(b) It is unlawful for a person to have in his possession in the county that following items: heat pump unit, air conditioning unit or copper wire, copper pipe, copper bars, copper sheeting, or copper metal of an aggregate weight of more than one (1) pound but less than twenty-five (25) pounds unless the person has in his possession:

(1) A bill of sale signed by:

a. A holder of a retail license for a business engaged in the sale of heat pump units, air conditioning units, copper wire, copper pipe, copper bars, copper sheeting, or sheeting, or copper metal;

b. An authorized wholesaler engaged in the sale of heat pump units, air conditioning units, copper wire, copper pipe, copper bars, copper sheeting, or copper metal;

c. A registered deal in scrap metals; or

d. A licensed contractor, licensed specialty contractor, licensed builder, or their employees.

(2) A certificate of origin by the sheriff, or his designated representative, of the county in which the purchase was made.

The bill of sale or certificate or origin clearly must identify the material to which it applies and show the name and address of the seller, license plate of the vehicle in which the material is delivered to the purchaser, identified by license number, year and state of issue, the name and address of the purchase, the date of sale, and the type of heat pump unit with serial number, the type of air conditioning unit with serial number, the type and amount of copper wire, copper pipe, copper bars, copper sheeting, or copper metal purchased.

(c) A person shall not burn any wiring containing copper if such burning may result in the separation of the copper from the insulation and other materials comprising the wiring.

(d) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars ($500.00)plus court costs or imprisoned not more than thirty (30) days in jail. The person may be charged for a separate offense for each heat pump unit, air conditioning unit, unit or piece of copper wire, copper pipe, copper bar, and/or piece of copper metal purchased, in their possession or being burned in violation of the terms and provisions of this section.
(Ord. No. 2010-03, 3-15-10)

Editor's note—Ord. No. 2010-03, adopted March 15, 2010, did not specify manner of inclusion; hence, codification as § 15-1 was at the discretion of the editor.

Secs. 15-2—15-20. Reserved.

ARTICLE II. DRUG PARAPHERNALIA*

Sec. 15-21. "Paraphernalia" defined.

"Paraphernalia" means any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, or preparing marijuana, hashish, hashish oil, cocaine, crack cocaine, heroin, morphine, morphine base amphetamines, methamphetamines, or any other controlled substance and shall not include cigarette papers and tobacco pipes, but shall include, but not limited to:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic crack, cocaine, marijuana, methamphetamines or hashish pipes with or without screens, hashish heads or punctured metal bowls;

(2) Water pipes designed for use or intended for use with marijuana, hashish, hashish oil, heroin, crack cocaine, cocaine, methamphetamines;

***Editor's note—**An ordinance adopted March 20, 1990, §§ 1—3, did not specifically amend the Code; hence, inclusion herein as Art. II, §§ 15-21—15-23, was at the discretion of the editor. Section 4, providing for severability, has been omitted from codification.

Cross references—Commission on alcohol and drug abuse, § 12-20 et seq.; county drug policy, § 16-41 et seq.

(3) Carburetion tubes and devices;

(4) Smoking and carburetion mask;

(5) Roach clips;

(6) Hemostats;

(7) Separation gins designed for use or intended for use in cleaning marijuana;

(8) Cocaine spoons and vials;

(9) Chamber pipes;

(10) Crack vials;

(11) Carburetor pipes;

(12) Electric pipes;

(13) Air driven pipes;

(14) Chilams;

(15) Bongs;

(16) Ice pipes or chillers;

(17) Heroin spoons;

(18) Bottle caps;

(19) Scales designed for use or intended for use in weighing controlled substances;

(20) Any part of a hypodermic needle or syringe except as may be authorized by the laws of the State of South Carolina;

(21) Plastic bottles with carburetion holes and/or punctured metal or foil bowls.

(Ord. of 3-20-90, § 1)

Sec. 15-22. Sale, manufacture, possession, etc., prohibited.

(a) It shall be unlawful for any person to advertise for sale, manufacture, possess, sell or deliver, or to possess with intent to deliver, or sell paraphernalia.

(b) In determining whether an object is paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) The proximity of the object to the controlled substance;

(3) The existence of any residue of controlled substances on the object;

(4) Direct or circumstantial evidence of the intent of an owner, or anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know,

intend to use the object to facilitate a violation of law, the innocence of an owner, or of anyone in control of the object, as to a direct violation of law shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(5) Instructions, written or oral, provided with the object concerning its use;

(6) Descriptive materials accompanying the object which explains or depicts its use;

(7) National and local advertising concerning its use;

(8) The manner in which the object is displayed for sale;

(9) Whether the owner, or anyone in control of the object is a legitimate supplier of the like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(10) The existence and scope of legitimate users for the object in the community;

(11) Expert testimony concerning its use.
(Ord. of 3-20-90, § 2)

Sec. 15-23. Penalty for violation.

Any person who violates the provisions of this article shall, in addition to any civil penalties which may be applicable under the laws of this state, upon conviction thereof, be fined not more than two hundred dollars ($200.00), but not less than fifty dollars ($50.00) or imprisoned for not more than thirty (30) days, but not less than ten (10) days or both. However, if the court in its discretion finds that a fine, imprisonment or both, or a portion thereof, is inappropriate under the circumstances, the violator may be sentenced up to thirty (30) days, but not less than ten (10) days of public service for Cherokee County in lieu of any portion of fine, imprisonment or both.
(Ord. of 3-20-90, § 3)

Secs. 15-24—15-40. Reserved.

ARTICLE III. ALARM SYSTEMS*

Sec. 15-41. Definitions.

As used herein, the following terms shall have the meanings given below:

Establishment shall mean a business, building, residence or structure of any kind.

False alarm shall mean an alarm, signal or recorded message indicating an attempted or unauthorized intrusion into a structure or the attempted commission of a crime, when in fact no evidence exists upon inspection of the premises in response to such alarm that an unauthorized intrusion or crime was attempted or committed in or about the structure.
(Ord. of 12-3-01, § 1)

Sec. 15-42. Registration of alarms.

Individuals and businesses with alarm systems which terminate at Cherokee County Central Dispatch must register such systems within sixty (60) days following passage of this article. Registration will require the name, address and phone number(s) of the owner and two (2) contact people and their phone numbers in order to shut the system down if necessary. Forms may be obtained at the 911 Communication Center (a/k/a Cherokee County Communications Center). No fee shall be required for registration.
(Ord. of 12-3-01, § 2)

***Editor's note—**An ordinance adopted December 3, 2001, §§ 1—10, did not specifically amend the Code; hence, inclusion herein as Art. III, §§ 15-41—15-50, was at the discretion of the editor. Section 12, providing for severability, has been omitted from codification.

Sec. 15-43. Limit on false alarm responses.

Every establishment within the unincorporated areas of the county having an electronic, telephone or mechanical burglar alarm system, including those alarms which are audible or visible on premises, shall be entitled to report a maximum of three (3) false alarms to which the sheriff's office will respond in the appropriate manner without charge in each calendar year. Any business with multiple buildings on its premises may report a maximum of three (3) false alarms in each calendar year for each building that is wired with a separate burglar alarm system.
(Ord. of 12-3-01, § 3)

Sec. 15-44. Exception to limits.

(a) *Natural disturbances.* Whenever it is determined by an investigating law enforcement officer that an alarm was caused by natural disturbances (e.g., electrical storms), then such alarm shall not be counted toward the allowable number of false alarms established in section 15-43.

(b) *Decision of sheriff.* Whenever it is established to the satisfaction of the sheriff, by written evidence from a third party, that a false alarm was not caused by the owner or occupant of an establishment, or by the installing alarm company, then such alarm shall not be counted toward the allowable number of false alarms established in section 15-43. In the event the sheriff or his officers are dispatched to an alarm and are thereafter notified by the owner, prior to arriving at the alarm site, and advised that such is a false alarm, sheriff shall not consider that a false alarm.
(Ord. of 12-3-01, § 4)

Sec. 15-45. Determination, records of false alarm.

The law enforcement officer responding to an alarm shall determine if the alarm is a false alarm. The sheriff's office shall maintain a record of all false alarms to which they respond.
(Ord. of 12-3-01, § 5)

Sec. 15-46. Service charge assessed for false alarm.

Any person, firm, corporation or other entity, whose burglar alarm system is connected to the alarm panel board owned and operated by the Cherokee County Communications Department, who maintains a burglar alarm system utilizing the facilities of the Cherokee County Sheriff's Office, regardless of the connecting device utilized, shall pay to Cherokee County a service charge in the amount of twenty-five dollars ($25.00) for each false alarm, answered by the Cherokee County Sheriff's Office in the unincorporated area of Cherokee County, provided, however, that there shall not be a service charge for answering the first three false alarms of any alarm system which occurs during any calendar year. Upon receipt of false alarm, the sheriff's office shall mail a notice for payment of the service charge to the responsible party at the address provided to the communications division at the time of connection of its alarm system or, if such an address is not provided to the communications

division by the responsible party, to the address maintained in the communications division file for the telephone number at the response location. The responsible party shall pay the service charge to Cherokee County Sheriff's Office within thirty (30) days of the date on the notice for payment. If the responsible party fails to make payment of the service charge within thirty (30) days of the date on the notice for payment, a ten (10) percent late penalty shall be added to the service charge. Such late penalty of ten (10) percent of the original service charge shall be added for each successive period of thirty (30) days that the service charge remains unpaid. All fines and penalties shall be deposited with the county treasurer to the appropriate general fund account.
(Ord. of 12-3-01, § 6)

Sec. 15-47. Disconnect from sheriff's office.

The burglar alarm service shall be disconnected at the Cherokee County Communications Center when the service charge and accumulated penalties remain unpaid for a period of sixty (60) days after the date on the notice for payment. Notice of such disconnection of alarm service shall be in writing and shall be sent to the responsible party, certified mail, return receipt requested, by the communications division and the actual disconnection shall not occur until the signed certified mail receipt is received in return mail by the communications division.

In the event the fire or burglar alarm system in not able to be disconnected for non-payment of a service charge due to such alarm system utilizing an electronic device or devices that telephonically access the communications division, the communications division shall notify the responsible party to disconnect such system so that it will no longer access the communications division. Such notification shall be in writing and shall be sent to the responsible party, certified mail, return receipt requested, at the address maintained by the 911 communications system for the telephone at the response location. Upon the failure of the responsible party to disconnect such alarm system within seven (7) days from the date of receipt of such notification as indicted on the certified mail receipt, such responsible party shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding two hundred dollars ($200.00) or by imprisonment not exceeding thirty (30) days.
(Ord. of 12-3-01, § 7)

Sec. 15-48. Reconnection.

Any burglar alarm system disconnected from the Cherokee County Communications Center shall not be reconnected until the service charge and all accumulated penalties have been paid.
(Ord. of 12-3-01, § 8)

Sec. 15-49. Appeal of false alarm fine.

(a) Any person or entity found in violation of this article by the sheriff shall be fined and shall receive a notice describing the violation.

(b) Within fifteen (15) days after the date of the notice of a false alarm, the alarm user shall either follow the instructions on the back of the notice of violation to arrange an appearance in court or shall mail a written response to the court requesting a waiver and clearance as a warning.

(c) The sheriff or his designee may waive the penalty incurred by an alarm user for a false alarm and clear the notice of violation as a warning.

(d) An alarm-system user may appeal the penalty incurred for a false alarm to the magistrate, who may waive the penalty and clear the notice of the violation as a warning or who may enforce the penalty as charged.
(Ord. of 12-3-01, § 9)

Sec. 15-50. Notices.

All notices referred to in this article shall be sent to the address set forth in the application required pursuant to this article and shall state the name and telephone number of the proper Cherokee County personnel for the recipient of such notices to contact concerning any questions that the recipient might have concerning the notices.
(Ord. of 12-3-01, § 10)

Secs. 15-51—15-60. Reserved.

ARTICLE IV. NOISE REGULATIONS*

Sec. 15-61. Findings.

Cherokee County is vested with the authority and power as set forth in Title IV, Ch. 9, Secs. 25 and 30 of the South Carolina Code of Laws, 1976, as amended, to establish and enact ordinances for the well being, health, safety and protection of its citizens, and

The Cherokee County Council finds that any noise of such character, intensity or duration which substantially interferes with the comfortable enjoyment of persons of ordinary sensibilities occupying, owning or controlling nearby properties or persons making use of public properties for their intended purposes, is hereby declared to be unlawful, to be a nuisance and is prohibited.
(Ord. No. 2006-13, § 1, 11-20-06)

Sec. 15-62. Purpose.

The purpose of this article is to protect the health, safety, and general welfare of the citizens of Cherokee County by establishing reasonable regulations for noise of a character, intensity

*__Editor's note—__Ord. No. 2006-13, adopted Nov. 20, 2006, was not specifically amendatory of the Code and have been included as art. IV, §§ 15-61—15-68, at the discretion of the editor.

or duration which substantially interferes with the comfortable enjoyment of persons of ordinary sensibilities occupying, owning or controlling nearby properties or persons making use of public properties for their intended purposes.
(Ord. No. 2006-13, § 2, 11-20-06)

Sec. 15-63. Specific loud noises as common nuisances.

Nuisance noises shall include, but are not limited to, the use or operation of the following instruments, devices, vehicles or pieces of equipment when operated in the manner prohibited by the terms of this article:

(1) Radios, phonographs, similar devices. The using, operating, or permitting the use or operation of any radio receiving set, musical instrument, phonograph or other machine or device for producing or reproducing sound in such a manner as to unreasonably disturb the peace, quiet and comfort of neighboring inhabitants at any time with louder volume than is reasonably necessary for convenient hearing for the person who is in the room, vehicle or chamber in which this machine or device is operated and who is voluntary listener thereto. Also in such a manner as to be plainly audible at a distance of one hundred (100) feet from a building, structure, any type of residence or vehicle in which it is located shall be prima facie evidence of a violation of this article.

(2) Mechanical devices operating by compressed air, such as pneumatic drills and jackhammers.

(3) Horns, sirens and signal devices using loud, brash or harassing noises, whether on vehicles or otherwise.

(4) Motor vehicle exhausts without mufflers or with inefficient or ineffective mufflers.

(5) The human voice when used to yell, shout, scream or like at any time or place so as to unreasonably annoy or disturb the quiet, comfort or response of persons in the vicinity.

(Ord. No. 2006-13, § 3, 11-20-06)

Sec. 15-64. Continuous or repeated noises.

Regardless of the level of sound, the following shall be deemed a nuisance and shall be prohibited under this article.

(1) To keep any animal, including a bird, causing a frequent or long, continued noise, such as barking, howling or screeching, disturbing the comfort and repose of any person of ordinary sensibilities in the immediate vicinity; or

(2) To install or operate a burglar alarm system, which uses as audible warning or bell without a functioning device that will shut off the warning bell within twenty (20) minutes after application of the system when persons who are disturbed by its activation cannot readily silence the alarm manually. Each activation of such an alarm that continues beyond twenty (20) minutes shall be deemed a separate offense.

(Ord. No. 2006-13, § 3.1, 11-20-06)

Sec. 15-65. Exemptions.

The following noises shall be exempt from prohibitions of this article, even when a nuisance is caused:

(1) The sound produced by construction machinery, heavy duty equipment used for construction, excavations or repairs of streets on behalf of the county or state at night when the public welfare and convenience renders it possible to perform this work during the day.

(2) The sound produced by horns, sirens and alarms used with authorized emergency vehicles or otherwise as safety devices to alert persons to danger or attempted crime, however, this exemption shall not apply to improperly operating burglar alarms as identified in subsection 15-64(2).

(3) The sound produced by emergency repair measures necessary to restore public utilities or to restore property to a safe condition, or to protect persons or property from imminent danger, following a fire, accident or natural disaster.

(4) The sound produced by bells or chimes or other carillon instruments when used to signify the passage of an hour, one-half (½) hour, or one-quarter (¼) hour components to commence a wedding, funeral, or similar event, including five (5) continuous minutes in a duration in any one (1) hour period.

(5) The operation of agricultural vehicles, tractors or other vehicles exempted from registration and licensing requirements under state law, or motor vehicle transporting poultry or livestock.

(6) The sound emanating from a ballpark, playing field, stadium or comparable outdoor facility designed and intended for recreational or sports activity when used during a time for organized exhibition or particular sports or recreational activities sponsored by government, church or charitable organization.

(7) The sound produced by the following, provided there is compliance with any federal regulations applicable to the noise:

a. Aircraft in flight or in operation at an airport;

b. Railroad equipment in operation on railroad rights-of-way; or

c. Motor vehicles, otherwise in lawful operating condition, on all public streets and highways.

(8) This article shall not apply to any noise emanating from an agricultural operation. For the purposes of this article, "*agricultural operation*" shall mean the production/raising for sale or personal use of crops or animals or fowl.

(9) This article shall not apply to any noise emanating from any animal or gun used in the sport of hunting, target practice, or clay pigeons.

(10) This article shall not apply to any noise emanating from an industrial or commercial facility operation. For the purpose of this article, "*industrial facility*" means any

activity and its related premises, property, facilities or equipment involving the fabrication, manufacture, or production of durable or non-durable goods. For the purpose of this article "*commercial facility*" means any activity involving the normal use of any mechanical device operated by compressed air, such as tire repair, body shops, etc.

(11) a. This article shall not apply to any noise, not to exceed one hundred five (105) decibels, at the property lines of the real property containing approximately 1,715.22 acres, more or less, located near or about 200 Ashley Lane, Gaffney, Cherokee County, South Carolina, and having such tax map numbers of 163-00-00-008 and 163-00-00-008.001, so long as such real property is used exclusively for a multiuse motorsports-related facility, including without limitation the possible development and operation of a paved road course, motorcross track, drag strip, clubhouse facility, condominiums, and other developments and uses ancillary to or compatible with a large scale motorsports facility. This exemption is subject to the required development of the 1,715.22 acre tract, with Phase I development including at a minimum: a twenty-five-million dollar investment; construction of the two-mile road course; the creation of fifty (50) jobs; with all of these requirements to occur within five (5) years of adoption of this subsection.

b. Failure to comply with subsection a. may subject this subsection to revocation or modification at the discretion of the Cherokee County Council.

(Ord. No. 2006-13, § 4, 11-20-06; Ord. No. 2010-07, 5-4-10)

Sec. 15-66. Enforcement.

In the enforcement of this article, a law enforcement officer may be required to exercise judgment in determining if a particular noise is sufficiently loud or otherwise offensive that it would substantially interfere with persons occupying nearby public or private property. When making such determinations, the enforcement officer may consider the following and other relevant factors:

(1) The volume of the noise;

(2) The intensity of the noise;

(3) Whether the nature of the noise is usual or unusual;

(4) Whether the origin of the noise is natural or unnatural;

(5) The type and intensity of ambient noise, if any; and

(6) The nature and character of the area in which the noise is heard.

(Ord. No. 2006-13, § 5, 11-20-06)

Sec. 15-67. Enforcement procedures.

(a) All law enforcement officers in the ordinary course of their duties shall have the authority to advise persons of the provisions of this section and request compliance without having received a complaint from any member of the public. However, no charge shall be made

against any person unless a complaint is made law enforcement and the person has first been provided an opportunity to abate the offending noise without penalty. If the violation continues or recurs within a twenty-four (24) hour period or if the same person has been provided an opportunity two (2) or more times within the previous one hundred eighty (180) days to abate a noise at the same location and the person continues to make the noise or continues to allow it to be made, then such person shall be guilty of a violation of this article.

(b) Evidence. The complaints of three (3) or more persons, or of one (1) or more persons, when combined with the complaint of a law enforcement officer, is prima facie evidence that sound regulated by this article has been produced.

(c) Evidence for excessive noise from sound amplifying devices in motor vehicles, complaint of one (1) law enforcement officer is prima facie evidence that sound regulated by this article has been produced.

(d) Violation. A violation of this article shall be considered a misdemeanor and subject to the jurisdiction of the Magistrate's Court.
(Ord. No. 2006-13, § 5.1, 11-20-06; Ord. No. 2009-14, 8-3-09)

Sec. 15-68. Penalties.

Penalties—General. Any person, firm, corporation or agent who shall violate the provisions of this article shall be guilty of a misdemeanor and shall be subject to the penalties contained herein. For a first violation, the penalty shall consist of a fine of not more than one hundred dollars ($100.00). For a second violation, the penalty shall consist of a fine of not more than three hundred dollars ($300.00) and/or no longer than thirty (30) days imprisonment. For a third violation, the penalty shall consist of a fine of not more than five hundred dollars ($500.00) and/or no longer than thirty (30) days imprisonment.
(Ord. No. 2006-13, § 5.2, 11-20-06)

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Chapter 16

PERSONNEL

Art. I. In General, §§ 16-1—16-19
Art. II. Review of Accidents of County-Owned Vehicles, §§ 16-20—16-40
Art. III. Drug, Policy, §§ 16-41—16-45
Art. IV. Policy and Procedure, §§ 16-57—16-70
Art. V. Policy and Procedure Regarding Computer Use/Electronic Access, §§ 16-71—16-77

ARTICLE I. IN GENERAL

Sec. 16-1. Manual incorporated by reference; scope; violation.

(a) The county's personnel policies and procedures shall be as outlined in the Cherokee County Supervisor's Manual, which manual is hereby incorporated herein by reference and made a part of this chapter.

(b) All supervisors and employees, unless explicityly exempted by county, state, or federal statutes, shall come under and be governed by the regulations as detailed within the manual.

(c) Any intentional violation of the regulations as so outlined shall be cause for suspension or dismissal from county service.
(Ord. of 2-19-80, §§ 1—3)

State law references—Authority to develop personnel system policies and procedures, S.C. Code 1976, § 4-9-30(7); authority to provide training program, S.C. Code 1976, § 8-15-60; employees grievance procedure, S.C. Code 1976, § 8-17-110 et seq.; ethics, etc., S.C. Code 1976, § 8-13-10 et seq.

Sec. 16-2. Political activity.

(a) Regulations concerning political involvement of general county employees are minimal. Employees in departments financed in full or in part by federal funds, however, are subject to more stringent federal regulations.

(b) General county employees may participate in both partisan and nonpartisan political activities provided that no employee shall: (1) engage in any political activity while on duty; (2) be required as a duty of such employee's office or a condition of such employee's employment, promotion or tenure, to contribute to, solicit for, or act as custodian of funds for political purposes; or (3) coerce or compel contributions by any other employees for political purposes.

(c) This policy applies to all county departments, including those headed by elected officials/constitutional officers.

(d) There are certain restrictions on political activity where federal funds are used. The county administrator should be consulted to make sure federal requirements are not in violation.
(Ord. of 1-19-82)

Sec. 16-3. Deferred compensation plan.

The county council approves the inclusion of the employees of the county in the deferred compensation plan under provisions of sections 8-23-10 through 8-23-100, Code of Laws of South Carolina 1976, as amended, and agrees to comply with the requirements of said statute and rules and regulations of the deferred compensation commission, as may be amended from time to time.
(Res. of 1-6-81)

Sec. 16-4. Personal use of county-owned vehicles.

(a) The use by employees of county-owned vehicles shall be restricted by the administration by specific policy.

(b) Based upon this policy, if an employee is determined to use a vehicle for commuting or personal use, the appropriate daily charge for such use shall be assessed and added as reportable income chargeable to the employee's total wages.

(c) Personal use of county-owned vehicles other than for the predetermined travel to and from work each day and de minimis personal uses during normal work hours is prohibited.

(d) The county administration is authorized or empowered to promulgate whatever additional regulations are deemed necessary to comply with these policies as stated.
(Res. of 11-19-85)

Secs. 16-5—16-19. Reserved.

ARTICLE II. REVIEW OF ACCIDENTS OF COUNTY-OWNED VEHICLES

Sec. 16-20. Findings of fact.

(a) The county operates numerous motor vehicles. These vehicles are essential to the delivery of routine and emergency services to the citizens of the county. Safe and proper operation of these vehicles is a direct responsibility of the operators, supervisors and the department heads. The accident rate involving vehicles owned and operated by the county has been at an unacceptably high level. These accidents result in a loss of production time. The direct expense resulting from insurance claims has caused the cost of insurance coverage to go up. The establishment of the accident review committee is necessary to identify the causes of accidents, to establish responsibility and to devise means to reduce the number of vehicular accidents involving county vehicles.

(b) The most important ingredient in any traffic accident reduction program is the attitude of the operators and the supervisors. Motor vehicles and, in fact, all equipment operated by personnel of a department of the county must receive the same attention, care and consideration in use as privately owned property. Every effort will be made by the county council to provide and maintain safe, reliable equipment to all employees. This is an impossible task without the cooperation of the operators.
(Ord. of 12-8-81, § 2)

Sec. 16-21. Purpose; scope.

The purpose of this article is to establish a procedure for vehicular accident review for the county. The review committee will review all accidents involving county-owned vehicles.
(Ord. of 12-8-81, § 1)

Sec. 16-22. Committee created; function.

A review committee to investigate and review accidents of county vehicles and incidents of damage to any property other than vehicles when improper operation, training or supervision may have been a contributing factor is created.
(Ord. of 12-8-81, § 1)

Sec. 16-23. Composition of committee; meetings.

(a) The members of the committee will be appointed by county council and will consist of the following personnel:

(1) Two (2) members of the county council, one of whom will be designated chairman and senior member.

(2) The sheriff.

(3) The county road superintendent.

(4) The county administrator.

(b) The review committee will meet as required or when directed by the chairman. As a general guideline, a meeting will be called when there are accidents to be reviewed. The county administrator will contact the chairman and notify the committee members of the scheduled time and place of the meeting. Department heads will be responsible for the attendance of personnel from their departments involved in the accident.
(Ord. of 12-8-81, § 3)

Sec. 16-24. Review of all accidents; assessing damage to the operator.

The review committee exercise responsibilities for the review of all accidents involving county-owned and operated vehicles to determine the cause and to establish responsibility and culpability as appropriate. The committee will have the authority to assess a percentage of the damage to the operator when negligence and culpability have been established.
(Ord. of 12-8-81, § 2(1))

Sec. 16-25. Responsibilities of committee.

The review committee is charged with the responsibility of reviewing all accidents involving county-owned vehicles and damage to county-owned property when appropriate. During the investigation, the committee will determine whether the accident was preventable or not preventable. This determination will not necessarily be related to the issuance of a traffic citation by the investigating officer. The driver of the vehicle may be involved in an accident in which the vehicle enjoyed the legal right-of-way, but where correct action by the operator could have prevented the accident. The investigation and review by the committee may reveal that the operator of the vehicle contributed to the accident by excessive speed, driving too fast for prevailing conditions or by lack of attention. The focus of the committee inquiry will be to detect unsafe practices so that improved driver training can be instituted or the operator's motivation to adapt a defensive attitude toward driving can be strengthened.
(Ord. of 12-8-81, § 4)

Sec. 16-26. Operator's responsibility; assignment of operator.

(a) The primary goal of the accident review committee will be to promote safe driving and to reduce the number of accidents involving county-owned vehicles. Emphasis will be on developing safe procedures. The program can only succeed if each operator of a motor vehicle accepts such operator's personal responsibility for safe operation.

(b) In those cases where an individual is identified who is unable or unwilling to consistently operate motor vehicles safely, the review committee will recommend such individual's reassignment to nondriving duties or termination in some cases.

Sec. 16-27. Procedure.

(a) The review committee will be called to order by the chairman and a note made of members present and members absent. The department heads of absent members will be notified.

(b) The accident will be described by the investigating officer. The completed accident report may be used to obtain specific information concerning the accident, which will include the following essential information:

(1) Estimated speed.

(2) A description of the intersection if appropriate, including blind corners and visibility in all directions, parked vehicles, etc. (photographs of the accident will be available).

(3) If a vehicle involved in the accident was an emergency vehicle responding to an emergency, the committee will be provided with information regarding the state of the emergency.

(4) The investigating officer will provide a positive statement regarding operation of emergency warning devices on the vehicle, for instance: Were the emergency lights and sirens serviceable and operating if required?

(5) The investigating officer will answer any questions by members of the committee. The operator of the vehicle will be present during the presentation by the accident investigating officer.

(c) The operator or driver will present such person's view of the circumstances surrounding the accident.

(d) The operator of the vehicle will answer any questions presented by members of the committee.

(e) The operator will be excused while the committee members discuss the accident and make their decision.

(f) The operator will be advised of the findings and action taken by the committee. The operator will also be advised of such operator's right of appeal in the event of an adverse decision.
(Ord. of 12-8-82, § 5)

Sec. 16-28. Findings and recommendations of the committee.

(a) After reviewing the circumstances of the accident, the review committee will determine whether the accident was preventable or not preventable.

(b) Before reaching a finding that the accident was nonpreventable, the committee must be satisfied that the accident could not have been prevented by the driver through normal alertness and attention to driving. In the case of an emergency vehicle, the committee must be satisfied that the driver was complying with all departmental regulations regarding emergency operation of vehicles and the provisions of section 56-5-760 of the Code of Laws of South Carolina 1976.
(Ord. of 12-8-82, § 6)

Sec. 16-29. Assessment of damage.

If the review committee determines that the accident was preventable, it may assess a portion of the cost of the damages to the operator in accordance with the following scale: First accident: Five (5) percent of damage up to one thousand dollars ($1,000.00). It may be paid over a period of one year. Second accident: (within twelve (12) months) Ten (10) percent of damage up to two thousand dollars ($2,000.00). Third accident: (within two (2) years) Fifty (50) percent of damages and/or suspension up to thirty (30) days or termination.
(Ord. of 12-8-82, § 7)

Sec. 16-30. Listing moving violations.

Moving violations charged to any of the above listed offenses will be applied to any other moving violation listed. All offenses will be carried for a period of eighteen (18) months from the date of the offense.
(Ord. of 12-8-82, § 7)

Secs. 16-31—16-40. Reserved.

ARTICLE III. DRUG POLICY*

Sec. 16-41. Authorization.

This article is enacted pursuant to Section 4-9-30, Code of Laws of South Carolina, 1976, as amended.
(Ord. of 9-19-89, § 1)

Sec. 16-42. Purpose; prohibited acts generally.

Cherokee County is committed to providing a drug-free workplace; and therefore, prohibits the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the workplace.
(Ord. of 9-19-89, § 2)

Sec. 16-43. Pre-employment drug testing.

In order to comply with section 16-42 above, Cherokee County shall include in its peronnel policy a pre-employment drug test consent for screening of substance abuse.

Editor's note—A copy of the pre-employment drug test consent form is on file and available for inspection in the office of county administrator.

Sec. 16-44. Disciplinary action.

Violations of this article will result in disciplinary action up to and including termination. Cherokee County may require the satisfactory participation in a drug abuse assistance or rehabilitation program by an employee who violates this provision.
(Ord. of 9-19-89, § 4)

Sec. 16-45. Assistance and notification.

Cherokee County provides an Employee Assistance Program (E.A.P.) through the Cherokee County Commission On Alcohol and Drug Abuse to supply information or confidential referral to a drug counseling or rehabilitation program. Therefore, it is imperative that all employees be required to notify their immediate supervisor of any drug statute conviction for a violation occurring in the workplace, no later than five (5) days after such conviction. The supervisor is then responsible for notifying the Cherokee County Administrator immediately upon receiving such notice from the employee.
(Ord. of 9-19-89, § 5)

***Editor's note—**Ord. of Sept. 19, 1989, §§ 1—5, did not specifically amend the Code, hence inclusion herein as Art. III, §§ 16-41—16-45, was at the discretion of the editor. Sections 6 and 7, providing for separability and an effective date, have been ommitted from codification.

Cross reference—Drug paraphenalia, § 15-24 et seq.

Secs. 16-46—16-56. Reserved.

ARTICLE IV. POLICY AND PROCEDURE*

Sec. 16-57. 15 passenger van safety policy for Cherokee County.

(a) *Purpose:* The purpose of this policy statement is to establish the standards for the safe operation of fifteen (15) passenger vans used for the transportation of employees, inmates or other persons under the direction of Cherokee County.

(b) *Preamble:* It is recognized that in some instances fifteen (15) passenger vans will often be the most effective means of transportation for certain activities and events involving employees, inmates or other persons under the direction of Cherokee County.

This policy statement is intended to establish and implement uniform standards in an effort to maximize the safety of those using fifteen (15) passenger vans as a mode of transportation.

(c) *Policy statement:*

- All van usage must be in compliance with municipal, state and federal requirements.
- All van drivers must be a minimum of twenty-one (21) years of age.
- All van drivers must have previously operated a fifteen (15) passenger van a minimum of six (6) months.
- All van drivers must have an acceptable Motor Vehicle Report (MVR) based on a predetermined point system, which is checked on an annual basis.

(d) *Minimum standards:*

At least 65% of all MVRs are clear.

No MVRs with major convictions;

No new driver is hired with a "borderline" or "poor" MVR.

(e) *Definitions:*

(1) *Acceptable MVR*—No more than two (2) minor violations; or one (1) at-fault accident in last three (3) years; or no more than a combination of one (1) minor violation and one (1) at-fault accident in last three (3) years.

(2) *Borderline MVR*—Three (3) minor violations; or two (2) at-fault accidents in last three (3) years; or any combination of minor violations and at-fault accidents in last three (3) years totaling three (3) occurrences.

***Editor's note—**Ord. No. 2008-02, § 1, adopted on June 2, 2008 did not specifically amend the Code. Hence, at the discretion of the editor these provisions have been included as a new article IV, § 16-57. See also the Code Comparative Table.

(3) *Poor MVR*—One (1) or more major convictions in last five (5) years; or four (4) or more minor violations; or three (3) or more at-fault accidents in last three (3) years; or any combination of minor violations and at-fault accidents totaling four (4) or more occurrences.

(4) *At-Fault accident*—Any accident where the driver is cited with a violation or negligently contributes to the incident or any single vehicle accident where the cause is not equipment related.

(e) *Major violations:*

- Driving under the influence of alcohol/drugs;
- Failure to stop/report an accident;
- Reckless driving/speeding contest;
- Driving while impaired;
- Making a false accident report;
- Homicide, manslaughter or assaut arising out of the use of a vehicle;
- Driving while license is suspended/revoked;
- Careless driving;
- Attempting to elude a police officer.

(f) *Minor violations:* Any moving violation other than a major except:

- Motor vehicle equipment load or size requirement;
- Improper/failure to display license plates;
- Failure to sign or display registration;
- Failure to have driver's license in possession.

(g) *Additional policy elements:*

- All vans are not overloaded (passengers and luggage). (Fifteen (15) passenger vans with ten (10) or more occupants have a rollover rate in single vehicle crashes that is nearly three (3) times the rate of those that are lightly loaded.)
- All vans tire pressure is checked on a weekly basis at a minimum. Tire pressure should be maintained at manufacturer's specifications.
- All van drivers require all occupants to wear seat belts or the appropriate child restraints.
- All van drivers should be thoroughly trained on the placement of passengers and cargo—passengers and cargo placed forward of the rear axle and nothing loaded on the roof.

- All van drivers should be trained in the areas of speed and road conditions. (The risk of a rollover accident increases at speeds of over fifty (50) miles per hour and on curved roads.)

(Ord. No. 2008-02, § 1, 6-2-08)

Secs. 16-58—16-70. Reserved.

ARTICLE V. POLICY AND PROCEDURE REGARDING COMPUTER USE/ELECTRONIC ACCESS*

Sec. 16-71. Policy and purpose statement.

(a) The Cherokee County Computer Systems are to be used to conduct the official business of Cherokee County. The computer system, which includes computers, peripherals, the physical network, software, and data files is the property of Cherokee County and is subject to examination at any time, without notice.

(b) The county may permit occasional and incidental unofficial use providing that employees adhere to all sections of this policy. Whether an employee's use violates this policy is at the sole discretion of Cherokee County. Questions regarding this policy or proper operation of the systems should be directed to the Information Technology Department.

(c) All employees will be required to read and sign a copy of the Cherokee County Computers Policies and Procedures agreement and sign a Cherokee County Information Systems Access form approved by the department supervisor before access to the computer systems will be made available to the users. Refusal to sign the forms will result in the employee not receiving computer system access.

(Ord. No. 2012-13, Exh. A(I), 6-25-12)

Sec. 16-72. Computer systems.

(a) Computers, and systems, such as servers, storage drives, etc., are the property of Cherokee County. None of the systems listed above should be moved, modified, or changed in any way without the approval of the information technology department.

(b) Computers and systems should not be disposed of or redeemed for personal use under any circumstances. When new equipment is purchased the old ones are to be turned in to the information technology department. The old systems may continue to be used for Cherokee County business purposes if approved by the information technology department. All county computer systems have been recorded into a database and will be accounted for on a regular basis.

***Editor's note—**Ord. No. 2012-13, §§ I—VII, did not specify manner of inclusion; hence, codification as art. V, §§ 16-71—16-77 was at the discretion of the editor.

Note—This policy is a revision to Section 5.2 in the Cherokee County Policies and Procedures Manual.

(c) Desktop backgrounds can be changed. No sexually explicit, racial, or offending backgrounds will be allowed.
(Ord. No. 2012-13, Exh. A(II), 6-25-12)

Sec. 16-73. Employee e-mail.

(a) The Cherokee County e-mail system was put into place to improve communications within our county offices as well as companies and clients that we work with. When using the e-mail system employees should exercise sound judgment.

(b) Forwarding of chain e-mails as well as e-mails to express your opinions on non-business related subjects is prohibited.

(c) Distribution of sexually explicit material or mail which includes profanity, jokes or remarks of sarcasm, racism, gender-specific comments, or any comment that addresses someone's age, sexual orientation, religious or political beliefs, or national origin is prohibited.

(d) The e-mail system shall not be used to send or receive copyrighted materials, trade secrets, proprietary financial information, or similar materials without prior authorization.

(e) E-mails are subject to the Freedom of Information Act.
(Ord. No. 2012-13, Exh. A(III), 6-25-12)

Sec. 16-74. Internet use.

(a) The primary business of the county's internet system is to be used for business purposes. Personal use of the county's internet while on break will be allowed if approved by the department supervisor.

(b) Software should only be downloaded for business purposes. All downloads should be approved prior to downloading by the department supervisor or information technology department.

(c) Streaming of audio or video is prohibited.

(d) The use of social networking sites is not allowed unless it is work related and approved by your supervisor. No comments about Cherokee County or any county employees or Cherokee County logos should be posted on any site.

(e) Internet access is only assigned to an employee if approved by the department supervisor in advance. Abuse of internet privileges will result in the loss of use and possible disciplinary action.

(f) Online shopping for non-county purchases is prohibited on Cherokee County Computer systems.
(Ord. No. 2012-13, Exh. A(IV), 6-25-12)

Sec. 16-75. Software.

(a) Only software needed to perform county business should be installed on Cherokee County computer systems. If additional software is needed on a computer the approval of the information technology department will be needed. There are no exceptions to this policy. Note: This includes screensavers.

(b) Software and files belonging to Cherokee County should not be removed from the premises or installed on personal computers without the approval of the information technology department.
(Ord. No. 2012-13, Exh. A(V), 6-25-12)

Sec. 16-76. Security.

(a) Only Cherokee County personnel that have read and signed a copy of the Cherokee County Computers Policies and Procedures agreement and signed a Cherokee County Information Systems Access form approved by the department supervisor will be allowed to use the county's computers or connect to the county's network.

(b) Vendors and contractors that are performing work for the county will be allowed to use a computer or connect to the network if approved by the department supervisor or the information technology department.

(c) Sharing passwords with other county personnel is prohibited. If you feel that your password has been compromised please contact the information technology department. Passwords should not be displayed where it is visible to others.

(d) Remote access to Cherokee County computer systems should only be performed if set up and approved by the information technology departments. There are no exceptions to this article.

(e) Computer network hubs, switches, or routers shall not be added to the county's network. If additional network connections are needed contact the information technology department.
(Ord. No. 2012-13, Exh. A(VI), 6-25-12)

Sec. 16-77. Privacy.

(a) The confidentiality of any message or data file should not be considered private. The county reserves the right, at any time, to review, audit, intercept, access and disclose all messages or data files of any type, official and unofficial, created, received, or sent over the county computer or other electronic systems for any purpose. The contents of electronic mail or data files may be disclosed without the permission of the employee. When a file or message is erased it may be possible to retrieve and read the contents. Any electronic mail or data files of any kind residing on county computer systems are subject to South Carolina's Freedom of Information Act (S.C. Code of Laws, Tit. 30, Ch. 4) and may be subject to review by any interested member of the public. Electronic mail, data files and paper records may also be discoverable and subject to a judge's subpoena and used in a judicial hearing or trial.

(b) Cherokee County has the right to retrieve and read any electronic mail messages. All messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any e-mail messages that are not sent to them. Any exception to this policy must receive prior approval by the department supervisor or the county administrator.

(c) Employees shall not use a code or any encryption method, access agency files, or retrieve any stored agency information, unless authorized to do so. All passwords must be disclosed to the information technology director.
(Ord. No. 2012-13, Exh. A(VII), 6-25-12)

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Chapter 17

PLANNING AND DEVELOPMENT

Art. I. In General, §§ 17-1—17-20
Art. II. Uniform Road Naming and Property Numbering System, §§ 17-21—17-50
Div. 1. Generally, §§ 17-21—17-30
Div. 2. Street Naming, §§ 17-31—17-45
Div. 3. Property Numbering, §§ 17-46—17-50

ARTICLE I. IN GENERAL

Sec. 17-1. Billboards prohibited in scenic area of Peachoid Water Tank.

(a) The Peachoid Water Tank and surrounding area shall be designated as a scenic area.

(b) No commercial billboard or other billboard may be constructed within one thousand (1,000) feet east or west along the Interstate Frontage Road from the Peachoid Drive, as is more clearly shown by the sketch attached to the ordinance from which this section is derived. Such sketch is made a part of this section by reference.
(Ord. of 1-7-86, §§ 1, 2; Ord. of 6-20-89, §§ 1, 2; Ord. of 12-17-98, §§ I, II)

Editor's note—The sketch attached to an ordinance adopted August 16, 1999, has not been set out herein but is on file and available for inspection in the office of the county clerk.

Secs. 17-2—17-20. Reserved.

ARTICLE II. UNIFORM ROAD NAMING AND PROPERTY NUMBERING SYSTEM*

DIVISION 1. GENERALLY

Sec. 17-21. Established.

There is hereby established a uniform system for road naming and for numbering property, buildings and mobile homes on all roads, streets, and public ways in the area so defined as the unincorporated area of Cherokee County and all buildings, mobile homes and property shall be numbered in accordance with the provisions set forth in this article.
(Ord. of 5-8-90, § 1)

***Editor's note—**An ordinance adopted May 8, 1990, §§ 1—7, 9, did not specifically amend the Code; hence, inclusion herein as Art. II was at the discretion of the editor. Sections 8 and 10, providing for an effective date and severability, have been omitted from codification. See the Code Comparative Table for a detailed analysis of inclusion.

Cross references—Buildings; construction and related activities, Ch. 6; roads and streets, Ch. 19.

Sec. 17-22. Administration and implementation.

(a) Whenever any house, mobile home, building, or structure shall be erected or located in the unincorporated area of Cherokee County after the effective date of this article, it shall be the duty of the database coordinator to inform any party applying therefor, of the number or numbers belonging to or embraced within the limits of any lot or property as provided in this article. In case of conflict as to the proper number to be assigned to any house, mobile home or building the database coordinator shall make the determination as to the proper number for such houses, mobile homes or buildings.

It shall be the responsibility of all areas not served by the database coordinator to coordinate road naming and house numbering with the database coordinator to facilitate their smooth integration into the county's E-911 emergency telephone system.

(b) It shall be the duty of the owner to secure the correct number or numbers as designated by the database coordinator for said property and attach said number or numbers so assigned on said houses, mobile homes or building as provided by this article.

(c) No building permit shall be issued for any house, mobile home, building or structure until the owner has obtained the assigned number or numbers from the database coordinator. (Ord. of 5-8-90, § 6)

Secs. 17-23—17-30. Reserved.

DIVISION 2. STREET NAMING

Sec. 17-31. Findings of fact.

The county council finds that it is in the public interest that procedures be established for assigning names for new streets and roads, for processing requests for naming existing unnamed roads, and requests to change the names of previously named roads in the unincorporated portions of the county. The county council finds that it is in the public interest that the county database coordinator maintain an up-to-date index listing the names of all known public streets and roads in the unincorporated portions of the county and an up-to-date map of the county showing the name and location of all known public streets and roads. The council further finds that it is in the public interest that a uniform policy be adopted for assigning property numbers in certain unincorporated portions of the county.
(Ord. of 5-8-90, § 2)

Sec. 17-32. Procedures for assigning names in new subdivisions or developments or mobile home parks.

(a) Before construction of any new subdivision or development or mobile home park, or any new street or road shall be named in any unincorporated portion of the county, the developer or owner of the subdivision or development or mobile home park shall first obtain a permit from the appropriate county agency and shall submit to the county database coordinator first, second, and third choices for names of such streets or roads, together with a plat,

drawn to scale with metes and bounds, showing the location of the streets or roads in question and the location of all property or lots, with numbers affixed, fronting thereon. If the suggested names do not duplicate or phonetically resemble the names of any existing street or road in a U.S. Postal Service zip code area and/or emergency service number area within the county, regardless of the use of a suffix such as street, avenue, boulevard, drive, lane, trail, etc., the county database coordinator shall approve the road name request as submitted, so long as the requested street(s) or road(s) are judged to meet county standards.

(b) The county database coordinator shall maintain an up-to-date index listing the names of all streets and roads in the county, together with an up-to-date map of the county showing the location and name of all known public streets and roads.

(c) Following approval of a subdivision or a development or a mobile home park along with its name(s) for a street or road, the county database coordinator shall give written notification of the name(s) and location of the street or road to the following persons or agencies: the developer; serving postal facility; the provider of emergency ambulance/and or rescue services; the appropriate fire department; county sheriff's department; the most proximate city or town, if appropriate; and any existing property owners along the road.

(d) In the event one or more street or road names are not approved because such street or road names duplicate or phonetically resemble the names of existing streets or roads, the database coordinator shall notify the developer, in writing, of the reasons for disapproval. The owner, developer, or subdivider of the property in which the new street or road is established may appeal the decision of the county database coordinator by giving written notice to the county database coordinator stating the grounds upon which the appeal is based, within fifteen (15) days of receipt of written notice of the decision of rejection.
(Ord. of 5-8-90, § 2-1)

Sec. 17-33. Procedure for processing request by individual property owner for naming a street or road.

(a) Any person may submit a request in writing to the county database coordinator for naming a new street or road or a previously unnamed street or road, listing in order the first, second, and third choices for a street or road name for such street or road. Where possible, a map showing the location of the street or road shall be submitted with the request. Any person submitting such a request shall be encouraged but not required to include with the request a petition signed by a majority of the property owners owning property fronting upon the street or road, endorsing and joining in the request.

(b) If the street or road names requested do not duplicate or phonetically resemble the names of existing streets or roads in the county, regardless of the use of a suffix such as street, avenue, boulevard, drive, lane, trail, etc., the database coordinator shall then notify all property owners owning property along the road as determined by the maps or records in the office of the county tax assessor of the fact that the database coordinator is planning to act on the request and will accept public comments on the request before approval or disapproval is rendered.

(c) The county database coordinator may take action on the request, following public comments, or it may defer action if circumstances warrant. If the request is approved, the county database coordinator shall provide written notification to all parties in interest owning property fronting on the street or road. If the request is denied by the county database coordinator, the person making the request shall be notified in writing of the reasons for the denial. If the request is denied, the person may appeal the decision of the county database coordinator to the county council by giving written notice of intention to appeal the decision of the county database coordinator to the county administrator stating the grounds for appeal, within fifteen (15) days after receiving written notification of the denial. The party initiating the request shall pay a fee of twenty-five dollars ($25.00) to defray the cost of advertisements of a public hearing and the cost associated with notifying property owners along the street or road of the request. The county council shall thereafter schedule a hearing, at a regularly scheduled meeting, on the appeal at which the party submitting the request and the county database coordinator may be heard. The county council shall render a final decision on any such appeal within thirty (30) days after the hearing, giving written notice to all parties in interest.
(Ord. of 5-8-90, § 2-2)

Sec. 17-34. Request by interested party to change the name of a street or road named subsequent to implementation of this article.

(a) Any person desiring to change the name of a previously named street or road shall submit a request in writing to the county database coordinator, accompanied by a petition signed by a two-thirds (2/3) majority of the property owners along the affected street or road endorsing the requested change.

(b) If the proposed street or road name duplicates or phonetically resembles the name of an existing street or road in the county, regardless of the use of a suffix such as street, road, avenue, boulevard, drive, lane, trail, etc., the database coordinator shall notify the person making the request that the request is denied for that reason.

(c) If the proposed name of the street does not duplicate or phonetically resemble the name of an existing street or road, the database coordinator shall consider the request. The party initiating the request shall pay a fee of forty dollars ($40.00) per affected intersection to defray the cost of advertisements of a public hearing and the cost associated with notifying property owners along the street or road of the request.

(d) A public hearing upon the request shall be held after publication of a proper legal notice in one or more newspapers of general circulation in the county at least fifteen (15) days in advance of the hearing. In addition, the database coordinator shall mail to each property owner along the street in question, as listed in the records in the office of the county assessor, a notice that a request has been made to change the name of the street or road, specifying the date, time, and place the public hearing will be held. The database coordinator shall conduct a public hearing upon the request of the interested parties and the public at large may be heard in support of or in opposition to the requested change of name.

(e) After the public hearing, the database coordinator shall, within thirty (30) days, notify all interested parties in the manner provided in subsection (c) of section 17-33 as to whether or not the street or road should be changed. If the database coordinator shall fail to present a recommendation within thirty (30) days after conducting the public hearing, the database coordinator shall be deemed to have approved the proposed change.
(Ord. of 5-8-90, § 2-3)

Sec. 17-35. Approval of names.

It shall be unlawful for any person to establish and name any new street or road on any plat, by any marking, or any deed or other instrument without first obtaining the approval of the county database coordinator.
(Ord. of 5-8-90, § 2-4)

Sec. 17-36. Change of name upon application by county database coordinator.

(a) The county database coordinator may recommend a change in the name of any street or road within the county:

(1) When there is duplication of names or other conditions which tend to confuse the traveling public or the delivery of mail, orders or messages;

(2) When it is found that a change may simplify marking or giving of directions to persons seeking to locate addresses: or

(3) Upon any other good and just reason that may appear to the database coordinator.

(b) The database coordinator shall publish in a newspaper of general circulation in the county, a notice of a public hearing on the proposed change, not less than fifteen (15) days before such public hearing, and the database coordinator shall conduct a public hearing on such proposed change of name. The database coordinator shall submit a written report containing the name of the street or road changed to county council, the county council shall cause its certificate to be issued designating the change, which certificate shall be recorded with the clerk of court for the county. The name so changed shall thereafter be the legal name of the street or road. Written notice of the change shall be given by the database coordinator to every property owner on the affected street or road.
(Ord. of 5-8-90, § 2-5)

Secs. 17-37. Procedure for naming private roads by county database coordinator.

(a) The county database coordinator will implement the naming of any street or road within the county when:

(1) There are three (3) or more dwellings on a private drive.

(2) It is found that a name placed on a private drive will simplify locating addresses.

(b) The county database coordinator will notify all property owners along the road as determined by the maps and records in the office of the county assessor of the fact that the road will be named. At that time, the county database coordinator will suggest a road name and will invite any comments in opposition or approval to that name. If any property owner opposes the name suggested by the county database coordinator, that property owner will be asked to circulate a street naming petition. The petition will list in order the first, second and third choices for the road name signed by a majority of the property owners endorsing and joining in the request.

(c) If the proposed road name duplicates or phonetically resembles the name of an existing street or road in the county, regardless of the use of suffix such as street, road, avenue, boulevard, drive, lane, trail, etc., the database coordinator shall notify the property owners the request for that name is denied for that reason.

(d) If the proposed name of the road does not duplicate or phonetically resemble the name of an existing street or road, the database coordinator will notify the property owners that the road name has been accepted and addresses will be changed accordingly.
(Ord. of 5-22-97)

Secs. 17-38—17-45. Reserved.

DIVISION 3. PROPERTY NUMBERING

Sec. 17-46. System established.

A uniform system of numbering properties and principal buildings is hereby adopted and made a part of this article:

(1) When the county database coordinator processes any name request in subdivisions, mobile home parks or other developments in unincorporated portions of the county, he shall, at the same time, assign property numbers for subdivided lots according to their arrangements providing three (3) or more lots, structures, or buildings exist within the subdivision, mobile home park or other development. The property numbers will be assigned, where applicable, based on logical extensions of existing numbering systems in nearby municipalities. All streets shall be numbered with odd numbers on the left and even numbers on the right as the numbers increase, leaving a maximum of at least one number for every forty (40) feet of frontage on any public street or road whether laid out or established, or depicted on a plat of the proposed subdivision or development or mobile home park.

(2) All numbers shall be assigned in a manner so determined by the county database coordinator. This shall apply to existing numbers and future numbering requirements.

(3) Each house, mobile home, building or structure shall have its own number.

(4) Information regarding all property number assignments shall be forwarded by the database coordinator to the appropriate postal facility, the developer, if any, and existing property owners along the street or road.

(Ord. of 5-8-90, § 3)

Sec. 17-47. Assignment of numbers.

(a) Existing property numbers shall be changed only where it is necessary in the judgment of the database coordinator to maintain the order and uniformity sought by this article.

(b) On the effective date of this article [May 8, 1990], the county database coordinator shall begin assigning any and all developing structures located on any road, street, or public way in the jurisdiction of this article. The database coordinator shall submit the site development plat to the addressing information center at the appropriate area post office(s) with the uniform numbering system detailed upon a copy of the plat or map.

(c) Written notification of the proper address of each house, mobile home or building shall be given to the owner, occupant, or agent of each such structure in all instances where a new number is assigned under the terms of this division.

(Ord. of 5-8-90, § 4)

Sec. 17-48. Placement of numbers.

(a) When each house, mobile home or building has been assigned its respective number or numbers, the owner, occupant, or agent shall place or cause to be placed upon both sides of the appropriate mailbox and upon each house, mobile home or building controlled by him/her the number or numbers assigned under the uniform numbering system as provided in this division.

(b) Such numbers shall be placed on houses, mobile homes or buildings within thirty (30) days after receipt of notification by the database coordinator.

(c) Cost and installation of the numbers used shall be the responsibility of 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. Numbers shall be made of durable and clearly visible material, and shall be in contrast to the color of the building.

(d) Numbers shall be put in a conspicuous place immediately above, on, or at the side of the proper door so that the number is clearly visible from the street or road line. In cases where the house, mobile home or building is situated more than fifty (50) feet from the street or road line, the number shall be placed near the walk, driveway, or common entrance to the structure, or upon both sides of the mailbox, provided the mailbox can clearly be identified as serving that particular structure, gatepost, fence curb or other appropriate place so as to be clearly visible from the street or road line.

(Ord. of 5-8-90, § 5)

Sec. 17-49. Existing structures.

The Cherokee County Council, upon adoption of this division, will require owners of existing principal structures to post the number so assigned to their structure(s) under the provision of this division within thirty (30) days after notification by the database coordinator. Community service organizations, neighborhood associations, and fire and rescue departments will be encouraged to assist in the implementation of this division.
(Ord. of 5-8-90, § 7)

Sec. 17-50. Violations and penalties.

(a) After May 8, 1990 failure by the owner, occupant, or agent responsible for a house, mobile home or building, to place or cause to be placed on each house, mobile home or building numbers as provided by this division, shall constitute a violation of the division, and the owner, occupant or agent shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined or imprisoned for a term not to exceed the magistrate's jurisdiction on limits which is thirty (30) days or two hundred dollars ($200.00).

(b) Any person or persons who unlawfully removes, defaces, mars, changes, destroys or renders an existing number or numbers unreadable in any manner shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined or imprisoned for a term not to exceed the authority of the magistrate's jurisdiction.
(Ord. of 5-8-90, § 9)

[The next page is 1301]

Chapter 18

PURCHASING*

Art. I. In General, §§ 18-1—18-20
Art. II. Purchasing Policy and Procedure, §§ 18-21—18-31

ARTICLE I. IN GENERAL

Secs. 18-1—18-20. Reserved.

ARTICLE II. PURCHASING POLICY AND PROCEDURE

Sec. 18-21. Purpose, scope and revisions.

(a) *Purpose.* It is the policy of Cherokee County Council to procure goods and services necessary to the performance of the council business as efficiently, effectively and economically as possible. The county shall, therefore, purchase all goods and services in accordance with the procedures set forth in this document entitled, Cherokee County, Gaffney, South Carolina, Purchasing Policy and Procedures.

(b) *Scope.* This policy and procedure statement applies to contracts for the procurement of supplies, services, and construction entered into by Cherokee County Council. It shall apply to every expenditure of public funds by the Cherokee County Council for public purchasing, irrespective of the source. When a procurement involves the expenditures of state or federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable state and federal laws and regulations which are applicable in the circumstances.

Interpretation of the Cherokee County Council's Statement of Purchasing Policy and Procedure shall be the responsibility of the Cherokee County Council and its county administrator.

(c) *Revisions.* Revisions to this statement may be made upon authorization of the Cherokee County Council.

(d) *Contract executions.* No department head, employee or person in any position of Cherokee County Government shall enter into, approve, sign or execute any contract for any services, merchandise or any obligation of Cherokee County until and unless signed and executed on behalf of Cherokee County by the Cherokee County Administrator.

(e) *Procurement policy.* Cherokee County Council may elect to substitute the Cherokee County Procurement Policy with that of the South Carolina Consolidated Procurement Code or the Federal Procurement Policy when in the best in interest of Cherokee County. Approval

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***Editor's note—**Ord. No. 2005-18, Pts. 1—12, adopted July 18, 2005, was not specifically amendatory of the Code and has been included as ch. 18 at the discretion of the editor. See the Code Comparative Table for a detailed analysis of inclusion.

of this substitution must be approved by Cherokee County Council in the form of a written request from the department head prior to beginning the procurement process for required services or materials. The written request must justify the necessity of substituting the Cherokee County Procurement Code with that of the State or Federal Code.
(Ord. No. 2005-18, Pt. 1, 7-18-05; Ord. of 2-21-08, § 1)

Sec. 18-22. Definitions.

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

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or other private legal entity doing business within the confines of the United States.

Change order means a written order signed and unilaterally issued by the Cherokee County Administrator, directing the contractor to make changes which the changes clause of the contract authorizes the Cherokee County Administrator to make.

Cherokee County Council means the governing body of Cherokee County, a political subdivision of the State of South Carolina.

Contract modification means any written alterations of specifications, delivery points, rates of delivery, periods of performance, prices, quantities, or other provisions of any contract accomplished by mutual actions of the parties of the contract.

Contract means all types of agreements, regardless of what they may be called, for the procurement of supplies, services or construction.

Contractor means any person having a contract with Cherokee County Council.

County administrator means an employee of Cherokee County Council as directed by State Statute to direct and oversee the operations of Cherokee County. The Chief Managing Officer of Cherokee County.

Department head means an employee of Cherokee County, by and through Cherokee County Council responsible for operations of a specific department.

Employee means an individual drawing a salary or hourly wage from the Cherokee County Council whether elected or not, and any non-compensated individual performing personal services for Cherokee County Council or any department thereof.

Financial interests

a. Ownership of any interests or involvement in any relationship from which, or as a direct result of which or indirect result of which, a person within the past year has received, or is presently or in the future entitled to receive more than one hundred dollars ($100.00) per year or its equivalent;

b. Ownership of fifty-one (51) percent of any property or business;

c. Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

Gratuity means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value present or promised, unless consideration of substantially equal or greater value is received.

Invitation of bids means all documents, whether attached or incorporated by reference, utilized for solicitation of sealed bids.

Open contract means a contract for the procurement of supplies, services, or construction that has not been completed by receipt of the ordered supplies, services, or construction.

Purchasing means all activities related to the process of entering into contracts for the procurement of supplies, services and construction by Cherokee County Council, and the processing of all requisitions, price and vendor determinations, and the receipt and inspection of supplies, services and construction following from such contracts.

Request for proposals means all documents, whether attached or incorporated by reference, utilized for the solicitation of proposals.

Specification means any description of the physical or functional characteristics, or of the nature of supplier, service, or construction item. It may include a description of any requirements for the inspecting, testing, or the preparing of a supply, service or construction item for delivery.

(Ord. No. 2005-18, Pt. 2, 7-18-05)

Sec. 18-23. Purchasing authority and duties.

(a) *Purchasing authority.* Only the Cherokee County "Department Heads" and Cherokee County "Purchasing Agent" will carry out the function of purchasing.

(b) *Purchasing authority and duties of Cherokee County Department Heads.*

(1) The department heads shall have purchasing authority as explained in section 18-26 herein entitled, "emergency purchasing."

(2) The department heads purchasing authority is further expanded herein by section 18-28 entitled, "small purchase procedure."

This constitutes the full purchasing authority of the Cherokee County "Department Heads."

(c) *Cherokee County Purchasing Agent.*

(1) The Cherokee County Purchasing Agent shall serve as the principal public procurement official for Cherokee County Council and shall be responsible for the procurement of supplies, services and construction in accordance with this policy.

(2) Duties of Cherokee County Purchasing Agent shall be in accordance with this policy, and shall be subjected to the supervision of the Cherokee County Administrator. The Cherokee County Purchasing Agent shall:

a. Purchase or supervise the purchase of all supplies, services and construction needed by Cherokee County.

b. Establish and maintain programs for specification development, contract administration, inspection and acceptance, and use of all supplies, services and construction items in cooperation with the various departments.

(3) Operational procedures for procurement shall be consistent with this policy, and, with the approval of the Cherokee County Administrator, Cherokee County Purchasing Agent may set forth operational procedures relating to the execution of his duties.

(d) *Delegation to project managers.* The Cherokee County Purchasing Agent may delegate authority to purchase certain items and services, or construction items to special project managers so designated by the Cherokee County Administrator, as such delegation is deemed necessary for the effective procurement of such items.
(Ord. No. 2005-18, Pt. 3, 7-18-05)

Sec. 18-24. General regulations.

(a) *Procurement responsibility.* The Cherokee County Purchasing Agent has sole authority to conduct and conclude all negotiations affecting purchase prices, terms, and delivery, subject to the requirements of this policy. This includes the authority to negotiate the best possible purchase price. Any and all participation by departments in this process must be conducted under the auspices and with the full knowledge of the Cherokee County Purchasing Agent. Under no circumstances, shall any employee state preferences or give any information to any salesman or vendor, which might interfere with the purchasing process.

(b) *Requisitions.* All purchase requisitions shall originate in the department which requires the materials, supplies, equipment or services. Purchase requisitions for operating departments shall be accepted by the Cherokee County Accounts Payable Clerk only if properly completed, including classification. The actual purchasing shall be permitted only on the Cherokee County Council's purchase order.

(c) *Review of requisition.* The Cherokee County Purchasing Agent shall have authority to question the quality and quantity of all materials requested on requisitions and to inspect, at any time the quality and quantity of materials received in order that the best interest of the Cherokee County Council and integrity of its employees be protected.

(d) *Relationship to the budget.* The Cherokee County Accounts Payable Clerk shall not accept requisitions or issue any purchase orders except as they obligate Cherokee County Council to the extent allowed in the aggregate budget.

(e) *Informal bid procedure.* Before any purchases or contracts for supplies, materials, equipment or services exceeding five hundred dollars ($500.00) are made, the Cherokee County Purchasing Agent shall give ample opportunity for competitive bidding. Single purchase orders for purchases of one thousand dollars ($1,000.00) or less, and not handled by the contract procedure, should be awarded by the Cherokee County Purchasing Agent after receiving at least two (2) verbal or written quotations. All quotations shall be noted on the requisition. Single purchase orders for purchases in excess of one thousand dollars ($1,000.00), but less than five thousand dollars ($5,000.00) shall be awarded by the Cherokee County Purchasing Agent after receiving at least three (3) verbal or written quotations (not exception in subsections 18-24(g) and 18-26(a) of this article). This procedure shall be known as the "informal bid procedure."

(f) *Formal bid procedure.* Cherokee County Council shall publicly advertise for bids, or solicit a minimum of three (3) quotations by direct contact from qualified vendors for all singular purchases, the cost of which can reasonably be expected to exceed five thousand dollars ($5,000.00).

All bids shall be received in writing and shall contain all information requested. Bids not meeting this requirement shall be rejected upon their opening.

Invitations to bid shall set out any and all criteria to be used in the evaluation process. Such criteria may involve, though not be limited to, inspection, testing, quality, workmanship, delivery, service availability, maintenance requirements, resale, and suitability for proposed use, proper state, federal or local license requirements, if any, of contractors/applicants.

Invitations to bid may, at the discretion of the Cherokee County Purchasing Agent, require deposit of bid bond equal to five (5) percent of the amount of the proposal. The Cherokee County Council may retain such deposits or bid bond if the successful bidder fails to execute the contract within the specified time period or fails to give satisfactory surety.

Immediately upon receipt, the Cherokee County Purchasing Agent shall mark the date and time upon the bid envelope and shall place it in a secure place to await opening at the time specified. Any bid may be withdrawn prior to its opening, upon written request to the Cherokee County Purchasing Agent. The Cherokee County Council will accept resubmission of withdrawn bids prior to the time set for opening only, but no bid shall be received by the Cherokee County Council following the time set for opening. Once bids have been opened, no alterations nor withdrawals may be made.

(g) *Formal/informal bid procedure waived.* The informal and formal bid procedures may be waived under the following conditions upon the approval of Cherokee County Council:

(1) When there exists no possibility of a competitive bid, as in the case of only one known source of supply (see section 18-29(c));

(2) When it is to the advantage of the Cherokee County Council to acquire goods and/or services on the basis of the previously awarded bid or contract; (i.e. past experience with price, quality, service, etc.)

(3) In the case of emergency purchases as defined in section 18-26(a);

(4) When, in the judgement of the Cherokee County Administrator or Cherokee County Council, it is to the advantage of Cherokee County to do so.

(h) *State contract purchasing.* When it is advantageous to procure materials, supplies, and/or equipment through the purchasing contracts of the State of South Carolina, such shall be considered as having satisfied the bidding procedure outlined herein.

(i) *Cooperative purchasing.* The Cherokee County Purchasing Agent shall have the authority to negotiate jointly with agents of other governmental jurisdictions for the purposes of securing better prices, bids, contracts, etc., and to procure items and services under joint contracts.

(j) *Vendor probation.* The Cherokee County Purchasing Agent may place any vendor who fails to satisfactorily meet any terms, agreements on contracts made with the Cherokee County Council on a one-year probation. This probation is subject to the right of appeal directly to Cherokee County Council.

(k) *Vendor default.* Should a vendor be unable or unwilling for any reason to meet the terms of any open contract, the Cherokee County Purchasing Agency may void that contract and use either the formal or informal bidding procedure, whichever is appropriate, to secure the needed items or services. Action taken by the county pursuant to this section does not negate or constitute a waiver of any legal remedies available to the county as a result of the vendor's breach of contract.

(l) *[Purchases exceeding five thousand dollars ($5,000.00).]* In purchases exceeding five thousand dollars ($5,000.00), the purchasing agent shall have authority to join with other units of government in cooperative purchasing plans, when the best interests of the county would be served thereby provided that the purchasing agent of the county 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. The purchasing agent is authorized to purchase goods and services from local vendors if their price is equal to or less than the price through the property division of the state budget and control board ("state purchasing"), without the necessity of advertising for bids.
(Ord. No. 2005-18, Pt. 4, 7-18-05; Ord. No. 2013-19, § 1, 12-2-13)

Editor's note—Section 1 of Ord. No. 2013-19, adopted Dec. 2, 2013, did not specify manner of inclusion; hence, at the discretion of the editor, said provision has been included as subsection 18-24(l).

Sec. 18-25. Administrative procedures.

(a) *General statement.* While there are several types and categories of purchases, there is only one procedure to be followed in the procurement of supplies, materials and equipment. The sequence of events in this procedure may be rearranged at the discretion of the Cherokee County Purchasing Agent and/or Cherokee County Administrator to best accommodate the circumstances surrounding the need for the purchase. An example of such rearrangement would be in the case of an "emergency purchase", as outlined in section 18-26.

However, regardless of the sequence of events, all appropriate documents and processes must be completed before an invoice is cleared for payment. The routine sequence is as follows:

Step 1: Cherokee County Department Heads will prepare a requisition form.

Step 2: Cherokee County Purchasing Agent will secure quotes, either verbal or written, in accordance with the procedures established in sections 18-24, 18-26, and 18-30 of this article.

Step 3: The Cherokee County Administrator will approve the issuance of a purchase order in accordance with the appropriate section of the purchasing policy.

(b) *Accounts payable procedure.* A copy of all purchase orders issued along with a copy of the requisition attached, is forwarded to the Cherokee County Accounts Payable Clerk who maintains these purchase orders in a numerical file.

When departments receive goods, the Cherokee County Department Head will check the incoming goods and prepare a sign-off on the invoice. The original invoice, along with the packing slip is forwarded to the Cherokee County Accounts Payable Clerk and is filed with the purchase order.

As invoices are received by the accounts payable clerk they are to be screened against the purchase order file.

Each invoice is stamped and prices and quantities from the invoice are checked against the receiving report, the original purchase order and requisition.

If there are any discrepancies, the Cherokee County Purchasing Agent or Department Head is notified and the discrepancies will be cleared before further processing takes place.

If all items are correct, the invoice, signed invoice, packing slip, purchase order and requisition are stapled together and the classification is checked.

Classifying an invoice is the process used to determine what department and/or general ledger account is to be charged with this disbursement.

Upon classification, invoices are posted to the appropriate accounts in the accounts payable portion of the general ledger.

The Cherokee County Accounts Payable Clerk then reviews and approves all invoices and a pre-disbursement listing is made for the Cherokee County Council's review. The Cherokee County Administrator also reviews and approves all invoices prior to Cherokee County Council's review.

Checks for the approved disbursements are then produced and are initialed by the Cherokee County Administrator and signed by the Cherokee County Treasurer.

In addition to the above, a listing of all checks written during the month that the Cherokee County Council does not pre-approve, showing check number, amount and explanation is given to each councilman at the next meeting.
(Ord. No. 2005-18, Pt. 5, 7-18-05)

Sec. 18-26. Emergency purchasing.

(a) *Authorization.* An emergency purchase is authorized when interruption of a project or work occurs due to the need for an item or service and when such interruptions directly affects the efficient and orderly completion of that project or work, and when the use of normal purchasing procedures would cause an excessive delay in obtaining the needed item or service, or in accordance with section 18-29(d). In such cases, the following procedure should be used.

Step 1: The Cherokee County Department Head, after determining through verbal correspondence with the Cherokee Accounts Payable Clerk. The accounts payable clerk may request the Cherokee County Administrator's approval. If the needed item or service is not covered by a contract, the department head shall proceed to Step. 2

Step 2: Upon verbal approval of the Cherokee County Accounts Payable Clerk and/or Cherokee County Administrator, the department head shall immediately obtain a purchase order number from the accounts payable clerk and refer this number to the vendor when placing the order.

Step 3: By the end of the next working day, the Cherokee County Department Head shall submit a requisition to the accounts payable clerk, which shall list the items ordered, prices, and the assigned purchase order number, and marked "emergency purchase". The department head shall also submit to the accounts payable clerk the signed copy of the invoice marked "emergency purchase".

Step 4: The requisition will be processed in the same manner as a normal purchase requisition, except that pricing and vendor selection functions usually carried out by the Cherokee County Purchasing Agent are eliminated.

Step 5: "Emergency purchase" will be written on the assigned purchase order.

(b) *In general.* In general, all purchases of materials and services, whether regular or emergency, and which are covered by a contract, shall be made in accordance with the provisions of the contract procedures in section 18-29 of this article.
(Ord. No. 2005-18, Pts. 6, 7, 7-18-05)

Sec. 18-27. Cherokee County vendor preference.

(a) *Definitions.*

(1) A vendor shall be deemed a "Cherokee County vendor" for the purposes of this section if: (a) such vendor be an individual, partnership, association or corporation that is authorized to transact business within the State of South Carolina; (b) such vendor has a physical business address located and operating within the County of Cherokee and has maintained such address for a period of ninety (90) days prior to the advertisement of the request for proposals or the date the county otherwise solicits bids; and (c) provides proof of payment of all applicable Cherokee County taxes and fees. A post office box or temporary construction or office trailer shall not be considered a physical business address to comply with the provisions of this section.

(2) Cherokee County vendor preference. The lowest responsive and responsible Cherokee County vendor, if any, whose bid is within five (5) percent of the lowest non-Cherokee County vendor, which would otherwise be awarded the bid, may be given the opportunity to match the bid submitted by the non-Cherokee County vendor and thus be awarded the bid for the provision of goods, supplies or construction services. This preference shall be applicable only to solicitations by Cherokee County for goods, supplies, and construction services which are twenty-five thousand dollars ($25,000.00)

or more in value. Should the lowest responsible and responsive Cherokee County vendor not exercise its right to match the bid as granted herein, the next lowest Cherokee County vendor shall be authorized to exercise such right and so on. The right to exercise the right to match the bid shall be exercised within twenty-four (24) hours of notification of the right to match the non-Cherokee County vendor's bid.

(3) In order for a Cherokee County vendor to assert its right to the preference created in this article, the Cherokee County vendor must fully complete an affidavit claiming such preference, a copy of which is attached hereto and incorporated herein by reference, at that time that its original bid is submitted. Failure to provide such affidavit at the time the vendor submits its original bid shall constitute a waiver of any claim for preference.

(4) Should a solicitation, procurement, or request for bids be made by Cherokee County for goods, supplies, or construction services, which by state or federal guidelines prohibit or restrict the type of preference created in this section, this section granting such preference shall not apply to such solicitation, procurement, or request for bids. Likewise, should any solicitation, procurement, or request for bids by Cherokee County for goods, supplies, or construction services be funded in whole or in part with state or federal monies, the receipt of which by Cherokee County prohibits or restricts the use of the type of preference created in this section, this section granting such preference shall not apply to such solicitation, procurement, or request for bids.

(Ord. No. 2011-01, Pt. 8, 3-21-11)

Editor's note—Ordinance No. 2011-01, Pt. 8, adopted March 21, 2011, repealed the former § 18-27, and enacted a new § 18-27 as set out herein. The former § 18-27 pertained to local vendors and derived from Ord. No. 2005-18, Pt. 8, adopted July 18, 2005.

Sec. 18-28. Small purchase procedure.

(a) *Procedure.* This procedure is to be used for items whose cost is one hundred dollars ($100.00) or less and which are needed by departments on short notice.

1. The Cherokee County Department Head will determine a need for the item(s).
2. He/she will then contact the Cherokee County Accounts Payable Clerk to obtain a purchase order to give to the vendor.
3. The Cherokee County Accounts Payable Clerk will give approval for the purchase and its charges.
4. The Cherokee County Department Head, after making the purchase, will return a copy of the invoice, and a delivery ticket to the Cherokee County Accounts Payable Clerk. These will then be attached to a completed purchase order and prepared for payment by the accounts payable clerk.

(Ord. No. 2005-18, Pt. 9, 7-18-05)

Sec. 18-29. Source, selection and contract formation.

(a) *Competitive sealed bidding.*

(1) *Conditions for use.* All procurement contracts of five thousand dollars ($5,000.00) or more shall be awarded by competitive bidding except as otherwise provided in sections 18-24 and 18-26 of this article.

(2) *Invitation for bids:* An invitation for bids shall be in accordance with subsection 18-24(f) and shall include specifications and all contractual terms and conditions applicable to the procurement.

(3) *Public notice.* Adequate public notice for bids shall be in accordance with subsection 18-24(f) of this article and shall set forth therein the specific date and time of public opening.

(4) *Bid opening.* Formal bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation to bid. The amount of each bid and such other relevant information as the Cherokee County Purchasing Agent deems appropriate, together with the names of each bidder, shall be recorded and shall be open to public inspection.

(5) *Bid acceptance and evaluation.* Bids shall be unconditionally accepted without alteration or correction, as authorized by subsection 18-24(f) in this article. Bids shall be evaluated based on the requirements set forth in the invitation to bid and in accordance with subsection 18-24(i), if appropriate.

(6) *Award.* Contracts shall be awarded with reasonable promptness by written notice to the responding bidder, whose bid meets the requirements and criteria set forth in the invitation to bid and which is most advantageous to Cherokee County Council. In the event that all bids for a construction project exceeds available funds, as certified by the Cherokee County Council, and the low responsive and responsible bid does not exceed such funds by more than five (5) percent, the Cherokee County Purchasing Agent and Cherokee County Administrator are jointly authorizing when time or economic conditions preclude resolicitation of work or a reduced scope, to negotiate an adjustment to the bid price with the low responsive and responsible bidder in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation to bid. Cherokee County Council shall reserve the right to reject all bids.

(7) *Multi-step sealed bidding.* When it is considered impractical to initially prepare a purchase description to request bids based on price, and invitation for a bid may be issued, requesting the submission of unpriced offers to be followed by an invitation for bids, limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the request.

(8) *Special use of sealed bids.* Sealed bids may be required by the Cherokee County Purchasing Agent five thousand dollars ($5,000.00) when it is felt to be in the best interest of Cherokee County Council.

(b) *Competitive sealed proposals.* When the Cherokee County Purchasing Agent or Cherokee County Council determines that the use of competitive sealed bidding is either not practical or not advantageous to Cherokee County Council, a contract may be entered into by the use of competitive sealed proposals. Proposals shall be solicited through a "request for proposals". Adequate public notice of the request for proposals shall be determined by the Cherokee County Purchasing Agent or Cherokee County Council.

No proposals shall be handled so as to permit disclosures of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiations. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the items offered.

The request for proposals shall state the relative importance of price and other evaluation factors. Discussion may be conducted with responsible offerors who submit proposals determined by the Cherokee County Purchasing Agent to be reasonable susceptible to being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to the award for the purpose of obtaining the best offers. In conducting the discussions, there shall be no disclosure of the identify [identity] to the competing offers or of any information derived from proposals submitted by competing offerors.

Awards shall be made to responsible offerors whose proposals are determined, in writing, to be the most advantageous to Cherokee County Council, taking into consideration the price and the evaluation factors set forth in the "request for proposals". No other factor or criteria shall be used in the evaluation. The contract file shall contain written explanation of the basis on which the award is made.

(c) *Sole source procurement.* A contract may be awarded without competition when the Cherokee County Purchasing Agent determines, in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The Cherokee County Purchasing Agent shall conduct negotiations as appropriate, concerning price, delivery and terms. A record of sole source procurement shall be maintained that lists each contractor's name, the amount and type of each contract, a listing of the items procured under the contract.

(d) *Emergency procurements by the Cherokee County Administrator.* Notwithstanding any other provisions of this article, the Cherokee County Administrator may authorize others to make emergency procurements of supplies, services or construction items when there exists an imminent threat to public health, welfare, or safety; provided that such emergency procurements shall be made with such competition as is practical under the circumstances. A written determination of the basis for the emergency and for the selection of a particular contractor shall be included in the contract file.

(e) *Cancellation of invitation for bids or request for proposals.* An invitation for bids, or a request for proposals, or other solicitations may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for a good cause or simply determined to be in the best interests of Cherokee County.

(f) *Responsibility of bidders or offerors.* If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of the non-responsibilities setting forth the basis of the findings shall be prepared by the Cherokee County Purchasing Agent. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry may be grounds for determination of non-responsibility with respect to such bidder or offeror.
(Ord. No. 2005-18, Pt. 10, 7-18-05)

Sec. 18-30. Ethics in public contracting—Cherokee County Council Members and employees.

(a) *Conflict of interest.* It shall be unethical for any Cherokee County member or employee of Cherokee County Council to participate directly or indirectly in a procurement when the Cherokee County Council member or employee knows that:

(1) He or she or any member of his or her immediate family has a financial interest pertaining to the procurement; or

(2) Any person, business, or organization with whom he or she or any member of his or her immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

(b) *Financial interest.* No Cherokee County Council member shall have a financial interest in any contract or in the sale to Cherokee County Council or to a contractor supplying the county council of any land or rights or interest in any land, material, supplies or services; except when a majority of the Cherokee County Council determines such exception is in the best interest of county council, provided that no county council member whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office and any county council member or employee found guilty thereof shall therefore forfeit his/her county council office or position. Any violation of this section, with the knowledge express or implied of the person or corporation contracting with Cherokee County Council shall render the contract voidable by Cherokee County Council. In any event county council shall comply with requirements of state ethics laws and regulations.
(Ord. No. 2005-18, Pt. 11, 7-18-05)

Sec. 18-31. Council adoption.

This "purchasing policy and procedures" system, as described in this chapter, is hereby created for the Cherokee County Council, Gaffney, South Carolina; and Cherokee Council's employees shall operate within the general authority created by this policy.
(Ord. No. 2005-18, Pt. 12, 7-18-05)

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Chapter 19

RESERVED*

***Editor's note—**Section 7.4 of an ordinance adopted Jan. 2, 2000, repealed Ch. 19 in its entirety. Former Ch. 19, §§ 19-1—19-6, pertained to roads and streets and derived from an ordinance adopted Feb. 7, 1995.

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Chapter 20

(RESERVED)

[The next page is 1499]

Chapter 21

TAXATION*

Sec. 21-1. Period which applications for assessment remain in force.

The applications by property owners for residential assessment of property and for agricultural assessment of property shall remain in full force and effect for a period of five (5) years unless the use of the property has changed. Whenever such change occurs, the proper officials shall be notified; the failure to do so shall provide penalties as provided by the state statute. (Ord. of 3-3-81)

State law reference—Authority, S.C. Code 1976, § 12-43-220(c), (d).

Sec. 21-2. Adoption of alternate method and procedure for collection, etc. of taxes.

(a) Sections 12-51-40 through 12-51-170, as amended, being all of Chapter 51, Code of Laws of South Carolina 1976, are hereby adopted as the alternate method and procedure for the collection, handling and distribution of delinquent property taxes, penalties and costs due to the county. All of the provisions of such Chapter 51 are incorporated herein by reference and adopted as the alternate remedy for the prompt enforcement and collection of delinquent property taxes, penalties and costs in the county.

(b) The county treasurer, auditor, tax assessor and delinquent tax collector shall implement the provisions of such Chapter 51. They are hereby directed to adhere to the same as the procedure for the collection, handling and distribution of property taxes, penalties and costs in the county.
(Ord. of 3-6-84, §§ 1, 2)

Sec. 21-3. Tax board of appeals.

(a) In compliance with the South Carolina Code of Laws and the state tax commission regulations governing county tax boards of appeals, a county tax board of appeals is created.

(b) The county tax board of appeals shall be made up of seven (7) members to be selected by the county council, one from each of the county council election districts, who shall serve a two-year term or until replaced by the county council.

(c) The county tax board of appeals shall adopt appropriate organizational and procedural structures to meet its needs to hear appeals related to assessment matters consistent with state general legislation and state tax commission regulations governing such county tax board of appeals.

(d) The county tax board of appeals shall be compensated as determined by the county council.
(Ord. of 12-21-76, §§ 1—4)

State law reference—Similar provisions, S.C. Code 1976, §§ 12-49-10 et seq., 12-51-10 et seq.

***Cross reference**—Payment of taxes on building or mobile home being moved, § 6-6 et seq.

Sec. 21-4. Ad valorem tax to develop a jointly owned and operated industrial/business park.

(a) Cherokee County is hereby authorized to execute and deliver a written agreement to develop jointly an industrial and business park (the "park") with Chester County. The park is to be located both within the boundaries of Cherokee County and Chester County. The form of the joint industrial park agreement the ("agreement") is attached hereto and all terms of the agreement are incorporated herein. The form, terms and provisions of the agreement presented to this meeting and filed with the clerk of the county council be and they are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the agreement were set out in this section in its entirety. The chairman of the county council, the administrator of the county and the clerk of the county council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the agreement in the name and on behalf of the county. The agreement is to be substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the county executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the agreement now before this meeting.

(b) The maximum tax credits allowable by S.C. Code 1976, § 12-7-1220, as amended, will apply to any business enterprise locating in the park.

(c) Any business enterprise locating in the park shall pay a fee-in-lieu of ad valorem taxes as provided for in the agreement, article VIII, section 13 of the South Carolina Constitution and the Act. The user fee paid in lieu of ad valorem taxes shall be paid to the county treasurer for the county in which the premises is located. That portion of the fees from the park premises located in Chester County and allocated pursuant to the agreement to Cherokee County shall be paid by the Chester County Treasurer to the Cherokee County Treasurer within five (5) business days of receipt for distribution, such distribution shall be made in accordance with the agreement. That portion of the fees from the park premises located in Cherokee County and allocated pursuant to the agreement to Chester County shall be paid by the Cherokee County Treasurer to the Chester County Treasurer within five (5) business days of receipt for distribution, such distribution shall be made in accordance with the agreement. Payments shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgement interest. The counties, acting by and through the county tax collector for the county where the premises is located, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of ad valorem taxes.

(d) The administration development, promotion and operation of the park shall be the responsibility of the county in which each premises of the park is located. Provided, that, to the extent any park premises is owned by a private developer, the developer shall be responsible for development expenses as contained in the agreement.

(e) In order to avoid any conflict of laws or ordinances between the counties, the Chester County ordinances will be the reference for such regulations or laws in connection with the park premises located within Chester County and the Cherokee County ordinances will be the reference for such regulations or laws in connection with the park premises located within Cherokee County. Nothing herein shall be taken to supersede any state or federal law or regulation. The county in which the premises is located is specifically authorized to adopted restrictive covenants and land use requirements for the park at the county's sole direction.

(f) The sheriff's department for the county within which the park premises is located will have initial jurisdiction to make arrests and to exercise all authority and power within the boundaries of the park premises located within Cherokee County and fire, sewer, water and EMS services will be provided by the service district within whose jurisdiction the park premises are located.

(g) Should any subsection of this section be, for any reason, held void or invalid, it shall not affect the validity of any other subsection hereof which is not itself void or invalid.

(h) The agreement may not be terminated except by concurrent ordinances of Chester County Council and Cherokee County Council. In any event, this section shall terminate twenty-one (21) years from the date of its execution by both parties.

(i) Cherokee County hereby designates the following distribution of that portion of the fee-in-lieu of ad valorem taxes received by Cherokee County pursuant to the agreement for park premises in Chester County:

Cherokee County	100%

(j) Cherokee county hereby designates that the distribution of the fee-in-lieu of ad valorem taxes pursuant to the agreement received by Cherokee County for park premises located in Cherokee County be paid to each of the taxing entities in Cherokee County which levy ad valorem property tax in any of the areas comprising the Cherokee Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes, provided that the county may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all taxing entities.

Provided, a portion of the fee-in-lieu of ad valorem taxes which Cherokee County receives pursuant to the agreement for park premises may be, from time to time and by ordinance of the county council or its successor, designated for the payment of special source revenue bonds. (Ord. of 3-8-94, §§ I—X)

Sec. 21-5. Assessment of aircraft.

The assessment ration otherwise applicable in determining the assessed value of aircraft subject to property tax in Cherokee County, South Carolina is reduced to a ratio of four (4)

percent of the fair market value of such aircraft upon adoption of this section. The reduced assessment ratio established in this section shall apply uniformly to all aircraft subject to property tax in Cherokee County, South Carolina.
(Ord. No. 2007-15, § II, 10-1-07)

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APPENDIX A

FEE SCHEDULE*

UNIFORM FEE SCHEDULE

Section 1. Authority of Council.

Cherokee County reserves the right to alter or amend the fee schedule set forth hereinafter from time to time as it may deem appropriate.
(Ord. of 6-25-01(6))

Section 2. Building permits.

VALUATION	*FEE*
$1,000.00 AND LESS	No fee, unless inspection required (electrical, mechanical, etc.) in which case a minimum $15.00 fee for each inspection shall be charged.
$1,000.00 to $50,000.00	$15.00 for first $1,000.00 plus $5.00 for each additional thousand or fraction thereof.
$50,001.00 to $100,000.00	$260.00 for first $50,000.00 plus $4.00 for each additional thousand or fraction thereof.
$100,001.00 to $500,000.00	$460.00 for first $100,000.00 plus $3.00 for each additional thousand or fraction thereof.
$500,001.00 and up	$1,660.00 for first $500,000.00 plus $2.00 for each additional thousand or fraction thereof.

(Ord. of 6-25-01(6))

Section 3. Moving fee.

For the moving of any building or structure, the fee shall be one hundred dollars ($100.00).
(Ord. of 6-25-01(6))

Section 4. Demolition fee.

For the demolition of any building or structure, the fee shall be fifty dollars ($50.00). This section does not apply to those dwelling or structures demolished pursuant to [section] 6-112 of the Cherokee County Code of Ordinances.
(Ord. of 6-25-01(6))

***Editor's note—**An ordinance of June 25, 2001, did not specifically amend the Code; hence, inclusion as Appendix A Fee Schedule was at the editor's discretion.

Cross references—Buildings; construction and related activities, Ch. 6; Land development regulations, Ch. 13; Planning and development, Ch. 17.

Section 5. Penalties for Sections 2 through 4.

Where work for which a permit is required is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this Code in the execution of the work nor from any other penalties prescribed.
(Ord. of 6-25-01(6))

Section 6. Plan-checking fees.

When the valuation of the proposed construction exceeds one thousand dollars ($1,000.00) and a plan is required to be submitted by the authority having jurisdiction, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications for checking. Said plan-checking fee shall be equal to one-half (½) of the building permit fee as set forth. Such plan-checking fee is in addition to the building permit fee.
(Ord. of 6-25-01(6))

Section 7. Land use fees.

The following fees shall be charged at the time the subdivision plat is submitted for review and shall be charged separately for each recurring preliminary plat presented to the designated ordinance administrator.

(A) *Preliminary plat review (approval of road design and layout).*

1. Fifty dollars ($50.00) plus three dollars ($3.00) per lot, up to a maximum of four hundred dollars ($400.00).

(B) *Final plat review (approval for recording).*

1. 2—10 lots $50.00

2. 11 or more lots 75.00

(Ord. of 6-25-01(6))

Section 8. Land development project fee.

One hundred dollar ($100.00) Application along with fee shall be made to the designated ordinance administrator before work is commenced to all newly proposed multi-family, mobile home park, industrial, office, or commercial projects.
(Ord. of 6-25-01(6))

Section 9. Land-use variance application fee.

Twenty-five dollar ($25.00) application along with fee shall be submitted in order to have the matter referred to the appropriate commission or review board for hearing.

Section 10. Board of adjustment and appeals application fee.

Twenty-five dollar ($25.00) application along with fee shall be submitted to have the matter referred to the board of adjustment and appeals for hearing.
(Ord. of 6-25-01(6))

Section 11. Communication tower permit fee.

Ten thousand dollar ($10,000.00) fee shall be due prior to the issuance of the building permit for newly constructed communication towers.
(Ord. of 6-25-01(6))

Section 12. Manufactured homes.

A.	License fees	$5.00
B.	Set-up fees for inspections, which includes but is not limited to electrical, mechanical, and plumbing inspections	200.00

(Ord. of 6-25-01(6))

Section 13. Sexually oriented business.

A.	Business permit:	
	application fee	$50.00
	annual permit	200.00
B.	Employee permit:	
	application fee	25.00
	annual renewal	25.00
C.	Temporary employee permit	25.00

(Ord. of 6-25-01(6))

Section 14. Marriage licenses and marriage ceremonies.

The county shall assess the following fees for marriage licenses:

For marriage licenses issues when either or both of the marrying parties are residents of Cherokee County	$30.00
For all marriage licenses issues when neither party is a resident of Cherokee County	50.00

The county shall assess the following fees for marriage ceremonies:

For all marriage ceremonies performed by county probate court personnel	$30.00

(Ord. No. 2005-03, § 1, 4-18-05)

Editor's note—Ord. No. 2005-03, § 1, adopted April 18, 2005, was not specifically amendatory of the Code and has been included as App. A, § 14 at the discretion of the editor.

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***Note—**The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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