

## **CHAPTER 26: OFFENSES AND MISCELLANEOUS PROVISIONS**

### **Article**

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## ARTICLE I: IN GENERAL

### Section

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### § 26-1 SUMMONS TO APPEAR.

(A) *Authority.* In all actions for the violation of provisions of the town's ordinances, not amounting to a breach of the peace, the initial process may be a summons issued by town officials or employees, who are authorized by subsection (e) below to issue summons commanding the person named therein as the defendant to appear before the municipal court at a time to be set in the summons.

(B) *Contents.* The summons shall cite only one violation per summons and must contain the following information:

- (1) The name and address of the person or entity charged;
- (2) The name and title of the issuing officer;
- (3) The time, date and location of the hearing;
- (4) A description of the ordinance violated;
- (5) The procedure to post bond; and
- (6) Any other notice or warning otherwise required by law.

(C) *"Breach of peace" defined.* The term **BREACH OF PEACE** is considered a generic term and includes all violations of public peace or order and acts tending to be a disturbance thereof.

(D) *Failure to appear.* Any person who fails to appear before the court as required by the summons, without first having posted such bond as may be required or without having been granted a continuance by the court, upon conviction, shall be guilty of a misdemeanor.

(E) *Persons authorized to issue.* The Mayor and Council shall designate individuals who shall be authorized to issue municipal summons, which shall be spread upon the minutes of the Council.

(F) *Motor vehicle exception.* This section shall not apply to any ordinance which regulates the use of motor vehicles on the public roads.

(G) *Not exclusive remedy.* This section shall not be construed as a limitation upon the power of any person, officer or employee to seek or pursue any other lawful process or legal remedy.

(H) *Bond amounts set by Judge.* The bond amount for violations shall be prescribed by the Municipal Judge. Bonds shall be posted in the manner prescribed by the Municipal Judge. Town code enforcement officers, when appointed, and town law enforcement officers shall be prohibited from accepting bonds.

(I) *Not to be used for custodial arrests.* Any summons issued under the provisions of this article shall not be used to perform a custodial arrest.

#### **§ 26-2 STATE CRIMINAL LAWS ADOPTED.**

All acts and conduct that constitute any violation of the common law and statutory law, as set forth in the 1976 South Carolina Code of Laws, are hereby declared unlawful, when such act, conduct or violation occurs, insofar as such provisions and violations can have application and the punishment of which is within the jurisdiction of the Mayor and Council.

#### **§§ 26-3—26-22 RESERVED.**

## ARTICLE II: ALCOHOLIC BEVERAGES

### Section

- 26-23 Prohibited sales hours; exception
- 26-24 Drinking on premises of licensed retailer, wholesaler or manufacturer prohibited
- 26-25 Posting of permit and health certificate required
- 26-26 Unlawful purchases
- 26-27 Consumption at certain places
- 26-28—26-57 Reserved

#### ***Statutory reference:***

*Regulation of alcoholic beverages, see S.C. Code §§ 61-6-1600 et seq.*

*Regulation of beer, ale, porter and wine, see S.C. Code §§ 61-4-10 et seq.*

### **§ 26-23 PROHIBITED SALES HOURS; EXCEPTION.**

(A) All businesses which possess an on-premises consumption permit for alcoholic beverages shall be closed for business between the hours of 2:00 a.m. and 5:00 a.m., Monday through Saturday, and shall remain closed between the hours of 12:00 midnight on Saturday and 5:00 a.m. Monday.

(B) It shall be unlawful for any person or business to sell or offer for sale any beer or wine between the hours of 2:00 a.m. and 5:00 a.m., Monday through Saturday, and between the hours of 12:00 midnight Saturday and sunrise Monday morning, except those establishments licensed by the state to sell alcoholic beverages in containers of two ounces or less during lawful hours.

#### ***Statutory reference:***

*Sunday sales, see S.C. Code § 61-4-120*

### **§ 26-24 DRINKING ON PREMISES OF LICENSED RETAILER, WHOLESALER OR MANUFACTURER PROHIBITED.**

It shall be unlawful for any person to drink alcoholic liquors on the premises of any retail, wholesale or manufacturing alcoholic liquor business or business establishment.

### **§ 26-25 POSTING OF PERMIT AND HEALTH CERTIFICATE REQUIRED.**

Both the permit issued by the state and the certificate of approval issued by the state's Department of Health and Environmental Control (DHEC) shall be conspicuously posted on the premises.

**§ 26-26 UNLAWFUL PURCHASES.**

It shall be unlawful for any person to purchase or otherwise procure any alcoholic liquor other than that purchased from licensed dealers within the state.

**§ 26-27 CONSUMPTION AT CERTAIN PLACES.**

(A) *Prohibited.* It shall be unlawful for any person to consume alcoholic beverages at places where athletic contests are being conducted and on the grounds of a school, church or business parking lot.

(B) *Public property.* It shall be unlawful for any person to consume or have in his possession beer, wine or liquor in an open container on the sidewalks, street, alleyways, roads or other public place within the corporate limits of the town.

(C) *Possession of container evidence of violation.* Possession of an open container as described in subsection (B) above shall constitute prima facie evidence of a violation of this section.

(D) *Exception.* This section shall not be construed to prohibit the possession of beer, wine or liquor in a closed container.

**§§ 26-28—26-57 RESERVED.**

## **ARTICLE III: OFFENSES AGAINST MORALITY, DECENCY AND PUBLIC WELFARE**

### **Section**

#### ***Division 1. Generally***

- 26-58 Keeping bawdy houses
- 26-59 Adult clubs
- 26-60 Obscene material
- 26-61 Disturbing the peace
- 26-62 Loitering
- 26-63 Closing or interfering with streets, sidewalks and the like without consent
- 26-64 Spitting in public
- 26-65 Creating public nuisance or disturbance in drunken condition
- 26-66 School disturbances
- 26-67 Trick or treating on Halloween without supervision or after 9:00 p.m.
- 26-68 Fortunetelling, palmistry and the like
- 26-69—26-96 Reserved

#### ***Division 2. Gambling***

- 26-97 Prohibited; exceptions
- 26-98 Confiscating and destroying paraphernalia
- 26-99 Maintaining house, room or place
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- 26-127 Inviting, enticing or soliciting
- 26-128 Transporting, carrying or assisting
- 26-129 Giving information or direction to place
- 26-130 Taking, renting, using or occupying place
- 26-131—26-158 Reserved

#### ***Statutory reference:***

*Authority to enact ordinances to preserve health, peace and order, see  
S.C. Code § 5-7-30*

***DIVISION 1. GENERALLY*****§ 26-58 KEEPING BAWDY HOUSES.**

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

***Statutory reference:***

*Unlawful to keep or set up a bawdy house, see S.C. Code § 16-15-90(6)*

**§ 26-59 ADULT CLUBS.**

(A) *Defined.* The term **ADULT CLUBS** means any businesses catering to adults for the purpose of exciting its customers in a salacious manner.

(B) *Prohibited.* Such clubs are hereby declared unlawful in the town.

**§ 26-60 OBSCENE MATERIAL.**

It shall be unlawful for any person to post or make any indecent, obscene or profane writing or pictures, or to make, sell, exhibit or offer for sale any indecent or lewd book, picture or anything of like character.

**§ 26-61 DISTURBING THE PEACE.**

It shall be unlawful for any person to conduct himself or herself in such a manner as to result in a disturbance of the peace to the inhabitants of the town or to knowingly aid, assist or abet therein.

**§ 26-62 LOITERING.**

(A) *Defined.* For purposes of this section, the term **LOITER** includes, but is not limited to, one or more of the following acts:

(1) Obstructing the unhampered passage of pedestrians or vehicles;

(2) Obstructing, molesting or interfering with any person lawfully upon any street, park or other public place; or



(3) Refusing to move when requested to do so by a peace officer; provided, the peace officer has exercised his or her discretion reasonably under the circumstances in order to preserve or promote public peace and order.

(B) *Prohibited.* It shall be unlawful for any person to loiter in or upon any street, park, public place or in any public building or obstruct the access to any public building or any part thereof, or obstruct the passage of any person through any public street, park or public place.

#### **§ 26-63 CLOSING OR INTERFERING WITH STREETS, SIDEWALKS AND THE LIKE WITHOUT CONSENT.**

It shall be unlawful for any person to close or in any manner interfere with the free use of any public street or thoroughfare, sidewalk or alley without the previous written consent of the Mayor and Council.

#### **§ 26-64 SPITTING IN PUBLIC.**

It shall be unlawful for any person to spit upon any sidewalk or other public place, or upon the floor, walls or any other part of any building or room which is used by the public.

#### **§ 26-65 CREATING PUBLIC NUISANCE OR DISTURBANCE IN DRUNKEN CONDITION.**

It shall be unlawful for any person to create a nuisance or disturbance upon the public streets or in any public place in a drunken condition.

***Statutory reference:***

*Public disorderly conduct, see S.C. Code § 16-17-530*

#### **§ 26-66 SCHOOL DISTURBANCES.**

It shall be unlawful for any person to:

(A) Willfully or unnecessarily:

- (1) Interfere with or disturb in any way or in any place the students or teachers of any school;
- (2) Loiter about such school premises; or
- (3) Act in an obnoxious manner thereon.

(B) Enter upon any school premises or loiter around the premises, except on business, without the permission of the principal or person in charge.

***Statutory reference:***

*Disturbing schools, see S.C. Code § 16-17-420*

**§ 26-67 TRICK OR TREATING ON HALLOWEEN WITHOUT SUPERVISION OR AFTER 9:00 P.M.**

(A) *Prohibited.* Any person under 12 years of age may participate in the act of “trick or treat” on Halloween night. All persons under said age shall be accompanied by a parent or responsible person. All “trick or treat” activities shall normally be concluded not later than 9:00 p.m.

(B) *Exception.* This section shall not apply to organized and supervised Halloween parties such as schools, churches, private homes and the like.

**§ 26-68 FORTUNETELLING, PALMISTRY AND THE LIKE.**

It shall be unlawful to engage in the business, trade or profession of fortunetelling, palmistry, phrenology, clairvoyance or the prediction of future events by cards or other means or to offer to tell fortunes or predict future events by palmistry, astrology, clairvoyance, cards or other means as an inducement to promote some other business, trade or profession.

**§§ 26-69—26-96 RESERVED.**

***DIVISION 2. GAMBLING***

**§ 26-97 PROHIBITED; EXCEPTIONS.**

(A) It shall be unlawful for any person to engage in gambling or games of chance, to keep or operate, or permit to be kept or operated, any slot machines, punchboard, tipboard or other device pertaining to games of chance of whatsoever name or kind.

(B) Exceptions to the provisions of subsection (A) above shall include automatic weighing, measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value for each coin or bill deposited therein, and in which there is no element of chance, as may be permitted by state statutes.

***Statutory reference:***

*Unlawful games and betting, see S.C. Code § 16-19-40*

**§ 26-98 CONFISCATING AND DESTROYING PARAPHERNALIA.**

Upon the charging of any person in the Municipal Court of a violation of § 26-97 of this chapter, it shall be the duty of the police, whenever possible, to seize and take into possession any gaming device, machines, punchboard, tipboard or other device of whatever name or kind pertaining to games of chance. Upon conviction in the Municipal Court, it shall be the duty of the police officers of the town to destroy the gaming device of whatever name or kind.

***Statutory reference:***

*Destruction of gambling devices after confiscation, see S.C. Code § 16-19-120*

**§ 26-99 MAINTAINING HOUSE, ROOM OR PLACE.**

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

**§§ 26-100—26-126 RESERVED.*****DIVISION 3. ILLEGAL PURPOSES*****§ 26-127 INVITING, ENTICING OR SOLICITING.**

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

***Statutory reference:***

*Prostitution, see S.C. Code § 16-15-90*

**§ 26-128 TRANSPORTING, CARRYING OR ASSISTING.**

It shall be unlawful for any person to transport, carry, convey or assist by aiding, abetting, encouraging, requesting or other, in transporting, carrying, conveying in or accompanying by any ways and means whatsoever any person for any illegal purpose.

***Statutory reference:***

*Transporting persons for the purpose of prostitution, see S.C. Code § 16-15-90(9)*

**§ 26-129 GIVING INFORMATION OR DIRECTION TO PLACE.**

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

**§ 26-130 TAKING, RENTING, USING OR OCCUPYING PLACE.**

It shall be unlawful for any person to take, rent, use or occupy any place for illegal purposes.

***Statutory reference:***

*Use of buildings for lewdness declared a nuisance, see S.C. Code § 15-43-10*

**§§ 26-131—26-158 RESERVED.**

## ARTICLE IV: OFFENSES AGAINST THE PEACE

### Section

#### *Division 1. Generally*

- 26-159 Town designated as crime watch area
- 26-160 Disorderly conduct
- 26-161 Disorderly conduct; drunken condition; disturbing public gatherings
- 26-162 Swearing falsely when taking oaths
- 26-163 Interfering with or disturbing worship, public gathering or meeting
- 26-164 Instigating, aiding or participating in riot where no weapon used or injuries sustained
- 26-165 Loud and disturbing noises
- 26-166 Possessing drug paraphernalia
- 26-167 Disrupting court proceedings or Council meetings
- 26-168—26-187 Reserved

#### *Division 2. Weapons*

- 26-188 Carrying firearms; exceptions
- 26-189 Pointing or discharging firearms or other dangerous devices
- 26-190 Open carry with training
- 26-191—26-216 Reserved

### ***DIVISION 1. GENERALLY***

#### **§ 26-159 TOWN DESIGNATED AS CRIME WATCH AREA.**

(A) When authorized by ordinance, the Mayor and Council hereby declare the town to be a “crime watch area,” and hereby authorize the placing of signs upon highway rights-of-way upon highways entering the town designating the community as a “Crime Watch Area”.

(B) Appropriate signs shall be placed in accordance with the state's Department of Transportation (SCDOT) regulations, as authorized by the general assembly.

**Statutory reference:**

*Authority for Department of Transportation to erect certain signs requested by local governing bodies, see S.C. Code § 57-3-110(11)*

**§ 26-160 DISORDERLY CONDUCT.**

(A) For the purpose of this section, the term **PUBLIC** means affecting or likely to affect any person in a place to which the public or a substantial group has access. The term **PUBLIC** includes, but is not limited to, the following places:

- (1) Highways;
- (2) Transport facilities;
- (3) Schools;
- (4) Prisons;
- (5) Apartment houses;
- (6) Places of business or entertainment;
- (7) Governmental buildings;
- (8) Any neighborhood; and
- (9) The inside of automobiles.

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

- (1) Engaging in fighting, threatening, violent or tumultuous behavior, or breach of the peace;
- (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or addresses of abusive language to any person present;
- (3) Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose; or

(4) Lewd or indecent conduct by scurrilous, obscene, indecent or profane writing, picture, mark or figure on any wall, fence, house or structure.

**Statutory reference:**

*Disorderly conduct, see S.C. Code § 16-17-530*

**§ 26-161 DISORDERLY CONDUCT; DRUNKEN CONDITION; DISTURBING PUBLIC GATHERINGS.**

It shall be unlawful for any person to behave disorderly in any public hall or other place of amusement, entertainment or gathering or to enter the same in a drunken condition or to interrupt any play, performance, lecture, entertainment or service therein or any player, speaker or other person taking part therein.

**§ 26-162 SWEARING FALSELY WHEN TAKING OATHS.**

It shall be unlawful for any person to willfully and knowingly swear falsely under oath in giving evidence in the Municipal Court, or at any other time or place within the corporate limits where an oath has been taken before any person who may be qualified to administer oaths.

**§ 26-163 INTERFERING WITH OR DISTURBING WORSHIP, PUBLIC GATHERING OR MEETING.**

It shall be unlawful for any person to interfere with or disturb any religious worship or public gathering or meeting.

**Statutory reference:**

*Disturbing religious worship prohibited, see S.C. Code § 16-17-520*

**§ 26-164 INSTIGATING, AIDING OR PARTICIPATING IN RIOT WHERE NO WEAPON USED OR INJURIES SUSTAINED.**

Any person, upon conviction of engaging in a riot, rout or affray when no weapon was actually used and no wound inflicted, shall be subject to and liable for each offense as a misdemeanor.

**Statutory reference:**

*Engaging in a riot, see S.C. Code § 16-5-120*

**§ 26-165 LOUD AND DISTURBING NOISES.**

(A) *Prohibited.* The creation of any unreasonably loud and disturbing noise and noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary, reasonable person are hereby prohibited.

(B) *Examples.* The following acts, among others, are declared to be loud and disturbing noises in violation of this section; provided, however, that, such enumeration shall not be construed to be exclusive of other noises:

(1) *Vehicle horn or signal device.* The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle while:

(a) Not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended;

(b) The creation by means of any such signal device of any unreasonably loud or harsh sound; and

(c) The sounding of such device for any unreasonable period of time.

(2) *Playing radios, phonographs or other musical instrument.* The playing of any radio, phonograph or any musical instrument in such manner, or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. as to create a noise such as is reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity;

(3) *Out of repair vehicles.* The use of any automobile, motorcycle, streetcar or vehicle so out of repair, so loaded or operated in such a manner as to create loud noises such as spinning or squealing tires, grating, grinding, rattling or other noise;

(4) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;

(5) *Exhaust noises.* The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine, motor vehicle or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;

(6) *Operating compressed air devices.* The use of any mechanical device operated by compressed air, except pneumatic drills, unless the noise thereby created is effectively muffled and reduced;

(7) *Construction in building in residential/business district.* The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public safety, and then only with a permit from the Town Council, which permit may be renewed for a period of three days or less while the emergency continues;



(8) *Excessive noise near schools, courts and the like.* The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same are in session, which unreasonably interferes with the working of such institution; provided, conspicuous signs are displayed in such streets indicating that the same is a school, institution or court street;

(9) *Loading/unloading vehicles.* The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers;

(10) *Bells and gongs.* The sounding of any bell or gong attached to any building or premises which is reasonably calculated to disturb a person of ordinary disposition if such person were in the vicinity thereof; provided, however, that, this subsection (B)(10) shall not apply to houses of worship;

(11) *Shouting/crying wares in neighborhoods.* The shouting and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood;

(12) *Using instruments or devices to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale of merchandise;

(13) *Operating business after hours.* The operation of any garage, service station, auto repair business, taxi business, plant, store, factory or other place of business, between the hours of 8:00 p.m. and 7:00 a.m. in a manner as to create loud and disturbing noises, as to annoy or disturb the quiet and comfort of any citizen, and particularly the creating of disturbing noises as to annoy or disturb the quiet, comfort, peace or repose of any person in any dwelling, hotel, boardinghouse or other type of residence;

(14) *Excessive noise from motor vehicles.* The starting of a motor vehicle engine of any kind using excessive acceleration or creating loud noises, or at any time to commence or continue the movement of any such vehicle with the spinning of tires or any other excessive noise. Any motor vehicle operated within the town shall be kept under proper control at all times; and

(15) *Animals and birds.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

## § 26-166 POSSESSING DRUG PARAPHERNALIA.

(A) *Defined.* The term **DRUG PARAPHERNALIA** means any equipment, product and material of any kind which is used, intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance.

(B) *Prohibited.* It shall be unlawful to possess drug paraphernalia within the corporate limits with the intent of selling, donating or otherwise distributing same for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

#### **§ 26-167 DISRUPTING COURT PROCEEDINGS OR COUNCIL MEETINGS.**

It shall be unlawful for any person to interrupt the court proceedings of the Municipal Judge or any meeting of the Mayor and Council, or be guilty of disorderly conduct therein, or to commit any contempt of either.

#### **§§ 26-168—26-187 RESERVED.**

### ***DIVISION 2. WEAPONS***

#### **§ 26-188 CARRYING FIREARMS; EXCEPTIONS.**

It shall be unlawful for any person to carry about the person, whether concealed or not, any pistol, except as follows:

(A) Any person carrying a permit issued by lawful authority, pursuant to state statutes;

(B) Marshals, sheriffs, police officers or other law enforcement officers, or peace officers of the federal government or other states when they are carrying out official duties while in the state;

(C) Members of the United States armed forces or National Guard, organized reserves or the state militia when on duty;

(D) Members of organizations authorized by law to purchase or receive firearms from the United States or the state, or regularly enrolled members of clubs organized for the purpose of target shooting or collecting modern and antique firearms while the members are at or going to, or from their places of target practice, or their shows and exhibits;

(E) Licensed hunters or fishermen while engaged in hunting or fishing;

(F) Any person regularly engaged in the business of manufacturing, repairing, repossessing or dealing in firearms, or the agent or representative of that person while possessing, using or carrying a pistol in the usual or ordinary course of business;

(G) Guards of common carriers, banks and other financial institutions while engaged in that capacity and guards engaged in the protection of property of the United States or any agency thereof;

(H) Any authorized military or civil organizations while parading or the members thereof when going to and from the places of meeting of their respective organizations;

(I) Any person in his or her home, or upon his or her real property, or fixed place of business;

(J) Any person in any vehicle where the pistol is secured in a closed glove compartment or closed trunk;

(K) Any person carrying a pistol unloaded and in a secure wrapper:

(1) From the place of purchase to his or her home or fixed place of business; or

(2) While in the process of the changing or moving of his or her residence or the changing or moving of his or her fixed place of business.

(L) Any night watchman while engaged in his or her duties as a night watchman.

**Statutory reference:**

*Unlawful carrying of a handgun and exceptions, see S.C. Code § 16-23-20*

**§ 26-189 POINTING OR DISCHARGING FIREARMS OR OTHER DANGEROUS DEVICES.**

(A) It shall be unlawful to point, fire or discharge, attempt to point, fire or discharge or cause to be pointed, fired or discharged any firearm within the municipal limits of the town. Firearm is described in this section without limitation, any pistol, rifle, shotgun, air gun, spring loaded gun, crossbow, bow and arrow, or any other devise capable of firing a dangerous projectile.

(B) This section shall not apply to the following:

(1) Any officer of the law from discharging a firearm in the performance of his or her duty, nor shall it be construed to prohibit any citizen from discharging a firearm lawfully defending his or her person when in fear of life or serious bodily harm or when lawfully defending the life another; or

(2) Any person discharging a firearm to protect people, pets and property from animals that the person reasonably believes to pose a direct threat or danger to people and/or pets or cause damage to property from such animal.

(Ord. 2020-013, passed 11-16-2020)

**Statutory reference:**

*Pointing a firearm at any person, see S.C. Code § 16-23-410*

**§ 26-190 OPEN CARRY WITH TRAINING.**

(A) *Findings and determinations.* The Mayor and Council of the town hereby finds and determines:

(1) The South Carolina General Assembly passed the Open Carry with Training Act (hereinafter, “the Act”), and Governor Henry D McMaster signed the Act into law on 5-17-2021, being H\*3094;

(2) Due to the Act’s 90-day implementation delay, the law will not go into effect until 8-15-2021;

(3) The Act will allow for a person to carry a handgun openly on or about his or her person so long as the person has received a valid concealed weapons permit from the state’s Law Enforcement Division, pursuant to the provisions set forth in S.C. Code Art. 4, Ch. 31, Title 23;

(4) Pursuant to amended S.C. Code § 23-31-520, counties and other local governments throughout the state may temporarily restrict the otherwise lawful open carrying of a firearm on public property during certain events; and

(5) The Town Council wishes to provide guidance to the citizens of the town in response to the Act and to provide for the public health and safety for the citizens of the town by its regulation of the open carrying of a firearm on public property during certain events.

(B) *Temporary restriction of open carry on public property with permit.*

(1) Notwithstanding another provision of law, the town may temporarily restrict the otherwise lawful open carrying of a firearm on public property when issuing a permit to allow a public protest, rally, fair, parade, festival or other organized event. However, if a permit is not applied for and issued prior to an event as described in this subsection (B)(1), the town may not exercise the provisions of this subsection (B)(1).

(2) Permits shall be required of any person or entity hosting a protest, rally, fair, festival or other organized event on public property.

(3) A person or entity hosting a public protest, rally, fair, parade, festival or other organized event must post signs at the event when open carrying is allowed or not allowed at the event pursuant to the terms of the issued permit

(4) The town, when exercising the authority granted to them by amended S.C. Code § 23-31-520, must be specific in the area, duration and manner in which the restriction upon open carry is imposed and must provide prior notice of the restriction when feasible. In no event may the restriction extend beyond the beginning and conclusion of the event or beyond the location of the event.

(5) The duration of an event may not be scheduled for such a length of time as to frustrate the intent of this section.

(6) The town may not confiscate a firearm or ammunition for a violation of this section unless incident to an otherwise lawful arrest.

(C) *Authority to act.* The Mayor, Town Council, Clerk to Council, Town Administrator, Town Attorney and all other appropriate officials of the town are authorized and directed to take such actions and do any and all things necessary or desirable in connection with implementing this section and effectuating the intent of this section.

(Ord. 2021-12, passed 12-14-2021)

**§§ 26-191—26-216 RESERVED.**



## ARTICLE V: OFFENSES AGAINST PROPERTY

### Section

- 26-217 Malicious mischief
- 26-218 Damaging property
- 26-219 Failing to leave premises when requested
- 26-220 Petit larceny
- 26-221 Buying, receiving or possessing stolen goods
- 26-222 Trespassing
- 26-223 Obtaining signature or property by false pretenses
- 26-224 Unlawfully obtaining credit or property
- 26-225 Securing property by fraudulent impersonation of officer
- 26-226 Shoplifting
- 26-227 Gaining admission to public events without payment
- 26-228 Breaking into motor vehicle, gasoline tank, pump and the like
- 26-229 Issuing bad checks
- 26-230 Removing or altering boundary tree, landmark and the like
- 26-231 Removing, destroying and the like of fencing
- 26-232 Failing to return; town property upon termination of employment
- 26-233 Same; books, newspapers and the like borrowed from public institutions
- 26-234 Operating junkyard
- 26-235—26-261 Reserved

### § 26-217 MALICIOUS MISCHIEF.

It shall be unlawful for any person to willfully or maliciously destroy or in any manner injure any property, real or personal, public or private, not his or her own within the town.

### § 26-218 DAMAGING PROPERTY.

Any person who shall damage any goods, wares or merchandise, or other personal property of another person, or any public property, or who shall damage or destroy any fencing, trees, shrubbery or buildings on the land of another or belonging to any other person, upon conviction, shall be guilty of a misdemeanor.

#### ***Statutory reference:***

*Malicious injury to animals and other personal property, see S.C. Code § 16-11-510*

*Malicious injury to tree, house, outside fence or fixture, see S.C. Code § 16-11-520*

**§ 26-219 FAILING TO LEAVE PREMISES WHEN REQUESTED.**

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

***Statutory reference:***

*Refusing to leave on request, see S.C. Code § 16-11-620*

**§ 26-220 PETIT LARCENY.**

(A) *Defined.* For purposes of this section, the term **PETIT LARCENY** means any article of goods, choses in action, bank bills, bills receivable, chattels or other articles of personalty of which, by law, larceny (i.e., the taking of almost anything of value without the owner's consent with the intent to permanently deprive him or her of the value of the property taken) may be committed or of any such fixture or part or product of the soil, severed from the soil by an unlawful act or has a value of \$1,000 or less.

(B) *Prohibited.* The act of petit larceny as described in subsection (A) above is hereby declared to be a misdemeanor.

***Statutory reference:***

*Petit larceny, see S.C. Code § 16-13-30*

**§ 26-221 BUYING, RECEIVING OR POSSESSING STOLEN GOODS.**

Any person who shall buy, receive or have in his or her possession any goods or chattels or other property, knowing the same to have been stolen, upon conviction, shall be guilty of a misdemeanor.

***Statutory reference:***

*Receiving stolen goods, see S.C. Code § 16-13-180*

**§ 26-222 TRESPASSING.**

(A) *"Private property" defined.* For purposes of this section, the term **PRIVATE PROPERTY** means the house and land surrounding the house, either owned, rented or occupied by any person.

(B) *Prohibited.* The following acts are prohibited.

(1) Every entry upon the lands of another where any horse, mule, cow, hog or any other livestock is pastured, or any other lands of another, after notice from the owner or tenant prohibiting such entry, shall be a misdemeanor.



(2) Any person entering upon the lands of another for the purpose of hunting, fishing, trapping, netting, gathering fruit, wild flowers, cultivated flowers, shrubbery, straw, turf, vegetables or herbs or cutting timber on the same, without the consent of the owner or manager thereof, upon conviction, shall be guilty of a misdemeanor.

(C) *Posting notices.* When any owner or tenant of any lands shall post a notice in four conspicuous places on the borders of such land prohibiting entry thereon, a proof of the posting shall be deemed and taken as notice conclusive against the person making entry, as stated in this section, for the purpose of trespassing.

### § 26-223 OBTAINING SIGNATURE OR PROPERTY BY FALSE PRETENSES.

Any person who shall, by any false pretense or representation, obtain the signature of any person to any written instrument or shall obtain for any other person any chattel, money, valuable security or other property, real or personal, if the sum of the written instrument or the value of the property so obtained does not exceed \$1,000, with the intent to cheat and defraud any person of such property, upon conviction, shall be guilty of a misdemeanor and the punishment shall be not more than is permitted by law without presentment or indictment by the grand jury.

***Statutory reference:***

*Obtaining signature or property by false pretenses, see S.C. Code §§ 16-13-240, 16-13-260*

### § 26-224 UNLAWFULLY OBTAINING CREDIT OR PROPERTY.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CREDIT CARD.*** An identification card, credit number, credit device or other credit document issued to a person by a business organization which permits such person to purchase or obtain goods, property or services on the credit of such organization.

***NOTICE.*** Includes whether the notice was given to the purchaser in person or in writing. Such ***NOTICE***, in writing, shall be presumed to have been given when deposited as registered or certified matter, in the United States mail, addressed to such person at his or her address as it appears in the files of the issuer of the credit card.

(B) *Prohibited.* It shall be unlawful for any person to knowingly use, for the purpose of obtaining credit or for the purchase of goods, property or services:

(1) A credit card which has not been issued to such person and which is not used with the consent of the person to whom issued;

(2) A credit card which has been revoked or canceled by the issuer of such card and notice thereof has been given to such person;

(3) A credit card which has expired; or

(4) A credit card which is false, fictitious or counterfeit.

(C) *Penalty.* Any person violating the provisions of this section, when the amount of credit or purchase obtained is less than \$50, upon conviction, shall be guilty of a misdemeanor.

#### **§ 26-225 SECURING PROPERTY BY FRAUDULENT IMPERSONATION OF OFFICER.**

Anyone who shall take upon himself or herself to act as an officer with the intent to defraud any government or person, or shall in such pretension or pretended character demand, obtain or receive from any government or person any money, paper, document or other valuable thing of a value less than or equal to \$200, upon conviction, shall be guilty of a misdemeanor.

***Statutory reference:***

*Securing property by fraudulent impersonation of an officer, see S.C. Code § 16-13-290*

#### **§ 26-226 SHOPLIFTING.**

(A) Shoplifting is hereby declared to be a misdemeanor.

(B) Upon conviction, a person shall be guilty of shoplifting if he or she:

(1) Takes possession of, carries away, transfers from one person to another or from one area of a wholesale or retail mercantile establishment to another area, or cause to be carried away or transferred any merchandise displayed, held, stored or offered for sale by any wholesale or retail mercantile establishment with the intention of depriving the owner of the possession, use or benefit of said merchandise without paying the full value thereof;

(2) Alters, transfers or removes any label, price tag marking, indication of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale in a wholesale or retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the established value with the intention of depriving the owner of the full value of said merchandise; and

(3) Transfers any merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment from the container in which it is displayed to any other container with the intent to deprive the merchant of the full retail value.

***Statutory reference:***

*Shoplifting, see S.C. Code § 16-13-110*

**§ 26-227 GAINING ADMISSION TO PUBLIC EVENTS WITHOUT PAYMENT.**

It shall be unlawful for any person:

(A) Where an admission charge is made, to gain admittance to any athletic contest or other public event, without paying the price of admission;

(B) Unless upon his or her own premises, to witness an athletic contest or other public event, where an admission is charged, without paying the price of said admission; and/or

(C) To aid, abet or assist in any way any other person to witness any athletic contest or other public event without said person paying the admission charge.

**§ 26-228 BREAKING INTO MOTOR VEHICLE, GASOLINE TANK, PUMP AND THE LIKE.**

(A) Whoever shall break or attempt to break into any motor vehicle or any compartment thereof, in the daytime or in the nighttime, with the intent to steal the same or anything of value therefrom or attached or annexed thereto or used in connection therewith or in the perpetuation of any criminal offense, upon conviction, shall be guilty of a misdemeanor.

(B) Whoever shall break or attempt to break any tank, pump or other vessel, where kerosene, gasoline or lubricating oil is stored or kept, with the intent to steal any such product therein contained, upon conviction, shall be guilty of a misdemeanor.

***Statutory reference:***

*Breaking into motor vehicles, see S.C. Code § 16-13-160*

**§ 26-229 ISSUING BAD CHECKS.**

(A) *State provisions adopted.* The provisions of S.C. Code §§ 34-11-10 et seq. are hereby adopted and incorporated by reference as if fully set forth in this section.

(B) *Penalty fee.*

(1) For such checks issued to the town, a penalty fee shall be charged the issuer.

(2) Such fee shall be in an amount as established from time to time by the Town Council and set forth in the schedule of fees and charges, available for public examination in the Town Clerk's office. (Ord. 73, passed 4-24-2000)

**§ 26-230 REMOVING OR ALTERING BOUNDARY TREE, LANDMARK AND THE LIKE.**

If any person shall knowingly, willfully, maliciously or fraudulently cut, fell, alter or move any certain boundary tree or other allowed landmark, lamp post, post or shade tree, such person so offending, upon conviction, shall be guilty of a misdemeanor.

***Statutory reference:***

*Altering or removing landmarks, see S.C. Code § 16-11-680*

**§ 26-231 REMOVING, DESTROYING AND THE LIKE OF FENCING.**

Any person other than the owner who shall remove, destroy or leave down any portion of any fence intended to enclose animals of any kind, crop or uncultivated lands or who shall leave open any gate or leave down any bars or other structure intended for a like purpose, upon conviction, shall be guilty of a misdemeanor.

**§ 26-232 FAILING TO RETURN; TOWN PROPERTY UPON TERMINATION OF EMPLOYMENT.**

Upon leaving town employment or any town office, it shall be unlawful for any employee or official, including volunteers, to fail to return to the town any town property or equipment issued to him, including this code.

**§ 26-233 SAME; BOOKS, NEWSPAPERS AND THE LIKE BORROWED FROM PUBLIC INSTITUTIONS.**

Whoever shall borrow from any library, school, museum, collection or exhibition any book, newspaper, magazine, manuscript, pamphlet, publication, recording, film or other article belonging to or in the care of said organizations, under any agreement to return it, thereafter shall fail to return said borrowed article, shall be given written notice, mailed to his or her last known address by certified mail or delivered in person, to return such borrowed article within 15 days, and in the event that such person shall thereafter willfully and knowingly fail to return such borrowed article within 15 days, such person shall be guilty of a misdemeanor.

***Statutory reference:***

*Requirement to return books borrowed from public institutions, see S.C. Code § 16-13-340*

**§ 26-234 OPERATING JUNKYARD.**

(A) *Prohibited.* No junkyard, whether for automobiles, machinery or other junk equipment, shall be operated in the town. No license shall be issued for such a business.

(B) *Exception.* This section shall not apply to junk dealers who maintain their business in a completely enclosed building.

**§§ 26-235—26-261 RESERVED.**



## **ARTICLE VI: OFFENSES AGAINST THE PERSON**

### **Section**

- 26-262 Assault and battery
- 26-263 Pointing firearm
- 26-264 Throwing stones, sticks and the like
- 26-265 Abandoning or discarding refrigerator, ice chest and the like
- 26-266 Abandoning unprotected well or pit
- 26-267—26-295 Reserved

### **§ 26-262 ASSAULT AND BATTERY.**

It shall be unlawful for any person to commit an assault and battery upon any other person.

### **§ 26-263 POINTING FIREARM.**

(A) *Prohibited.* It shall be unlawful for any person to point at any other person any loaded or unloaded firearm.

(B) *Exception.* Nothing contained in this section shall be construed to abridge the right of self-defense or to apply to theatrical or like performances or to peace officers in the discharge of their duties.

### **§ 26-264 THROWING STONES, STICKS AND THE LIKE.**

It shall be unlawful for any person to throw any stone, stick or other object whereby any person may be, or shall be, hit or hurt, or any window broken, or other property belonging to another damaged or destroyed.

### **§ 26-265 ABANDONING OR DISCARDING REFRIGERATOR, ICE CHEST AND THE LIKE.**

(A) It shall be unlawful for any person to abandon or discard any refrigerator, ice chest or other type of air-tight container of a capacity sufficient to contain any child without, prior to such abandonment, removing the door, lid or other device for the closing thereof.

(B) It shall also be unlawful for any person in charge of property to knowingly permit any such container to remain thereon accessible to children without removing the door, lid or other device for the closing thereof.

***Statutory reference:***

*Failing to remove doors from abandoned air-tight containers, see S.C. Code § 16-3-1010*

**§ 26-266 ABANDONING UNPROTECTED WELL OR PIT.**

It shall be unlawful for any owner or tenant to permit or allow any abandoned well or pit to remain open and unprotected on any place or premises owned or occupied by such person.

***Statutory reference:***

*Open and unprotected abandoned wells, see S.C. Code § 16-3-1020*

**§§ 26-267—26-295 RESERVED.**



## ARTICLE VII: MINORS

### Section

#### *Division 1. Generally*

26-296—26-323 Reserved

#### *Division 2. Youth Protection Curfew*

26-324 Definitions  
26-325 Established; purpose  
26-326 Violations; generally  
26-327 Same; defenses or exceptions  
26-328 Enforcement  
26-329—26-359 Reserved

#### ***DIVISION 1. GENERALLY***

**§§ 26-296—26-323 RESERVED.**

#### ***DIVISION 2. YOUTH PROTECTION CURFEW***

#### **§ 26-324 DEFINITIONS.**

For the purpose of this division, the following definitions shall apply unless the context clearly indicates of requires a different meaning.

***CHRONIC OFFENDER.*** A juvenile who has violated this division three or more times.

***ESTABLISHMENT.*** Any privately-owned place of business operated for profit to which the public has access or is invited including, but is not limited to, any place of amusement or entertainment.

**GUARDIAN.** A person who:

- (1) Is the guardian of a juvenile under court order; or
- (2) Is a public or private agency with whom a juvenile has been placed by a court order.

**JUVENILE.** A person who has not reached his or her seventeenth birthday and is not married, emancipated or a member of the United States armed forces.

**OPERATOR.** Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term **OPERATOR** includes the active, local employees, members or partners of an association or partnership and the local officers of a corporation.

**PARENT.** A birth parent, adoptive parent or the spouse of a birth or adoptive parent of a juvenile.

**REPEAT OFFENDER.** A juvenile who has violated the curfew established in § 26-325 at least two times.

**RESTRICTED HOURS.**

August 16 - May 31	Sunday - Thursday	11:00 p.m. - 6:00 a.m.
	Friday - Saturday	12:00 midnight - 6:00 a.m.
June 1 - August 15	All days	12:00 midnight - 6:00 a.m.

**§ 26-325 ESTABLISHED; PURPOSE.**

The purpose of this division is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under 17 years of age in the town. The youth protection curfew is intended to reinforce and promote the role of the parent in raising and guiding children, and promote the health, safety and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned.

**§ 26-326 VIOLATIONS; GENERALLY.**

(A) Except as provided by § 26-327 of this chapter, the following acts are offenses constituting a violation of this division:

- (1) A juvenile commits an offense by loitering, wandering, strolling or playing in or upon the public streets, highways, alleys, parks, playgrounds or other public grounds, public places, vacant lots or any other place when unsupervised by a parent or guardian having the lawful authority to be at such places inside the town during the restricted hours as defined in § 26-324 of this chapter;

(2) A parent or guardian of a juvenile commits an offense when he or she knowingly permits, or by insufficient control allows, a juvenile to engage in the conduct set forth in subsection (A)(1) above. The term **KNOWINGLY** means knowledge that a parent or guardian should reasonably be expected to have concerning the whereabouts of a juvenile in that parent or guardian's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities, conduct or whereabouts of such juvenile; and

(3) The owner, operator or employee of an establishment commits an offense when he or she knowingly permits any juvenile subject to the youth protection curfew to be in or upon or remain on or upon the premises or grounds of the establishment without his or her parent or guardian. The term **KNOWINGLY** means knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an establishment. The standard for the term **KNOWINGLY** shall be applied through an objective test: whether a reasonable person through the operator's or employee's position should have known that the patron was a juvenile in violation of this article. It is a defense to prosecution under this subsection (A)(3) that an owner, operator or employee of an establishment promptly notified the Police Department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

(B) It shall be a violation of this article for any person 17 years of age or older to aid or abet a juvenile in violation of subsection (A) above.

(C) It shall be a violation of this article for a parent or guardian to refuse to take custody, during the restricted hours, of a juvenile for whom the parent or guardian is responsible.

#### **§ 26-327 SAME; DEFENSES OR EXCEPTIONS.**

The following, when verified, shall constitute a defense or exception to the enforcement of the youth protection curfew:

(A) The juvenile is accompanied by his or her parent or guardian;

(B) The juvenile is on an errand, at the direction of the juvenile's parent or guardian, without any detour or stopping, until 12:30 a.m.;

(C) The juvenile is in a motor vehicle involved in interstate travel;

(D) The juvenile is engaged in an employment activity or going or returning home from an employment activity without any detour or stopping;

(E) The juvenile is out because of a verifiable emergency of the juvenile or his or her family;

(F) The juvenile is on his or her residential property or the property of a next door neighbor, if the neighbor does not complain to the Police Department about the juvenile's presence;

(G) The juvenile is attending an official school, religious, or other recreational activity supervised by adults and sponsored by the town, a civic organization, a church, synagogue or temple, or another entity that takes responsibility for the juvenile, or the juvenile is returning home from such activity without any detour or stopping; or

(H) The juvenile is exercising his or her First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.

#### **§ 26-328 ENFORCEMENT.**

(A) *Juveniles*. When a juvenile is found to be in violation of this division, the officer shall inquire of the records to determine whether the juvenile is a first offender, repeat offender or chronic offender.

(1) *First offender*. If the juvenile is a first offender, he or she will be given a warning and transported to the Police Department, where a responsible adult will be contacted to retrieve the juvenile, or where convenient for the officer and within the town limits, the juvenile may be transported to the residence of his or her parent or guardian.

(2) *Chronic offender*. A juvenile who is a chronic offender of the youth protection curfew will be referred to the county's Department of Juvenile Justice.

(3) *Incident report for children ten years or younger*. If the juvenile is ten years of age or younger, a copy of the incident report will be forwarded to the county's Department of Social Services.

(B) *Parents and guardians*. A parent or guardian of a repeat offender, who is found guilty in the Municipal Court of violating this division shall be subject to a fine or be imprisoned for up to 30 days. The Municipal Court may, in its discretion, require a specified number of hours of community service in lieu of a fine or imprisonment.

(C) *Establishment owners and operators*. An owner or operator of an establishment who is found guilty in the Municipal Court of violating this division shall be subject to a fine or imprisoned for up to 30 days. The Municipal Court may, in its discretion, require a specified number of hours of community service in lieu of a fine or imprisonment.

#### **§§ 26-329—26-359 RESERVED.**

## **ARTICLE VIII: PENALTIES**

### **Section**

- 26-360 Parties to crime
- 26-361 Plea entries or posting bail
- 26-362 Non-compliance with chapter constitutes misdemeanor
- 26-363—26-385 Reserved

### **§ 26-360 PARTIES TO CRIME.**

Every person who, whether present or absent, commits, attempts to commit, conspires to commit or aids or abets in the commission of any act violating any provision of this chapter, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall, upon conviction, be guilty of such violation. Every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any such provisions, upon conviction, shall be guilty of such offense.

#### ***Statutory reference:***

*Accessory, see S.C. Code § 16-1-40*

### **§ 26-361 PLEA ENTRIES OR POSTING BAIL.**

The entry of any plea of guilty or nolo contendere or the forfeiture of any bail posted for the violation of any provision of this chapter or for the violation of any other law or municipal ordinance shall have the same effect as a conviction after trial under such provision.

### **§ 26-362 NON-COMPLIANCE WITH CHAPTER CONSTITUTES MISDEMEANOR.**

The violation of any provision of this chapter shall constitute a misdemeanor.

### **§§ 26-363—26-385 RESERVED.**



## ARTICLE IX: SMOKING REGULATIONS

### Section

- 26-386 Legislative findings
- 26-387 Definitions
- 26-388 Application to county-owned facilities and vehicles
- 26-389 Prohibition of smoking in enclosed public places
- 26-390 Prohibition of smoking in places of employment
- 26-391 Where smoking not regulated
- 26-392 Declaration of establishment as non-smoking
- 26-393 Posting of signs
- 26-394 Non-retaliation; non-waiver of rights
- 26-395 Enforcement
- 26-396 Public education
- 26-397 Governmental agency cooperation
- 26-398 Other applicable laws
- 26-399 Interpretation for intent
- 26-400 Penalty

### ***Editor's note:***

*Section 1 of Ord. 152, adopted 3-18-2013, adopted the County Smoking Ord. 1167, Art. IV, §§ 23-51—23-65*

### **§ 26-386 LEGISLATIVE FINDINGS.**

Incident to the adoption of this article, the County Council finds that:

(A) Lancaster County is a body politic and political subdivision of the state and as such possesses all powers granted to counties by the Constitution and the laws of the state, including the powers enumerated in S.C. Code §§ 4-9-10 et seq. The County Council is authorized and empowered to enact regulations, resolutions and ordinances in relation to health and order in counties or respecting any subject as appears to them necessary or proper for the security, general welfare and convenience of counties or for preserving health, peace, order and good government in them as provided in S.C. Code §§ 4-9-10 et seq., as amended, including S.C. Code § 4-9-25 thereof and the general law;

(B) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing second-hand smoke (also known as environmental tobacco smoke) is a cause of disease

in healthy non-smokers, including heart disease, stroke, respiratory disease and lung cancer. The National Cancer Institute has determined that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually. [National Cancer Institute (NCI), "health effects of exposure to environmental tobacco smoke; the report of the California Environmental Protection Agency, Smoking and Tobacco Control Monograph 10," Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI), August 1999.]. The Surgeon General has declared that:

- (1) Secondhand smoke causes disease and premature death in non-smokers exposed to smoke;
- (2) Children exposed to secondhand smoke have an increased risk for sudden death syndrome, acute respiratory infections, ear problems and more severe asthma;
- (3) Adults exposed to secondary smoke have a higher risk of coronary heart disease and lung cancer;
- (4) There is no safe level of exposure to second-hand smoke; and
- (5) Separating smoking and non-smoking sections of indoor areas does not sufficiently remove the threats of second-hand smoke in enclosed areas.

(C) A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function (Pitsavos, C; Panagiotakos, D.B.; Chrysoshoon, C; Skoumas, J.; Tzioumis, K.; Stefanadis, C; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARIO2000 case-control study, "Tobacco Control" 11(33): 220-225, September 2002);

(D) When there is a presence of second-hand smoke in enclosed spaces or in outside areas where there is a public gathering resulting in people being in close proximity in places that are otherwise open to the public at large persons who do not smoke are forced to bear unwarranted health risks and inappropriate deprivation of peaceful enjoyment of the premises to which they have been invited or permitted to enter, even when steps have been taken to separate "smoking" and "non-smoking" areas within the confined space; and

(E) The county recognizes that smoke creates a danger to the health and safety of the public at large and that, in order to protect the health and welfare of the public, it is necessary to restrict smoking in the manner provided for in this article.

(Ord. 152, passed 3-18-2013)

## **§ 26-387 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.



**BAR.** An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges and cabarets.

**BUSINESS.** A sole proprietorship, partnership, joint venture, corporation or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are offered for sale; professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered; and private clubs.

**EMPLOYEE.** A person who is employed by an employer in consideration for direct or indirect monetary wages, commission, goods or services in kind or like compensation, and it shall also mean a person who volunteers his or her services for a non-profit entity.

**EMPLOYER.** A person, business, partnership, association, corporation, including a municipal corporation, trust or non-profit entity that employs the services of one or more individual persons.

**ENCLOSED AREA.** All space between a floor and ceiling that is enclosed on all sides by walls or windows (exclusive of doorways), which extend from the floor to the ceiling, or walls substantially enclosing the area or walls four feet or more in height including stationary structures and mobile public conveyances. Enclosure of an outdoor area attached to a building or structure through the use of any sort of canopy, tent or other structure which consists of coverings on all sides shall cause such an area to be deemed an **ENCLOSED AREA** for purposes of this article.

**HEALTH CARE FACILITY.** An office or institution providing care or treatment of persons having diseases, whether physical, mental or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes (except as otherwise permitted herein), homes for the aging or chronically ill, laboratories and offices of surgeons, chiropractors, physical therapists, physicians, dentists and all specialists within these professions. This definition includes all waiting rooms, hallways, private rooms, semi-private rooms and wards within health care facilities.

**PLACE OF EMPLOYMENT.** An area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways and vehicles. A private residence is not a **PLACE OF EMPLOYMENT** for purposes of this article unless it is used as a child care, adult day care or health care facility. A private passenger motor vehicle is not a **PLACE OF EMPLOYMENT** when used in the performance of employment responsibilities; provided, it is not being used as a public conveyance.

**PRIVATE CLUB.**

(1) A bona fide non-profit organization, association or non-profit corporation organized and existing under the laws of the state, and operated solely and exclusively for social, benevolent, patriotic,

recreational or fraternal purposes, but not for pecuniary gain or profit, no part of the net earnings of which inures to the direct benefit of any member or shareholder:

- (a) Which is licensed to sell liquor by the drink for consumption on the premises as a private club under applicable regulations and rules of the state's Department of Revenue;
- (b) Which has a retail sales tax license in the same name;
- (c) Which is not open to the general public;
- (d) Which is not engaged in the preparation and service of meals to the general public;
- (e) Which has a definite, fixed method of electing persons on an individual basis to membership in the organization, such method being described in the club's bylaws and which must bear some reasonable relation to the object and purpose of the organization;
- (f) Which is comprised of members 21 years of age or older who shall be elected or excluded by the board of directors by way of ballot;
- (g) Which is maintained by its bona fide members through the payment of monthly, quarterly or annual fees or dues and/or rental fees;
- (h) Whose affairs and management shall be conducted by a board of directors, executive committee or similar governing body chosen by the members at a regular meeting held no less frequently than annually;
- (i) Whose members have been given notice of the dangers of tobacco smoke and second-hand smoke exposure in the particulars recited in § 26-386(B) through (E) of this chapter;
- (j) Which has no employees under the age of 21 years nor employees who have not been given a notice of the dangers of tobacco smoke and second-hand smoke substantially similar to the dangers recited in § 26-386(B) through (E) of this chapter; and
- (k) Which has satisfied, complied with and implemented the terms, conditions, requirements and limitations of the county code and applicable provisions of the Code of Laws of South Carolina 1976, as amended, and regulations relating to the sale and consumption of alcoholic liquors by the drink by a bona fide non-profit private club.

(2) Any organization, establishment, club or entity, including bars, restaurants, entertainment venues or other entities which are not owned, leased, occupied or operated in compliance with the requirements of the county code shall not be treated as a **PRIVATE CLUB** under this article.

**PUBLIC PLACE.** An area to which the public is invited or to which the public is permitted to have access, including but not limited to, banks, bars, educational facilities, health care facilities and hotel

and motel lobbies, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, theaters, waiting rooms, sports arena, stadiums and ball parks. A **PRIVATE CLUB** is a public place when being used for a function to which the general public is allowed entry. A private residence is not a public place unless it is used as a child care, adult day care or health care facility.

**RESTAURANT.** An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, ice cream parlors and private and public school cafeterias, which gives or offers for sale food to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. **RESTAURANT** includes a bar area within the restaurant.

**RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. The term specifically includes cigar bars, which are establishments licensed for the on premises sale of beer, wine and alcoholic beverages as well as some food service, but the term does not include any establishment which is primarily a bar or restaurant and which undertakes to make retail offerings of tobacco products as a means of circumventing the purposes of this article.

**SERVICE LINE.** An indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

**SHOPPING MALL.** An enclosed public plaza, promenade, walkway or hall area that serves to connect retail or professional establishments.

**SMOKING.** Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other lighted tobacco product in any manner or in any form. **SMOKING** also includes the use of an electronic smoking device, which means an electronic or battery-operated device, the use of which resembles smoking, that can be used to deliver nicotine or other substances to the person inhaling from the device.

**SPORTS ARENA.** Sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assembly to engage in physical exercise, participate in athletic competition or witness sports or other events.

(Ord. 152, passed 3-18-2013; Ord. 2019-006, passed 8-19-2019)

## **§ 26-388 APPLICATION TO COUNTY-OWNED FACILITIES AND VEHICLES.**

(A) All enclosed facilities, buildings and vehicles owned, leased or operated by the county shall be subject to the provisions of this article.

(B) All facilities and buildings owned, leased or operated by the county shall have conspicuously displayed upon the premises a sign reading "Smoking Prohibited by Law".

(C) No person shall use chewing tobacco, snuff or similar-type tobacco products in any form in a facility, building or vehicle owned, leased or operated by the county. The prohibitions of this section do not apply to those facilities and buildings or portions of those facilities and buildings which are leased to other organizations or entities.

(D) All facilities and buildings owned, leased or operated by the county shall have conspicuously displayed upon the premises a sign reading "Use of Chewing Tobacco, Snuff and Similar Products Prohibited by Law".

(Ord. 152, passed 3-18-2013)

#### **§ 26-389 PROHIBITION OF SMOKING IN ENCLOSED PUBLIC PLACES.**

Smoking shall be prohibited in all enclosed public places within the county, including, but not limited to, the following places:

(A) Galleries, libraries and museums;

(B) Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including, but not limited to, professional offices, banks, laundromats, hotels and motels;

(C) Bars;

(D) Bingo facilities;

(E) Convention facilities, conference centers and exhibition halls;

(F) Educational facilities, both public and private;

(G) Elevators;

(H) Health care facilities;

(I) Hotel and motel lobbies;

(J) Licensed child care and adult day care facilities;

(K) Lobbies, hallways and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes and other multiple-unit residential facilities;

(L) Polling places;

(M) Clubs, other than a private club as defined in this article; provided, however, that smoking shall be prohibited in a private club when the general public is admitted or invited, except as provided in § 26-391(C) of this chapter;

(N) Public transportation facilities, including buses and taxicabs, and ticket, boarding and waiting areas of public transit depots;

(O) Restaurants;

(P) Restrooms, lobbies, reception areas, hallways and other common-use areas;

(Q) Retail stores;

(R) Rooms, chambers, places of meeting or public assembly, including school buildings;

(S) Service lines;

(T) Shopping malls;

(U) Sports arenas; and

(V) Theaters, performance halls, lecture halls and similar facilities, inclusive of lobbies, audience seating areas, dressing rooms, projection booths, back stage areas and the stage, but excluding smoking on stage when it is an integral part of a theatrical performance.

(Ord. 152, passed 3-18-2013)

#### **§ 26-390 PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT.**

(A) Smoking shall be prohibited in all enclosed areas within places of employment, except a private club as defined in this article, without exception, including, but not limited to, work areas, auditoriums, classrooms, conferences and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms and vehicles used for the conveyance of the public.

(B) The prohibition on smoking contained in subsection (A) above shall be communicated by employers to all existing employees by 3-1-2013, and to all prospective employees upon their application for employment.

(Ord. 152, passed 3-18-2013)

#### **§ 26-391 WHERE SMOKING NOT REGULATED.**

Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from the provisions of §§ 26-389 and 26-390 of this chapter:

(A) Private residences, except when used as a licensed child care, adult day care or health care facility;

(B) Retail tobacco stores; provided that, smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this article;

(C) Private clubs, as defined in this article, except when being used for a function to which the general public is admitted. If the public is invited, subsection (D) below shall control;

(D) Outdoor areas of places of employment, including decks, balconies and patios of restaurants and bars; provided that, any smoking area is a minimum of 15 feet from any building opening or air handler and smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this article. Where smoking is allowed outdoors, receptacles must be provided for the safe and proper disposal of cigarettes and related smoking material.

(Ord. 152, passed 3-18-2013)

#### **§ 26-392 DECLARATION OF ESTABLISHMENT AS NON-SMOKING.**

(A) Notwithstanding any other provision of this article, an owner, operator, manager or other person in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a non-smoking place.

(B) Smoking shall be prohibited in any place, except a private club as defined in this article in which a sign conforming to the requirements of § 26-393 of this chapter is posted.

(Ord. 152, passed 3-18-2013)

#### **§ 26-393 POSTING OF SIGNS.**

(A) “No Smoking” signs or the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this article by the owner, operator, manager or other person in control of that place.

(B) Every public place and place of employment where smoking is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(C) All ashtrays shall be removed from any area where smoking is prohibited by this article by the owner, operator, manager or other person having control of the area.

(Ord. 152, passed 3-18-2013)

**§ 26-394 NON-RETALIATION; NON-WAIVER OF RIGHTS.**

(A) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant or customer exercises any rights afforded by this article or reports or attempts to prosecute a violation of this article.

(B) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.  
(Ord. 152, passed 3-18-2013)

**§ 26-395 ENFORCEMENT.**

(A) This article shall be enforced by the office of the Sheriff or an authorized designee.

(B) Notice of the provisions of this article shall be given to all applicants for a building permit; certificate of occupancy; or building, zoning, fire or other permit or license required in the county.

(C) Any citizen who desires to register a complaint under this article may initiate enforcement with the office of the sheriff.

(D) The Building Codes Division, County Fire Marshal Fire Department, or their designee shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this article.

(E) An owner, manager, operator or employee of an establishment regulated by this article shall inform persons violating this article of the appropriate provisions thereof.

(F) Notwithstanding any other provision of this article, an employee or member of the public may bring legal action against a person, business or organization in violation of this article to enforce this article.

(Ord. 152, passed 3-18-2013)

**§ 26-396 PUBLIC EDUCATION.**

(A) The County Health and Wellness Commission shall engage in a continuing program to explain and clarify the purposes and requirements of this article to citizens affected by it, and to guide owners, operators and managers in their compliance with it.

(B) The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this article.

(Ord. 152, passed 3-18-2013)

**§ 26-397 GOVERNMENTAL AGENCY COOPERATION.**

The county shall annually request other governmental and educational agencies having facilities within the unincorporated area of the county to establish local operating procedures in cooperation and compliance with this article. This includes urging all federal, state, county, city and school district agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

(Ord. 152, passed 3-18-2013)

**§ 26-398 OTHER APPLICABLE LAWS.**

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. 152, passed 3-18-2013)

**§ 26-399 INTERPRETATION FOR INTENT.**

It is the intent of Council to prohibit smoking whenever the private choice of smoking intrudes or has the capacity to intrude upon the right of persons concerned about protecting their own rights to be free from the hazards and inconvenience of secondhand smoke in places where they work, stand, sit, walk, dine, drink, read, study or engage in entertainment and recreation. All provisions shall be construed to achieve these purposes.

(Ord. 152, passed 3-18-2013)

**§ 26-400 PENALTY.**

(A) A person who smokes in an area where smoking is prohibited by the provisions of this article is guilty of an infraction, punishable by a fine of not less than \$10, nor more than \$25.

(B) A person, firm, corporation or agent who owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article is guilty of an infraction, punishable by:

- (1) A fine not exceeding \$50 for a first violation; and
- (2) A fine not exceeding \$100 for any subsequent violation within one year.

(C) No arrest warrant may be issued for a person who smokes in an area where smoking is prohibited by this article or for a person, firm, corporation or agent who owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with the provisions



of this article. In enforcing this article, law enforcement officers shall issue an ordinance summons as provided for in § 2-1 of the County Code and S.C. Code § 56-7-80, as amended. The service of the ordinance summons will vest the magistrate's court with jurisdiction to hear and to dispose of the charge.

(D) In addition to the fines established by this section, repeated violations of this article by a person, firm, corporation or agent who owns, manages, operates or otherwise controls a public place or place of employment may result in the suspension or revocation of any occupancy permit or other permit or license issued to the person for the premises on which the violation occurred.

(E) Violation of this article is hereby declared to be a public nuisance, which may be abated by the county by restraining order, preliminary and permanent injunction or other means provided for by law, and the county may take action to recover the costs of the nuisance abatement.

(F) Each day of a continuing violation of this article shall be considered a separate and distinct infraction.

(Ord. 152, passed 3-18-2013)

