

TOWN COUNCIL



STAFF REPORT

Departments of Growth Management and Police

MEETING DATE:	January 20, 2015
PROJECT:	Unified Development Ordinance and Town Code Amendments - Workshop
PROJECT MANAGERS:	Shawn Leininger, Director, Growth Management Joey Reynolds, Police Chief

REQUEST: Town Staff requests Town Council review and direction of multiple draft ordinances amending the Unified Development Ordinance and Town Code.

BACKGROUND: As a result of recent Town Council direction and Town Staff's on-going review of the regulations and requirements governing the community, the following draft ordinances have been prepared for Town Council consideration:

1. An amendment to Article 4 Zoning Districts of the Unified Development Ordinance establishing Outdoor Patios and Cafes as a conditionally permitted use and minimum requirements which must be met for the use to be permitted.
2. An amendment to Article 5 Design Standards of the Unified Development Ordinance requiring parking area lighting for all parking areas.
3. A new Chapter 18 General Offenses, Article IX Alcohol Possession, Consumption, and Sales repealing and replacing Section 18-60 Drinking Intoxicating Beverages in Public of the Town Code.
4. A new Chapter 18 General Offenses, Article XI Community Safety Ordinance repealing and replacing Chapter 18 General Offenses, Article XI Disorderly or Nuisance Premise of the Town Code.
5. An amendment to Chapter 6 Businesses and Business Regulations, Article II Business Licenses and Regulations of the Town Code establishing provisions to deny, revoke, or suspend licenses of businesses in violation of new Chapter 18 General Offenses, Article XI Community Safety Ordinance.
6. An amendment to Chapter 18 General Offenses, Article V Offenses Against Property of the Town Code adopting new Section 18-119 Graffiti.
7. An amendment to Chapter 18 General Offenses, Article IV Offenses Against the Peace; Public Policy adopting new Section 18-86 Interference with Public Duties.

ANALYSIS: These ordinances help provide Town Staff, particularly the Police Department, some of the tools necessary to address issues that impact the quality of life and safety of the community. Further, these ordinances have been prepared with specific guidance and direction from the Town Attorney and, where applicable, have been amended to align with State Law and best practices.

NEXT STEPS: Upon review by Town Council, Town Staff will incorporate the direction provided and begin the formal adoption process. Below is a proposed adoption schedule:

1. Town Council First Reading of Town Code amendments – February 10, 2015;
2. Planning Commission Public Hearing and recommendation to Town Council of Unified Development Ordinance amendments – February 25, 2015;
3. Town Council Second/Final Reading of Town Code amendments – March 10, 2015;
4. Town Council First Reading of Unified Development Ordinance amendments – March 10, 2015; and
5. Town Council Second/Final Reading and Public Hearing of Unified Development Ordinance amendments – April 14, 2015.

ATTACHMENTS:

1. Draft Ordinance Amending Article 4 Zoning Districts of the Unified Development Ordinance Establishing Outdoor Patios and Cafes as a Conditionally Permitted Use.
2. Draft Ordinance Amending Article 5 Design Standards of the Unified Development Ordinance Requiring Parking Area Lighting for All Parking Areas.
3. Draft Ordinance Repealing Section 18-60 Drinking Intoxicating Beverages in Public of the Town Code and Adopting New Chapter 18 General Offenses, Article IX Alcohol Possession, Consumption, and Sales.
4. Draft Ordinance Repealing Chapter 18 General Offenses, Article XI Disorderly or Nuisance Premise of the Town Code and Replacing with New Chapter 18 General Offenses, Article XI Community Safety Ordinance.
5. Draft Ordinance Amending Chapter 6 Businesses and Business Regulations, Article II Business Licenses and Regulations of the Town Code Establishing Provisions to Deny, Revoke, or Suspend Licenses of Businesses in Violation of Chapter 18 General Offenses, Article XI Community Safety Ordinance.
6. Draft Ordinance Amending Chapter 18 General Offenses, Article V Offenses Against Property of the Town Code Adopting New Section 18-119 Graffiti.
7. Draft Ordinance Amending Chapter 18 General Offenses, Article IV Offenses Against the Peace; Public Policy Adopting New Section 18-86 Interference with Public Duties.

ARTICLE IV – ZONING DISTRICTS

Sec. 4.3. Uses by Districts

Table 4.3 Uses by Districts

Table 4.3: Uses by District	Preserve (PR)	Agricultural (AG)	Rural Mixed Use (RMU)	Residential General (RG)	Neighborhood Core (NC)	General Mixed Use (GM)	Light Industrial (LI)	Riverfront Edge Historic District (RV-HD)	Neighborhood Conservation Historic District (NCV-HD)	Neighborhood General Historic District (NG-HD)	Neighborhood Center Historic District (NCE-HD)	Neighborhood Core Historic District (NC-HD)
	Commercial Services											
Outdoor Sales	-	C	C	-	C	C	C	-	C	C	C	C
Retail Businesses	-	-	P	-	P	P	P	-	P	P	P	P
Personal Service Establishments	-	-	P	-	P	P	P	-	P	P	P	P
Restaurant	-	-	P	-	P	P	P	-	-	C	P	P
Motor Vehicle Sales and Service	-	-	-	-	-	P	P	-	-	-	-	-
Fueling/Service Station including fuel pumps/Convenience Store	-	-	C	-	C	P	P	-	-	C	-	C
Car Wash	-	-	C	-	C	P	P	-	-	C	-	C
Tattoo/Body Art Parlor	-	-	-	-	-	P	P	-	-	-	-	-
Adult Oriented Business	-	-	-	-	-	SE	SE	-	-	-	-	-
Low Speed Recreational Vehicle Sales	-	-	-	-	-	-	-	-	-	-	-	C
<u>Outdoor Patio and Café</u>	-	-	<u>C</u>	-	<u>C</u>	<u>C</u>	<u>C</u>	-	-	<u>C</u>	<u>C</u>	<u>C</u>

Sec. 4.4.2 Commercial Services

E. Restaurants

1. Property must have frontage on SC Highway 46, Bruin Road or Burnt Church Road.
- ~~2. Outdoor seating areas accessory to a restaurant or tavern are permitted subject to the following requirements:~~
 - ~~a. The seating area shall be delineated with railings, ornamental walls or other suitable features that are a minimum of three feet tall.~~
 - ~~b. Pedestrian circulation and access along the sidewalk and to the building entrance shall not be impaired.~~

~~e. If the property on which the outdoor seating is proposed is adjacent to a residential use there shall not be any outside sound equipment or entertainment.~~

G. Outdoor Patios and Cafes

1. Any outdoor patio and café must be accessory to a restaurant use.
2. Within the Old Town Bluffton Historic District, any outdoor patio and café on which alcoholic beverages will be possessed, consumed, or sold shall be located a minimum of 150 feet from the property line of an existing place of religious assembly, park, school, residential use (only if it is the sole use of the property) or other outdoor patio or café on which alcoholic beverages are possessed, consumed, or sold. If an intervening property line does not exist, then the distance measurement shall be measured from the nearest point of the existing use to the proposed outdoor patio or café.
3. Any outdoor patio and café located in the Neighborhood General Historic District (NG-HD) and is adjacent to a residential use shall not be permitted to any outside sound equipment or entertainment, such as, but not limited to, speakers, televisions, or live music.
4. The outdoor patio and cafe shall be delineated with railings, ornamental walls or other suitable features that are a minimum of three feet tall.

ARTICLE IX – DEFINITIONS

Sec. 9.4 Description of Uses of Land and Buildings

Sec. 9.4.3 Commercial Services

- L. Outdoor Patio and Café: An outdoor space used for food or beverage service or entertainment purposes.

ARTICLE V – DESIGN STANDARDS

Sec. 5.12 Lighting

5.12.1 Intent

It is the intent of this Section to protect the health, safety, and welfare of the public by recognizing that sites may need to be illuminated for safety, security, and visibility for occupants, users, pedestrians, and motorists. To do so, this Section provides standards for various forms of lighting that will:

- A. Minimize light pollution;
- B. Maintain safe nighttime environment;
- C. Preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to “sky glow”;
- D. Reduce light trespass from light sources onto adjacent properties;
- E. Conserve electrical energy; and
- F. Curtail the degradation of the nighttime visual environment.

5.12.2 Applicability

The standards in this Section shall apply to any proposed exterior light source. The UDO Administrator shall review any building or site to determine compliance with the requirements under this Section. Whenever a person is required to obtain a Development Permit, Certificate of Appropriateness, Building Permit, or Electrical Permit for outdoor lighting from the Town of Bluffton, the Applicant shall submit sufficient information to enable the UDO Administrator to determine whether the proposed lighting will comply with this Section.

5.12.3 Standards

A. General Standards

1. Any Pparking lots area larger than 10 spaces serving a non-residential use or is shared by three or more residential dwelling units shall meet the requirements set forth in this Section.
2. Exterior architectural, display and decorative lighting visible from the corridor shall be generated from a concealed light source with low-level fixtures.
3. Any lighting fixture shall be of such design, so as to minimize the amount of ambient lighting perceptible from adjacent properties.
4. In no case shall any lighting impair the vision of motorists.
5. All interior lighting shall be so designed to prevent the light source or high levels of light from being visible from the corridor.

Entrances into developments from the highway may be lighted for traffic safety reasons, provided such lighting is approved by the agency maintaining the roadway and does not exceed the applicable footcandle requirements specified in this Section or in conformance with the American Association of State Highway and Transportation Officials (AASHTO) Roadway Lighting Guide.

B. Light Fixtures

1. Any light fixture shall be a cutoff luminaire whose source is completely concealed with opaque housing and shall not be visible from any street. This provision includes lights on mounted poles, as well as architectural display and decorative lighting visible from the corridor.
2. Fixtures shall be mounted in such a manner that the cone of light is not directed at any property line of the site.
3. Only incandescent, fluorescent, metal halide, LED, mercury vapor or color corrected high-pressure sodium light may be used. The same type of lighting must be utilized for all fixtures and light sources on the site.
4. Only white or off-white (light yellow tones) may be used for any light source.
5. Lighting poles may not exceed a height of 20 feet.

C. Sign Illumination

1. The brightness of an illuminated sign shall not exceed 30 foot-candles at any one point on the sign face. Illumination shall be by an externally located steady stationary light source, shielded and directed solely at the sign. Light sources to illuminate signs shall neither be visible from any street right-of-way nor cause glare hazardous to pedestrians or vehicle drivers or so as to create a nuisance to adjacent properties.
2. Spotlighting of signs shall be restricted to not more than one shielded light fixture per side for sign faces up to 40 square feet and not more than two shielded light fixtures per side for larger sign faces.
3. Signs shall not have light-reflecting or translucent backgrounds but may use halo glow or reverse channel lettering.
4. Colored lamps are not permitted.
5. Backlighting of signs shall be permitted provided the sign is opaque and the rear surface is not reflective.
6. Exterior lighting shall be designed and arranged so as to minimize glare and reflection. Lighting shall be low-intensity, shielded from adjacent parcels.

D. Illumination Levels

- 1. All site lighting shall be designed so that the level of illumination measured in footcandles (fc) at any one point meets the standards below. The UDO Administrator shall have the discretion to allow limited flexibility as to variations in the illumination levels, if the proposed levels deviate from the following standards.

**Table 5.12.3.D.1
Illumination Levels**

Location or Type of Lighting	Minimum Level (FC)	Average Level (FC)	Maximum Level (FC)
Landscape and decorative	0.0	0.50	5.0
Commercial parking areas	0.6	2.40	10.0
Multifamily residential parking areas	0.2	1.50	10.0
Canopy Area Lighting	2.0	12.0	20.0
Areas for display or outdoor merchandise	1.0	5.0	15.0
Walkways and streets	0.2	1.0	10.0

ARTICLE III – OFFENSES AGAINST MORALITY, DECENCY, AND PUBLIC WELFARE

~~Sec. 18-60. Drinking intoxicating beverages in public.~~

~~It shall be unlawful for any person to drink any kind of intoxicating alcoholic beverages on the streets, alleyways, highways, or other such public places, except for permitted activities.~~

Secs. 18-~~6160~~ – 18-80. Reserved.

ARTICLE VIII – GAMBLING DEVICES ON VESSELS

Secs. 18-189 – 18-~~214~~198. Reserved.

ARTICLE IX – ALCOHOL POSSESSION, CONSUMPTION, AND SALES

Sec. 18-199 General Provisions and Definitions.

(a) Purpose. This Article is enacted for the purposes, among others, of promoting the health, safety, and general welfare of the Town; establishing reasonable and ascertainable standards for the regulation and control of the possession and consumption of Alcoholic Beverages within the Town; and with the general intent of promoting desirable living conditions and preserving the essential characteristics of the Town.

(b) Definitions. These words and terms shall have the following meanings when used in this Chapter:

- (1) Alcoholic Beverage. Any beverage which contains alcohol in any quantity or percentage, including but not limited to distilled spirits, liquor, beer, porter, wine, fortified wine, spirituous malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors or a compound or mixture thereof by whatever named called or known, and any other form of alcoholic beverage as defined as “alcoholic liquors” or “alcoholic beverages” by South Carolina law.
- (2) Licensed Establishment. A commercial enterprise, establishment, private club, nonprofit club or association, business, store, office, or structure that (1) has been lawfully licensed to sell Alcoholic Beverages under South Carolina law or (2) has received from the State Alcoholic Beverages Control Commission a license to allow on-Premises consumption of Alcoholic Beverages. For the purposes of this Article, Licensed Establishments are not intended to include any persons or commercial establishments that hold a valid license or permit to sell any or all Alcoholic Beverages for the primary purpose of off-Premises consumption as a retail dealer, wholesaler, producer or manufacturer under South Carolina law.
- (3) Lodging Establishment. A hotel, motel, villa, condominium, inn, tourist court, tourist camp, campground, bed and breakfast, residence, or any place in which rooms, lodging or sleeping accommodations are furnished to transients for consideration; or, in any other place identified as a “lodging establishment” under South Carolina law.
- (4) Open Container. Any container which is immediately capable of being consumed from, or the seal of which has been broken.

- (5) Premises. One physically identifiable place of business consisting of one room or two or more contiguous rooms operating under the same trade name and ownership, such premises to be within the confines of the building structure; provided, however, that any delineated outside deck, patio or similar area on private property or on privately leased public property that is actually and permanently attached to the main building may be considered Premises for the purpose of serving Alcoholic Beverages from a Licensed Establishment. A Lodging Establishment shall be considered one Premises if the Licensed Establishment and the Lodging Establishment are located within the same building and operate as a part of one business under one ownership and management.
- (6) Public Place: Any commercial enterprise, establishment, business, store, office, or structure to which the public is invited to conduct business or to visit, including any storage areas, parking lots, outdoor patios, open spaces or decks appurtenant thereto, unless such commercial enterprise, establishment, business, store, office, or structure is a Licensed Establishment. Also, any public or private parking lots, roads, alleys, easements, rights-of-way or sidewalks located within the corporate limits of the Town.
- (7) Seal. An object or thing placed on a container by the producer of an Alcoholic Beverage or the manufacturer of the container that hermetically or completely secures the container ensuring that the contents of the container have not been tampered with or altered.
- (8) Town. The Town of Bluffton, South Carolina.
- (9) Vehicle. Any vehicle as defined by the South Carolina Uniform Act Regulating Traffic on Highways, S.C. Code Ann. § 56-5-120.

(c) It shall be unlawful for anyone to obstruct, hinder, or interfere with law enforcement from enforcing any provision of this Article.

(d) For the purposes of this Article, possession of an Alcoholic Beverage shall constitute prima facie evidence of consumption.

Sec. 18-200. Acts Prohibited on the Premises of a Licensed Establishment.

(a) It shall be unlawful for any Licensed Establishment, or any owner, agent, employee or servant thereof, upon the Premises of the Licensed Establishment to permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of the State of South Carolina or violation of the ordinances of the Town.

(b) It shall be unlawful for any person to sell Alcoholic Beverages on the streets or sidewalks, or elsewhere, outside of the Premises of a Licensed Establishment, except for temporary events specifically licensed for outside sales by the Town. Licensed Establishments may only serve Alcoholic Beverages on the Premises of the Licensed Establishment.

Sec. 18-201. Regulation Restricting the Hours of Sale and Consumption of Alcoholic Beverages at Licensed Establishments.

(a) It shall be unlawful to sell, give away, or in any manner dispense for the purposes of consumption any Alcoholic Beverage between the hours of 12:00 a.m. (or 1:00 a.m. or 2:00

a.m.) and 6:00 a.m., Monday through Sunday, on the Premises of any Licensed Establishment.

(b) It shall be unlawful to possess or consume or permit the possession or consumption of any Alcoholic Beverage between the hours of 1:00 a.m. (or 2:00 a.m. or 3:00 a.m.) and 6:00 a.m., Monday through Sunday, on the Premises of any Licensed Establishment.

Sec. 18-202. Regulation Restricting Open Containers in Vehicles.

(a) It is unlawful for a person to have in his or her possession, except in the trunk or luggage compartment, any Alcoholic Beverage in an Open Container in a vehicle of any kind while (1) operating a vehicle within the Town or while a passenger in or on a vehicle being operated within the Town, or (2) inside the confines of a vehicle when the vehicle is parked on any Town-owned property, in any Public Place, or on the Premises of any Licensed Establishment.

(b) This Section does not apply to vehicles parked in legal parking places during functions such as sporting events where law enforcement officers are on duty to perform traffic control duties.

(c) A passenger of a vehicle shall not be in violation of this Section in the following instances:
(1) A passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid chauffeur's license pursuant to South Carolina law or any other state;
(2) A passenger of a bus in which the driver holds a valid chauffeur's license pursuant to South Carolina law or any other state; or
(3) A passenger of a self-contained motor home which is in excess of 21 feet in length.

Sec. 18-203. Regulation Restricting Open Containers on Town-owned Property and in Public Places.

(a) Except as provided in subsection (c) herein, it shall be unlawful for any person to drink or to have in such person's possession in an Open Container any Alcoholic Beverage on any Town-owned property, including but not limited to parks, playgrounds, parking areas, public streets, sidewalks, alleyways, or in any Public Places within the corporate limits of the Town.

(b) Except as provided in subsection (c) herein, it shall be unlawful for any Licensed Establishment to dispense any Alcoholic Beverage in an Open Container for removal from the Premises, and it shall be unlawful for any person to remove from a Licensed Establishment any Open Container of an Alcoholic Beverage.

(c) The provisions of subsections (a) and (b) of this Section shall not apply at a group assemblage for which a permit has been issued or approved by the Town as provided for in Chapter 22 Section 4 Special Events Ordinance of the Town Code, or by Beaufort County.

Secs. 18-204 – 18-214. Reserved.

Comment [LS1]: Comparison of surrounding jurisdictions sales time limits at Licensed Establishments with on-premise consumption:

Beaufort County: No restriction.
 Hilton Head: . 3 a.m. – 6 a.m.
 Beaufort City: No Sunday in Public Parks
 Port Royal: . No restriction.
 Jasper County: 2 a.m. – 6 a.m.
 Hardeeville: . 2 a.m. – 6 a.m.

Comment [LS2]: Comparison of surrounding jurisdictions possession and consumption time limits at Licensed Establishments with on-premise consumption:

Beaufort County: No restriction.
 Hilton Head: . 3 a.m. – 6 a.m.
 Beaufort City: No Sunday in Public Parks
 Port Royal: . No restriction.
 Jasper County: 2 a.m. – 6 a.m.
 Hardeeville: . 2 a.m. – 6 a.m.

ARTICLE ~~IX~~X – LOITERING

| **ARTICLE ~~XI~~XI – DISORDERLY OR NUISANCE PREMISE**

| **ARTICLE ~~XI~~XII – PENALTIES**

~~ARTICLE XI. DISORDERLY OR NUISANCE PREMISE.~~

~~Sec. 18233. Prohibition.~~

~~Any real property upon which its owners, property managers, tenants or occupants cause, permit, or maintain any activity that constitutes a public nuisance which results in frequent calls for service by law enforcement officials during a relatively short period of time is hereby declared to be a public nuisance.~~

~~Sec. 18234. Definitions.~~

~~(a) For the purposes of this section, a public nuisance is defined as any offense against the public order, peace, and economy of the Town. It includes, but is not limited to, any act, or any omission to perform any duty, which the common good, public decency or morals, or the public right to life, health, safety, and the use of property requires and which at the same time annoys, injures, endangers, renders insecure or interferes with the rights common to all members of the community, or unreasonably interferes with or obstructs the public in general, or any considerable number of persons, in their use of public property.~~

~~(b) For the purposes of this section, three (3) or more calls for service to address separate violations within any six (6) month period shall constitute frequent calls for service by law enforcement officials during a relatively short period of time.~~

~~Sec. 18235. Penalties.~~

~~(a) When a property is determined to be a disorderly or nuisance premise as described in this section, the Town Manager may send written notice to the owner of the property, property manager, tenant, or occupant advising the owner, property manager, tenant, or occupant that the property has been declared a disorderly or nuisance premise. Notice shall be presumed when the written notice is either personally served upon the owner, property manager, tenant, or occupant or mailed to the last known address of the owner, property manager, tenant, or occupant, and a copy is left at the property in question. The owner, property manager, tenant, or occupant shall have thirty (30) days from notice to abate the nuisance.~~

~~(b) If the property owner, property manager, tenant, or occupant refuses or fails to take reasonable measures to abate the nuisance within the proscribed thirty (30) days, that person is deemed guilty of a misdemeanor and upon conviction is subject to up to thirty (30) days confinement and/or a five hundred dollar (\$500) fine.~~

~~(c) Further, if the property owner, property manager, tenant, or occupant refuses or fails to take reasonable measures to abate the nuisance within thirty (30) days after a conviction for violation of this section, it is in the discretion of the Town Manager to take such steps necessary to abate the nuisance at the offender's expense.~~

~~Secs. 18 236—18 251. Reserved.~~

ARTICLE XI – COMMUNITY SAFETY ORDINANCE

Sec. 18-233. Findings and Purpose.

- (a) The Town Council finds that:
- (1) Behaviors and activities of a person(s) on real property within the Town may constitute a public nuisance and thereby create a significant risk to public safety when such behaviors and activities are associated with the ongoing occurrence of criminal activity.
 - (2) Each owner, occupant and tenant of real property within the Town is responsible for monitoring his or her property and for taking appropriate and reasonable action to prevent or address behaviors or activities occurring on his or her property that contribute to crime or create public nuisances. When a property owner or tenant, after receiving notice hereunder, fails to take appropriate and reasonable action to prevent and/or address such behaviors and activities, it is necessary for the health, safety and welfare of the neighborhoods and the Town as a whole, that the Town is able to undertake administrative or judicial action.
 - (3) Because behaviors and activities that are associated with the ongoing occurrence of criminal activity or crime have a substantial negative impact upon individuals, neighborhoods, and the Town as a whole, the Town Council, in adopting the ordinance codified in this chapter, finds the administrative and judicial penalties imposed for a violation of this chapter are justified and necessary to protect the property, health, safety, and welfare of this community.
 - (4) Community safety must be protected in a way that does not result in housing discrimination or evictions based upon prejudice, unsubstantiated fear, or personal animosities. Nothing in this chapter exempts property owners from strict compliance with State and Federal housing laws, including, but not limited to, laws regarding evictions, retaliatory or discriminatory conduct, or invasion of privacy.
 - (5) Nuisance properties have a tremendous negative impact upon the quality of life, safety, and health of neighborhoods where they are located. The said ordinance is enacted to remedy nuisance properties by providing a process for abatement; and this remedy is not an exclusive remedy available under any State or local laws and may be used in conjunction with such other laws.
 - (6) Also, nuisance properties are a financial burden to the Town by the repeated calls for service to the properties, because of the nuisance activities that repeatedly occur or exist on such property, and this chapter is a means to ameliorate those conditions and hold responsible the owner or persons in charge of such property.
- (b) Based on these findings, the purpose of this chapter is to provide administrative and judicial remedies against property owners and tenants who permit, allow, or fail to prevent ongoing behaviors and activities to occur on their properties that compromise public safety.

Sec. 18-234. Definitions.

- (a) Drug-related nuisance. Any activity related to the possession, sale, use, or manufacturing of an illegal drug or narcotic that creates an unreasonable interference with the comfortable enjoyment of life, property, or the safety and welfare of the residents of the property, the neighborhood, or the public. These activities include, but are not limited to, any activity commonly associated with illegal drug use and dealing, such as noise, steady foot and vehicle

traffic day and night to a particular property, possession of weapons, drug loitering, possession of stolen property, identity theft, possession of property with serial numbers removed, evidence of forgery or fraud, or other drug-related activities.

- (b) Enforcement Officer. Any person authorized by the Town Manager pursuant to this chapter to enforce violations of this chapter.
- (c) Gang-related crime. Any crime motivated by gang membership or initiation, in which the perpetrator or any accomplice, or the victim or intended victim is a known member of a gang.
- (d) Owner and property owner. Both terms shall have the same meaning and may be used interchangeably and mean the owner or owners of record of the subject real property as shown on the latest tax assessment role of Beaufort County.
- (e) Person. Individual(s), corporations, associations, partnerships, limited liability companies, trustees, lessees, agents and assignees.
- (f) Property Manager. A person or firm charged with operating or managing a real estate property on behalf of an owner.
- (g) Real property and property. Both terms shall have the same meaning and may be used interchangeably and mean the lot or parcel of land for which the tenant, occupant, or owner has legal ownership, a possessory interest, use rights, or exercises custody or control thereof.
- (h) Tenant or occupant. Both terms shall have the same meaning and may be used interchangeably and means that person(s), visitor(s), or transient(s) utilizing, leasing, residing at, or occupying the real property in question regardless of whether a lease or contract exists between the parties; such occupancy may last for any limited period of time.
- (i) Town Manager. The Town Manager for the Town of Bluffton or designee.

Sec 18-235. Scope of Application.

- (a) The provisions of this chapter shall apply to all real property whether owner occupied or a rental property, whether residential, commercial, industrial, improved, or unimproved, throughout the Town.
- (b) A criminal conviction is not required for establishing the occurrence of a safety violation pursuant to this chapter.
- (c) The remedies set forth in this chapter are cumulative and additional to any and all other legal remedies available whether set forth elsewhere in the Town Code, or in State or Federal laws, regulations, or case law.

Sec 18-236. Dual Responsibility.

- (a) Every person owning, possessing, utilizing or having charge or control of real property within the Town is required to manage that property and control the environment thereon in a manner so as not to violate the provisions of this chapter. The owner, occupant and tenant of

real property shall be jointly and severally liable for safety violations as set forth in detail herein, regardless of any contract or agreement with any third party regarding the property.

- (b) Every tenant, occupant, lessee, property manager, or holder of any possessory interest in real property shall:
 - (1) Comply with all Federal, State, and local laws applicable to the property.
 - (2) Supervise or cause to be supervised anyone utilizing, residing at, or occupying the property, with or without the consent of the owner, consistent with this chapter.
 - (3) Maintain the property in a manner so as not to violate the provisions of this chapter.

Sec. 18-237. Authority.

The Town Manager shall be responsible for administering and enforcing the provisions of this chapter. The Town Manager shall have the authority to designate employees as Enforcement Officers in conformance with this chapter to assist with enforcement responsibilities of this chapter, including, but not limited to, the issuance of citations.

Sec. 18-238. Safety Violations Prohibited.

It is hereby declared a violation of this chapter for a tenant, occupant, property manager, or property owner, whether through the owner or owner’s agent, lessee, sublessor, sublessee, or occupant, to allow, permit or fail to prevent a safety violation (as defined herein) to occur on the real property of the owner on a repeated basis or after receipt of a notice as set forth herein. A safety violation consists of any of the following activities or behaviors that threaten the quality of life, health, safety, or welfare of residents of the property, the neighborhood, or the public:

- (a) Evidence of the illegal manufacture, cultivation, sale, use, or possession of controlled substances or other illegal drugs and substances, including paraphernalia, evidenced by the arrest of one (1) or more persons.
- (b) Any drug-related nuisance occurring within twelve months of an arrest on the property for a safety violation defined in subsection (a) of this section.
- (c) Any act of prostitution evidenced by the arrest of one or more persons.
- (d) Any gang-related crime.
- (e) The unlawful possession, discharging, or brandishing of a firearm or weapon by any person.
- (f) Violent criminal acts, whether or not a criminal case is filed, including, but not limited to, rape, attempted rape, robbery, battery, homicide, shootings, kidnapping, or arson.
- (g) Disturbances occurring at parties or gatherings at which alcohol or drugs are consumed or used by minors and/or crimes of violence have occurred.
- (h) Allowing the occupancy load to exceed the permitted number within a public assembly, as established by the Building Code, when alcohol and/or drugs are being consumed or accessible to the gathering.

- (i) Possession of child pornography.
- (j) The occurrence of two or more violations of Chapter 18 Offenses and Miscellaneous Provisions, Article IX Alcohol Possession, Consumption, and Sales of the Town Code within any twelve (12) month period.
- (k) The occurrence of any other criminal activity not specified in subsections (a) through (i) of this section, which threatens the quality of life, health, safety, or welfare of residents of the property, the neighborhood, or the public.

Sec. 18-239. Notice to Property Owner and Tenant.

- (a) To commence enforcement of this article, the Town Manager shall, within a reasonable period of time from the date of the discovery of a safety violation as defined herein, notify the property owner, property manager, and tenant, as applicable, of the occurrence of a safety violation on the property. It is the intent of this notice to provide the recipient official notification that a safety violation has occurred so the recipient is aware of the safety violation and can take appropriate action to immediately remedy the safety violation. The notice shall be presumed provided when the written notice is either personally served upon the owner, property manager, or tenant or mailed to the last known address of the owner, property manager, or tenant by registered or certified mail, return receipt requested. If service on any person cannot be accomplished through the above-stated means or if any person refuses to accept service, the Town Manager may provide written notice to the owner, property manager, and tenant by posting such written notice in a conspicuous place on the property. The removal of the posted notice by any person shall not affect the validity of such notice.
- (b) When the Town Manager notifies an owner of rental property of a safety violation allegedly caused by a specific tenant or the tenants of a specific unit or property, the Town Manager may concurrently give written notice thereof to the property manager, when one is known, and the specific tenant(s) of a unit or property.
- (c) The notice shall contain the following information:
 - (1) The address where the safety violation is occurring.
 - (2) A statement specifying the activities and behaviors which constitute the safety violation, including the names (when known) of the person or persons allegedly causing the safety violation, and may include reasonable actions which the Town Manager directs the property owner to take to abate the violation.
 - (3) A statement informing the owner, property manager, and tenant, as applicable, that if any safety violations reoccur after being served or receiving the notice, a citation and other administrative penalties for each new safety violation that occurs may be issued and imposed upon the owner, property manager, and tenant.
 - (4) A statement that the owner and property manager, as applicable, must, in responding to the notice and working with tenants, comply with all applicable Federal, State and local regulations relating to evictions and prohibitions against discrimination.
- (d) After an initial notice, Town shall not be responsible for providing notice pursuant to this section prior to issuance of a citation for subsequent safety violations on the same property that occur within the 365 days of the date the initial notice was served or received.

Sec. 18-240. Safety Violation Enforcement and Fines.

- (a) Any violation of this chapter may result in any or all of the following actions and/or fines:
- (1) Upon conviction, be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days, or both. (1976 SC Code §14-25-65);
 - (2) Suspension or revocation of any business license issued for the property as set forth in Section 6-33 of the Town Code;
 - (3) Institution of a civil action by the Town Attorney; and/or.
 - (+) (4) Administrative injunction ordering the action constituting a safety violation to immediately cease and desist; such an order may require an order that the property be immediately vacated to protect the health and welfare of the community.
- (b) Each day the safety violation(s) continue shall be deemed a new violation subject to additional citations, penalties, and fines.

Secs. 18-241 – 18-251. Reserved

ARTICLE II – BUSINESS LICENSES AND REGULATIONS

Sec. 6-32. Denial of License.

The License Official shall deny a license, including renewals and transfers thereof, to an applicant when the License Official determines:

- (a) The application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact; or
- (b) The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accidens; or
- (c) The applicant, Licensee, or prior Licensee or the person in control of the business has been convicted of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
- (d) The applicant, Licensee, or prior Licensee or the person in control of the business has engaged in a unlawful activity ~~or~~, safety violation as defined in Section 18-238, or other nuisance related to the business or to a similar business in the Municipality or in another jurisdiction; or
- (e) The applicant, Licensee, or prior Licensee or the person in control of the business is delinquent in the payment to the Municipality of any tax ~~or fee~~, betterment, fine, fee or other municipal charge; or
- (f) The license for the business or for a similar business of the Licensee in the Municipality or another jurisdiction has been denied, suspended or revoked in the previous license year. ~~A decision of the License Official shall be subject to appeal to Town Council as herein provided. Denial shall be written with reasons stated.~~

Whenever the License Official, or his/her designee, determines that there is cause to deny a license application pursuant to this Section, the License Official, or his/her designee, shall provide written notice to the Applicant by personal service, registered or certified mail, return receipt requested, or first class mail to the address provided on the license application of his/her determination. Service shall be deemed provided on the date of personal service or five days after mailing, whichever occurs earlier. The notice shall include the following:

- (1) A brief statement of the reasons for the denial and a copy of the applicable provisions of this ordinance; and,
- (2) A statement that the Licensee has ten (10) days from the date of service to file a written appeal to Town Council, as set forth in Section 6-34.

Sec. 6-33. Suspension or Revocation of License.

~~(a) — When the License Official determines:~~

(a) ~~A license has~~ Grounds for Suspension or Revocation of License. The License Official, or his/her designee, may, at any time, suspend and propose the revocation of any license issued under the provisions of this Chapter whenever the Licensee, or any officer, employee, partner or agent thereof:

- (1) ~~Has~~ been mistakenly or improperly issued ~~or a license or has obtained a license~~ issued contrary to law; or
- (2) ~~A Licensee has~~ Has ~~breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance~~ Chapter; or
- (3) ~~A Licensee has~~ Has ~~obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion, omission or suppression of a material fact in the license application; or~~
- (4) ~~A Licensee has~~ Has ~~been convicted of~~ charged with ~~an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or~~
- (5) ~~A Licensee has~~ Has ~~engaged in an any unlawful activity, safety violation as defined in Section 18-238, or other nuisance related to the business; or has permitted the same; or~~
- (6) ~~A Licensee is~~ Is ~~delinquent in the payment to the Municipality of any tax or, betterment, fine, fee or other municipal charge.~~

(b) Whenever the License Official, or his/her designee, determines that there is cause for suspending or revoking any license issued pursuant to this Chapter, the License Official, or his/her designee, shall give provide written notice to the Licensee or the person in control of the business within the Town by personal service or registered or certified mail that, return receipt requested, to the address provided on the license application or to such new address if reported pursuant to Section 6-26, of his/her determination. If service through the above-stated means cannot be reasonably accomplished or if the Licensee refuses to accept service, the License Official may provide written notice to the Licensee by posting such written notice in a conspicuous place on the property or building of the business establishment located at the address provided on the license or at such new address if reported pursuant to Section 6-26. The notice shall include the following:

- (1) ~~The license is suspended pending a hearing before Town Council for the purpose of determining whether the license should be revoked. The notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special Town Council meeting within thirty (30) days from the date of service of the notice, unless continued by agreement. The notice shall contain a;~~
- (+)(2) A brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this ordinance; and
- (3) The time and place at which the hearing is to be held, which shall be at the next available regular or special Town Council meeting and within forty-five (45) days from the date of service of the notice, unless continued by mutual agreement between the Town Manager and the served party; and,
- (4) A statement that the Licensee has ten (10) days from the date of service to file a

written appeal to Town Council, as set forth in Section 6-34.

Section 6-34 Appeals; Hearings by Council.

(a) Any applicant or Licensee aggrieved by a decision, final assessment, suspension or denial of a Business License by the License Official may appeal the decision to the Town Council by written request stating the reasons therefore, filed with the License Official within ten (10) days after service of the notice of the decision, final assessment, suspension or denial. If a Licensee timely files an appeal, any assessment or suspension shall be stayed until Town Council renders a written decision on the appeal or the proposed revocation.

(b) An appeal or a hearing on proposed revocation shall be held by the Town Council within forty-five (45) days after receipt of a request for appeal or service of notice of suspension, whichever occurs first, at a regular or special meeting of which the applicant or Licensee has been given written notice, unless such hearing is continued by agreement of the applicant or Licensee and the License Official. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party requesting the proceedings. The rules of evidence and procedure prescribed by Town Council shall govern the hearing. Town Council shall, by majority vote of members present, render a written decision based on findings of fact and application of the standards herein which shall be served upon all parties or their representatives and shall be the final decision of the Town.

ARTICLE V. – OFFENSES AGAINST PROPERTY

Sec. 18-119. Graffiti.

- (a) Purpose and intent.
 - (1) The Town Council is enacting this article to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.
 - (2) The Town Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the Town acts to remove graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the community’s quality.
 - (3) The Town Council intends, through the adoption of this article, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement.

- (b) Definitions. For the purposes of this article, the following words shall have the meanings respectively ascribed to them, except where the context clearly indicates a different meaning:
 - (1) Graffiti. Any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, glued or engraved on or otherwise affixed to any surface of public or private property by any means whatsoever to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the Town Manager.
 - (2) Person. Any individual, partnership, corporative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
 - (3) Town Manager. The Town Manager for the Town of Bluffton or designee.

- (c) Graffiti as nuisance. The existence of graffiti on public or private property in violation of this article is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this article. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

- (d) Prohibited acts. It shall be unlawful for any person to apply graffiti to any natural or man-made surface without the permission of the owner of the property.

- (e) Removal of graffiti by perpetrator. Any person applying graffiti on public or private property shall remove the graffiti within (10) days after written notice by the Town Manager. The notice shall be presumed when the written notice is either personally served upon the

perpetrator or mailed to the last known address of the perpetrator by certified post office mail with return receipt. If the perpetrator refuses to be served notice, the notice shall be presumed when the last known address of the perpetrator is conspicuously posted. Such removal shall be done in a manner prescribed by the Town Manager. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this article.

(f) Removal of graffiti by the Town. If graffiti is not removed by the perpetrator according to Section 18-119(e), graffiti may be removed pursuant to the following provisions:

(1) Although a property owner that is a victim of graffiti is encouraged to take immediate actions to remove the graffiti, a property owner may apply for the graffiti to be removed through the Town's Community Development Neighborhood Assistance Program. Such assistance, if available, may be provided regardless of income amount and shall only be provided if the following conditions are met:

A. The property owner must provide written consent to enter the property and release the Town from liability for property damage or personal injury.

B. The Town Manager shall not authorize or undertake to provide for the painting, removal, or repair of any more extensive an area than that where the graffiti is located, unless the Town Manager determines that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

(2) If the property owner does not elect to remove the offending graffiti or if the Town Manager has requested consent to remove or paint over the offending graffiti and the property owner has refused consent for entry on terms acceptable to the Town Attorney and consistent with the terms of this section, the Town Manager may take necessary actions to remove the graffiti at the cost of the Town.

(g) Ease of removal provisions.

(1) Any gas, electric, telephone, water, sewer, cable, telephone and other utility operating in the Town shall to the extent deemed feasible by the Town Manager to paint its above-surface metal fixtures with an industry-recognized paint type and color.

(2) All encroachment permits issued by the Town shall, among such other things, be conditioned on:

A. The permittee's application of an anti-graffiti material to the encroaching object of a type and nature that is acceptable to the Town Manager;

B. The permittee's immediate removal of any graffiti;

C. The Town's right to remove graffiti or to paint the encroaching object; or

D. The permittee's providing the Town with sufficient matching paint and/or anti-graffiti material on demand for use in the painting of the encroaching object containing graffiti.

- (h) Prevention provisions. Any applicant for design review, conditional use permit, special use permit, development plan, or other form of development or building permit shall, to the extent deemed feasible by the Town Manager have designed any building structures visible from any public or quasi-public place in such a manner to consider prevention of graffiti, including but not limited to the following:
- (1) Use of a protective coating to provide for the effective and expeditious removal of graffiti;
 - (2) Use of additional lighting;
 - (3) Use of non-solid fencing; and
 - (4) Use of landscaping designed to cover large expansive walls such as ivy or similar clinging vegetation.
- (i) Rewards and reimbursements for information.
- (1) The Town Manager may offer a reward in an amount to be established by resolution of the Town Council for information leading to the identification and apprehension of any person who willfully damages or destroys any public or private property by the use of graffiti. In the event of multiple contributions of information, the reward amount shall be divided by the Town Manager in the manner it shall deem appropriate.
 - (2) Claims for rewards under this section shall be filed with the Town Manager in the manner specified by the resolution of Town Council.
 - (3) No claim for a reward shall be allowed unless the Town Manager investigates and verifies the accuracy of the claim and determines that the requirements of this section have been satisfied.
- (j) Penalties.
- (1) Any person violating this article shall be punished by a fine up to five hundred dollars (\$500.00), or by imprisonment for a term not to exceed thirty (30) days, or by both fine and imprisonment.
 - (2) In addition to any punishment specified in this section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court.
 - (3) In lieu of, or as part of, the penalties specified in this section, a minor or adult may be required to perform community service. Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal.

Secs. 18-~~119~~120 – 18-136. Reserved.

ARTICLE IV – OFFENSES AGAINST THE PEACE; PUBLIC POLICY

Sec. 18-86. Interference with Public Duties.

- (a) It shall be unlawful for any person to willfully resist, obstruct, hinder, impair, prevent, , or otherwise interfere with the performance of a legitimate government function by a public servant or to aid or abet any such resistance, obstruction, hindrance, impairment, prevention, or other interference by:
 - (1) Preventing or hindering access to a property or a person by a public servant, acting under the color of his/her official authority, for the purpose of pursuing an investigation or performing a legitimate government function; or,
 - (2) Using or threatening to use physical force or violence against a public servant; or,
 - (3) Refusing or disobeying a request to withdraw from the immediate area of the public official; or,
 - (4) Refusing or disobeying a request from a public servant to withdraw from the immediate area to allow the public servant to perform his/her legitimate government functions; or,
 - (5) Using any other means that create a risk or cause physical injury to the public servant.
- (b) For the purposes of this Section, the term public servant means any officer or employee of the Town of Bluffton, whether elected or appointed, and any person participating as an advisor or consultant or otherwise performing a governmental function of the Town.
- (c) It shall be an affirmative defense to prosecution under this Section that the interruption, disruption, impediment, or interference alleged consisted of free speech only.

Secs. 18-~~86~~87 – 18-113. Reserved.