

Chapter 1 GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters and sections constitute and are designated as the "Code of Ordinances, City of Barnwell, South Carolina," and may be so cited. They may be cited also as the "Barnwell City Code" or "The City Code."

(Code 1989, § 1.201; Code 2009, § 1-1)

Sec. 1-2. Provisions considered as continuation of existing ordinances.

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

(Code 1989, § 1.202; Code 2009, § 1-2)

Sec. 1-3. Severability of parts of Code.

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

(Code 1989, § 1.203; Code 2009, § 1-3)

Sec. 1-4. Catchlines or catchwords of sections.

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

(Code 1989, § 1.204; Code 2009, § 1-4)

Sec. 1-5. Definitions.

The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

And, or. The term "and" may be read as "or" and the term "or" may be read as "and," where the sense requires it.

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

Business district. The term "business district" means the territory contiguous to and including a street when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

City. The term "city" means all the area lying within the corporate limits.

Clerk. The term "clerk" means the municipal clerk. However, the title may be used interchangeably with "clerk," "city clerk" or "clerk-treasurer," if one person holds both positions.

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

Council or city council. The term "council" or "city council" means the mayor and council as defined in the 1976 South Carolina Code of Laws, section 5-9-20 (S.C. Code 1976, § 5-9-20).

Emergency vehicle. The term "emergency vehicle" means vehicles of the fire and police departments, ambulances and/or emergency vehicles or public service corporations as are designated or authorized by the South Carolina Department of Transportation (SCDOT) or by the mayor and council.

Gender. See section 1-6.

May. The term "may" shall be permissive.

Month. The term "month" means a calendar month, unless defined otherwise.

Municipality. The term "municipality" may be used interchangeably with the term "city" and means the entire area within the corporate limits.

Number. See section 1-6.

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

Owner. The term "owner" means and includes, when applied to a building or land, any part-owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

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Person. The term "person" includes a corporation, firm, partnership, association, organization and any other group as a unit, as well as an individual.

Personal property. The term "personal property" includes every species of property, except real property.

Preceding and following. The terms "preceding" and "following" mean the next before and the next after, respectively.

Property. The term "property" includes real and personal property.

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

Residence district. The term "residence district" means territory contiguous to and including a street not comprising a business district when the property on such street for a distance of 300 feet or more is in the main improved with dwellings or dwellings and buildings in use with residences.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular travel.

S.C. Code 1976. The term "S.C. Code 1976" refers to the South Carolina Code of Laws.

S.C. Code Reg. The term "S.C. Code Reg." refers to the South Carolina Code of Regulations.

Shall. The term "shall" means mandatory.

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

Signature or subscription. The term "signature" or "subscription" means a mark when a person cannot write.

State. The term "state" means the State of South Carolina.

Street. The term "street" includes streets, avenues, boulevards, highways, roads, alleys, lanes, bridges, and all other public thoroughfares and shall mean the entire width thereof between abutting property lines. The term "street" shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the council.

Tenant or occupant. The term "tenant" or "occupant," when applied to a building or land, includes any person who occupies the whole or part of such building or land, whether alone or with others.

Writing or written. The term "writing" or "written" includes printing and any other mode of representing words and letters.

Year. The term "year" means a calendar year unless otherwise defined.

(Code 1989, § 1.205; Code 2009, § 1-5)

Sec. 1-6. Rules of construction.

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

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

(Code 1989, § 1.206; Code 2009, § 1-6)

Sec. 1-7. General penalty, continuing violations.

Whenever in this Code or in any ordinance, resolution, rule, regulation or order promulgated by any agency or officer thereof under authority duly vested in him or it, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, where no specific penalty is provided for the violation thereof, the violation of any such provisions of this Code, ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding 30 days, or both; provided, however, that no penalty shall exceed the penalty provided by state law for similar offenses. Each day any violation of this Code or any ordinance, rule or regulation shall continue shall constitute a separate offense.

(Code 1989, § 1.207; Code 2009, § 1-7)

Sec. 1-8. Liability of corporations, etc., and agents for violations.

- (a) Any violation of this Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.
- (b) Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any provision of this Code, where such violation was the act or omission, or the result of the act, omission or order of any such person.

(Code 1989, § 1.209; Code 2009, § 1-8)

Sec. 1-9. Effect of repeal or expiration of ordinance.

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

(Code 1989, § 1.210; Code 2009, § 1-9)

Sec. 1-10. Amendments to Code.

- (a) All ordinances adopted subsequent to this Code of Ordinances, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections, or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following, but not necessarily the exact language: "That section _____ of the City Code of the City of Barnwell is hereby amended as follows:...." The new provisions may then be set out in full as enacted; the text and numbering system consistent with this Code.

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- (c) In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "... the Barnwell City Code is hereby amended by adding a section, to be numbered _____, which section shall read as follows:...." The new section shall then be set out in full. The sections of the ordinance may be renumbered to accomplish such intention.
- (d) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

(Code 1989, § 1.211; Code 2009, § 1-10)

Sec. 1-11. Altering Code.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever, which may cause the laws of the city to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in section 1-7.

(Code 1989, § 1.212; Code 2009, § 1-11)

Sec. 1-12. Prosecution where different penalties exist for same offense.

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

(Code 1989, § 1.213; Code 2009, § 1-12)

Sec. 1-13. Municipal seal.

The municipality shall have a common seal, to be in the custody of the clerk, which seal shall be affixed to all official documents of the municipality as may be directed by the council.

(Code 1989, § 1.214; Code 2009, § 1-13)

Sec. 1-14. Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code may be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, when necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

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- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Code 2009, § 1-14)

Sec. 1-15. Certain ordinances, rights, etc., not affected by Code.

Nothing in this Code when adopted, or the ordinance adopting this Code, shall affect ordinances in effect at the time of adoption of this Code, concerning the following subjects:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of the ordinance adopting this Code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the municipality, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligations assumed by the municipality;
- (3) The administrative ordinances or resolutions of the municipality not in conflict with the provisions of the Code;
- (4) Any ordinance or resolution fixing salaries of officers or employees of the city, unless superseded;
- (5) Any appropriation ordinance or resolution;
- (6) Any right of franchise granted by the council to any person, firm or corporation;
- (7) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, closing, opening, paving, widening, vacating, etc., any street or public way in the city;
- (8) Any ordinance or resolution establishing and prescribing the street grades of any streets in the city;
- (9) Any ordinance or resolution providing for local improvements or assessing taxes therefor;
- (10) Any ordinance or resolution dedicating or accepting any plat or subdivision in the municipality, or providing regulations for the same;
- (11) Any ordinance annexing property to the municipality;
- (12) Any zoning ordinance or amendments thereto, and any ordinance establishing a board of zoning appeals, board of architectural review, or planning commission, including joint commissions;
- (13) Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving or removal of buildings or other structures;

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- (14) Ordinances or resolutions prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with this Code;
- (15) Any ordinance or resolution fixing utility rates and charges;
- (16) Any ordinance of agreement with another political subdivision;
- (17) Any ordinance concerning issuance of tax anticipation notes or other debt;
- (18) Any ordinance regulating adult entertainment or sexually oriented businesses;
- (19) Any ordinance concerning business licensing;
- (20) Any other ordinance or resolution, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect;

and all such ordinances and resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code, until later amended or repealed. Such ordinances and resolutions are on file in the municipal clerk's office.

(Code 2009, § 1-15)