

**TOWN OF SEABROOK ISLAND**

**ORDINANCE NO. 2022-01**

**ADOPTED \_\_\_\_\_**

**AN ORDINANCE AMENDING THE TOWN CODE FOR THE TOWN OF SEABROOK ISLAND, SOUTH CAROLINA; CHAPTER 2, ADMINISTRATION; SO AS TO UPDATE AND MODIFY THE GENERAL ADMINISTRATIVE POLICIES AND PROCEDURES OF THE TOWN**

**WHEREAS**, Chapter 2 of the Town Code for the Town of Seabrook Island (the "Town Code") contains various general provisions for the administration of the town, including: form of government; personnel policies; composition, qualifications and organization of town council; meeting procedures, committees and ordinances; officers and departments of the town; financial administration; and emergency preparedness; and

**WHEREAS**, the Mayor and Council for the Town of Seabrook Island desire to amend the Town Code so as to bring the requirements of Chapter 2 into conformity with updated provisions of state law, current operational procedures and best practices; and

**WHEREAS**, the Mayor and Council advertised and held a public hearing on the proposed amendments during a duly called meeting on March 22, 2022; and

**WHEREAS**, the Mayor and Council believe it is fitting and proper to amend the Town Code to achieve the objectives referenced herein;

**NOW, THEREFORE**, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, **BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SEABROOK ISLAND, S.C.:**

**SECTION 1. Amending Chapter 2 of the Town Code.** The Town Code for the Town of Seabrook Island, South Carolina; Chapter 2, Administration; is hereby amended to read as follows:

**Chapter 2 - ADMINISTRATION**

**ARTICLE I. IN GENERAL**

**Sec. 2-101. Form of government.**

The mayor-council form of government, as provided for in S.C. Code 1976 Secs. 5-9-10 through 5-9-40 is hereby adopted for the Town of Seabrook Island, pursuant to S.C. Code 1976 Secs. 5-1-10 et seq.

**Sec. 2-102. Personnel policies and procedures adopted.**

In order to establish general personnel policies and procedures for the town and its employees, the "Town of Seabrook Island Employee Handbook," dated November 27, 2018, is hereby adopted

and incorporated by reference as if fully set forth in this section. The Employee Handbook may be updated from time to time by resolution of town council, upon recommendation by the mayor.

**Sec. 2-103. Corporate limits.**

The corporate limits of the town shall be those now and hereafter specified by law, along with any alterations which may be made from time to time as provided for by law. A map and a description of the corporate limits shall be maintained in the office of the town clerk/treasurer.

**Sec. 2-104. Town seal.**

The town shall maintain and keep at town hall an official town seal bearing "Town of Seabrook Island, S.C." which shall be used to authenticate all ordinances, resolutions and minutes.

**Secs. 2-105—2-200. [Reserved]**

**ARTICLE II. MAYOR AND COUNCIL**

**Sec. 2-201. Composition and qualifications.**

The municipal council of the town shall be composed of a mayor and four council members who shall be qualified electors of the town. A majority of the town council shall constitute a quorum for the purpose of conducting town business.

**Sec. 2-202. Election and terms of office.**

- (A) *Mayor.* The mayor shall be elected to a two-year term of office.
- (B) *Town council members.* Town council members shall be elected to a two-year term of office.

**Sec. 2-203. Oath of office.**

The mayor and town council members, before entering upon the duties of their respective offices, shall take the following oath of office:

"I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States.

As Mayor (or Council Member) of the Town of Seabrook Island, I will equally, fairly, and impartially, to the best of my ability, and skill, exercise the trust reposed in me, and will use my best endeavor to preserve the peace and carry into effect according to law the purposes for which I have been elected. So help me God."

**Sec. 2-204. Town council.**

- (A) *In general.* Except as otherwise provided by law, all powers of the town and the determination of all matters of policy shall be vested in the town council, and the town council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the town by law. Each member of town council, including the mayor, shall have one vote.
- (B) *Powers.* Consistent with the powers, duties, and responsibilities conferred by state law, the town council shall have the power to:
- (1) Establish municipal departments, offices, and agencies;
  - (2) Investigate any department of the town government and any office or agency thereof;
  - (3) Prescribe the functions of all departments, offices, and agencies; provided, however, no function assigned by law to a particular department, office, or agency may be discontinued or assigned to any other agency;
  - (4) Establish fines and penalties for the violation of municipal ordinances and regulations not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both;
  - (5) Adopt an annual budget, pursuant to public notice;
  - (6) Levy and collect taxes on real and personal property, make assessments, and establish uniform service charges;
  - (7) Levy a business license tax on gross income;
  - (8) Grant, renew, or extend franchises for the use of public streets and beaches;
  - (9) Authorize the borrowing of money and pledge the full faith and credit of the town;
  - (10) Purchase, lease, sell, or otherwise acquire or dispose of real and personal property;
  - (11) Provide public services including, but not limited to, police protection, recreation, public works, lifeguard, and other safety related services;
  - (12) Appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the town;
  - (13) Guide development in accordance with existing and future needs and promote the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare through the adoption of local zoning and land development regulations;
  - (14) Provide for the abatement of public nuisances;

- (15) Elect a mayor pro tempore;
- (16) Employ an administrator to assist the mayor in the discharge of his or her duties;
- (17) Appoint the town clerk/treasurer, town attorney, and municipal judge;
- (18) Appoint members to the Accommodations Tax Advisory Committee, Board of Zoning Appeals, Planning Commission, and all advisory and special committees of the town; and
- (19) Enact, amend, or repeal any regulation, resolution, or ordinance which appears to be necessary and proper for the security, general welfare, and convenience of the town, or for preserving health, peace, order, and good government within it, and which is not inconsistent with the Constitution and general law of the state.

**Sec. 2-205. Mayor.**

- (A) *In general.* The mayor shall be the chief administrative officer of the town. The mayor shall be responsible to the town council for the administration of all affairs for which he or she is charged and shall have the powers and duties as prescribed by law.
- (B) *Powers.* As authorized by statute, the mayor is empowered to:
  - (1) Appoint and, when deemed necessary for the good of the town, suspend or remove employees and appointive administrative officers, except as otherwise provided by law. He or she may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
  - (2) Direct and supervise the administration of all departments, offices, and agencies of the town, except as otherwise provided by law;
  - (3) Preside at town council meetings and vote as other council members;
  - (4) Act to ensure that all laws and ordinances of the town, subject to enforcement by him or her, or by officers subject to his or her direction and supervision, are faithfully executed;
  - (5) Prepare and submit the annual operating budget and capital program to the town council for review and adoption;
  - (6) Submit to the town council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year;
  - (7) Make such other reports as the town council may require concerning the operations of municipal departments, offices, and agencies subject to his or her direction and supervision;

- (8) Appoint the chairperson of all advisory committees of the town;
  - (9) Establish and appoint all ad hoc committees of the town council; and
  - (10) Perform such other duties as may be prescribed by law under the mayor-council form of government.
- (C) *Miscellaneous powers.* The mayor is authorized to negotiate and enter into agreements, subject to ratification by the town council, with other jurisdictions for the initiation and/or continuance of public services for the town.

(D) *Emergency powers.*

(1) *Authority.*

- a. *Declaration.* The mayor may, upon the happening, or probable happening, of any one or more of the following events, declare a state of emergency to exist within the town's corporate limits:
  - a. The occurrence of civil unrest or rioting, to include the formation of any unruly mob;
  - b. The existence of a state of war, whether declared or not, or of any insurrection;
  - c. The occurrence of any tornado, hurricane, cyclone, major fire, earthquake, flood, tsunami or any other force of nature that disrupts or threatens to disrupt the normal activities of the community;
  - d. The occurrence of acts of arson, terrorism, or similar activities that unduly alarm and/or threaten the public;
  - e. The occurrence of an accident or incident which materially and adversely disrupts the normal operation of the town or the ability of its residents to conduct a routine way of life;
  - f. The occurrence of a pandemic or other public health emergency; and
  - g. Any other threatening event designated as an emergency by town council.
- b. *Proclamation.* The state of emergency shall be declared by a proclamation signed by the mayor and posted on the official town bulletin board located at Seabrook Island Town Hall and shall be effective immediately upon posting. The proclamation shall be in substantially the following language:

"It has been determined that (here state the event giving rise to the emergency) has occurred (or is likely to occur) within the corporate limits of

the Town of Seabrook Island, South Carolina, and that accordingly, a state of emergency does in fact exist. Therefore, I hereby proclaim a state of emergency and invoke the emergency provisions of Section 2-205 of the Town Code."

- (2) *Vested extraordinary powers.* In the event a state of emergency is declared by the mayor under the provisions of this section, the mayor shall become vested with the following extraordinary powers, which may be exercised at his or her discretion:
- a. To establish a curfew within the town's corporate limits;
  - b. To prohibit the sale of:
    - 1. Gasoline, explosives, dynamic and/or any other type of inflammable or explosive materials;
    - 2. Firearms; or
    - 3. Any other materials or supplies, or any component parts thereof, which could be readily utilized as weapons;
  - c. To disperse unlawful assemblies or congregations of people;
  - d. To suspend the issuance of permits;
  - e. To order the evacuation of the town;
  - f. To designate off-limit areas;
  - g. To commandeer boats and vehicles;
  - h. To restrict trade and commercial activities;
  - i. To make emergency purchases pursuant to Sec. 2-625(C)(3);
  - j. To request the assistance of the military and/or law enforcement forces of federal, state, and/or other local agencies; and
  - k. To take such action as appears necessary in his or her judgment to protect life and property and maintain peace and good order within the town.
- (3) *Issuance of orders.* Any orders issued by the mayor under his or her extraordinary powers during a declared state of emergency shall be effective immediately, or at such other time as the mayor shall specifically designate, with the posting of the orders upon the official town bulletin board located at Seabrook Island Town Hall, or upon verbal communications by the mayor directly to the person whom the order is intended to affect.

(4) *Ending emergency.* The state of emergency shall legally end when the mayor determines that the peace and good order of the town are no longer threatened and declares this in a proclamation which shall be posted upon the official town bulletin board located at Seabrook Island Town Hall, or upon a majority vote of town council, whichever occurs first.

(5) *Penalty.* Anyone violating any provision of this section, or any orders issued by the mayor under this section, shall, upon conviction, be punished pursuant to the general penalty provisions contained within Sec. 1-7 of the Town Code.

**Sec. 2-206. Mayor pro tempore.**

(A) *Election.* After any general election, the town council shall, at the first regular meeting of the newly constituted council, elect from its membership a mayor pro tempore to serve for a term of not more than two years.

(B) *Duties.* The mayor pro tempore shall act as mayor during the absence or disability of the mayor. If a vacancy occurs in the office of mayor, the mayor pro tempore shall serve as acting mayor until a successor is elected.

(C) *Temporary absence of mayor pro tempore.* In the event of the sickness or temporary absence of the mayor pro tempore, while acting as mayor, the town council shall elect from its membership a temporary presiding officer.

(D) *Vacancy.* If a vacancy occurs in the office of mayor pro tempore, the town council shall elect from its membership a new mayor pro tempore.

**Sec. 2-207. Compensation and expenses.**

(A) *Salary.* The mayor and members of town council may receive an annual salary, the amount of which shall be fixed by ordinance.

(B) *Procedure for establishing or increasing salaries.* Any ordinance establishing or increasing the salaries of the mayor and members of town council shall not become effective until the commencement date of the terms of two or more members elected at the next general election following adoption of the ordinance, at which time it will become effective for all members regardless of whether they were elected in such election.

(C) *Expense reimbursement.* The mayor and town council members may be reimbursed for any actual expenses incurred and documented in the performance of their official duties. An expense form detailing each expenditure shall be submitted to the town clerk/treasurer in a timely manner with receipts attached. The use of personal vehicles for official town business shall be reimbursed at the prevailing standard mileage rate, as published by the Internal Revenue Service. The mayor and members of town council may not receive reimbursement for alcohol or for expenses incurred by their spouses or dependents.

**Secs. 2-208—2-300. [Reserved]**

## ARTICLE III. MEETINGS AND PROCEDURES

### DIVISION 1. TOWN COUNCIL

#### Sec. 2-301. Regular meetings.

- (A) *Meeting schedule.* The town council's regular meeting shall be held on the fourth Tuesday of each month. In months when the fourth Tuesday falls during the same week as the observance of a town holiday, the regular meeting may be held on an alternate date during the same month, provided the change is approved by a majority of town council. Unless rescheduled in accordance with subsection (B), all regular meetings shall be called to order at 2:30 p.m. At the beginning of each year, the town council shall give written public notice of the dates, times, and locations of all regular meetings for that calendar year.
- (B) *Rescheduled meetings.* If it is anticipated that a quorum will not be achieved for any regular meeting scheduled in accordance with subsection (A), the mayor or a majority of town council members shall reschedule the meeting to take place on an alternate date and/or time during the same month as the regular meeting. Written public notice of any rescheduled meeting shall be provided as soon as practicable, but no less than 24 hours prior to the start of the meeting.
- (C) *Open to the public.* All town council meetings shall be open to the public.

#### Sec. 2-302. Other meetings.

Other town council meetings including, without limitation, special called meetings, emergency meetings, joint meetings, workshops, and work sessions, may be held at any time on the call of the mayor or a majority of town council members. The town clerk/treasurer shall provide notice of all meetings, as provided in Sec. 2-305.

#### Sec. 2-303. Duty to attend meetings.

Except for instances where there is good and reasonable cause for their attendance to be excused, it shall be the duty of the mayor and town council members to attend all town council meetings.

#### Sec. 2-304. Presiding officer; clerk; parliamentarian.

- (A) *Presiding officer.* The mayor shall serve as the presiding officer of all town council meetings. Questions of order shall be decided by the mayor without debate, subject to appeal to the full council. It shall be the responsibility of the mayor to preserve order at all times.
- (B) *Clerk.* The town clerk/treasurer shall serve as the clerk of council.
- (C) *Parliamentarian.* The town attorney shall act as the parliamentarian.



**Sec. 2-305. Notice of meetings.**

- (A) *Notice to the media.* The town clerk/treasurer shall provide notice to the media of the date, time, location, and subject of all town council meetings. All meeting minutes shall reflect that the media was so notified.
- (B) *Notice to the public.* The town clerk/treasurer shall provide notice to the public of all town council meetings by posting the date, time, location, and agenda for each meeting on the official town bulletin board located at Seabrook Island Town Hall and on the town website at least 24 hours prior to the start each meeting.
- (C) *Exceptions.* The requirements of this section shall not apply to emergency meetings of town council.

**Sec. 2-306. Agenda; order of business.**

(A) *Agenda required.*

- (1) *Regular meetings.* The town clerk/treasurer shall publish an agenda for all regular town council meetings as soon as practical, but no less than 24 hours prior to the start of the meeting. The agenda shall list all items to be considered by the town council in accordance with the order of business provided in subsection (B). The agenda may not be amended within 24 hours of the meeting, except as provided in subsection (C).
- (2) *Special meetings.* The town clerk/treasurer shall publish an agenda for all other town council meetings as soon as practical, but no less than 24 hours prior to the start of the meeting. The agenda may not be amended within 24 hours of the meeting, except as provided in subsection (C).
- (3) *Amendments to agenda.* Once a meeting agenda has been posted, no items may be added to the agenda without an additional 24 hours' notice to the public, which must be made in the same manner as the original posting. After the meeting begins, an item upon which action can be taken only may be added to the agenda by a two-thirds vote of the members present and voting; however, if the item is one upon which final action can be taken at the meeting or if the item is one in which there has not been and will not be an opportunity for public comment with prior public notice given in accordance with this section, it may only be added to the agenda by a two-thirds vote of the members present and voting and upon a finding by the town council that an emergency or an exigent circumstance exists if the item is not added to the agenda.

(B) *Order of business.*

- (1) *Regular meetings.* The order of proceedings for all regular town council meeting shall be as follows:

- a. *Call to order/roll call/pledge of allegiance.* The mayor shall call the meeting to order at the appointed time and determine whether a quorum is present. The mayor, or an individual designated by the mayor, may begin the meeting by leading the assembly in reciting the Pledge of Allegiance.
- b. *Executive session.* The town council may enter executive session pursuant to the provisions of Sec. 2-312.
- c. *Approval of minutes.* The town council shall review and approve any unapproved minutes from its previous meeting(s). The town clerk/treasurer shall read the minutes upon request by any two or more town council members.
- d. *Presentations.* Persons or groups wishing to make a formal presentation to the town council shall submit a written request to the town clerk/treasurer no later than one week prior to the meeting date. Upon approval by the mayor, the town clerk/treasurer shall add the presentation to the town council agenda. Each presentation shall be limited to ten minutes. There shall be no more than three presentations during any regular meeting.
- e. *Public hearing items.* The mayor shall announce the opening of the public hearing. The mayor shall then read the title of the first public hearing item listed on the agenda and open the floor for public comment on that item. Each speaker shall be limited to three minutes in which to make his or her comments. Town council shall allow no more than 30 minutes for public comments on each public hearing item. Preference shall be given to individuals who have signed up or otherwise notified the town clerk/treasurer of a desire to speak prior to the start of the meeting. Upon conclusion of the public hearing, the mayor shall close the public hearing. If there is more than one public hearing item listed on the agenda, the mayor shall repeat these steps for each public hearing item.
- f. *Citizen comments.* During the first citizen comment period, any citizen may speak pertaining to any item listed on the meeting agenda which does not require a public hearing. Each speaker shall be limited to three minutes in which to make his or her comments. Town council shall allow no more than 30 minutes for citizen comments. Preference shall be given to individuals who have signed up or otherwise notified the town clerk/treasurer of a desire to speak prior to the start of the meeting.
- g. *Reports of town boards, commissions and committees.* The town council shall receive reports, if any, from town boards, commissions, and committees in the following order:
  - 1. Advisory committees established pursuant to Sec. 2-401;
  - 2. Special committee established pursuant to Sec. 2-402;
  - 3. Ad hoc committee established pursuant to Sec. 2-403;

4. Board of Zoning Appeals;
  5. Planning Commission;
  6. State Accommodations Tax Advisory Committee; and
  7. Utility Commission.
- h. *Reports of town officers.* The town council shall receive reports, if any, from town officers in the following order:
1. Mayor;
  2. Town administrator;
  3. Town clerk/treasurer;
  4. Town attorney; and
  5. Zoning administrator.
- i. *Ordinances for second reading.* The town council shall review and take action upon all ordinances which are listed on the agenda for second reading consideration. All ordinances must be in the form as specified in Sec. 2-342.
- j. *Ordinances for first reading.* The town council shall review and take action upon all ordinances which are listed on the agenda for first reading consideration. All ordinances must be in the form as specified in Sec. 2-342.
- k. *Other action items.* The town council shall review and take action upon all resolutions and other action items which are listed on the agenda for consideration.
- l. *Items for information or discussion.* The town council may receive, review, and discuss, but not take action upon, any other town matter placed on the agenda by the mayor, a member of town council, or the town administrator.
- m. *Citizen comments.* During the second citizen comment period, any citizen may speak pertaining to any town matter, except personnel matters. Each speaker shall be limited to three minutes in which to make his or her comments. Town council shall allow no more than 30 minutes for citizen comments. Preference shall be given to individuals who have signed up or otherwise notified the town clerk/treasurer of a desire to speak prior to the start of the meeting.
- n. *Council comments.* The mayor and members of town council may provide comments or ask questions on any town matter.

o. *Adjournment.* Upon conclusion of all town council business, the mayor shall call for a motion to adjourn the meeting.

(2) *Other meetings.* The order of proceedings for all other town council meetings including, without limitation, special called meetings, emergency meetings, joint meetings, workshops, and work sessions, shall be as provided on the published on the agenda for that meeting. No items may be added to the published agenda without 24 hours' notice.

(3) *Suspending or altering order of proceedings.* The order of proceedings described herein may be suspended or altered by unanimous consent of the town council members present.

#### **Sec. 2-307. Minutes.**

(A) *Preparation.* The town clerk/treasurer shall attend all town council meetings and keep minutes of the proceedings.

(B) *Approval.* Meeting minutes shall be approved at the next regular meeting of the town council. Minutes do not constitute the official record of a meeting until approved by town council.

(C) *Public record.* Upon approval by the town council, all meeting minutes shall be maintained on file in the office of the town clerk/treasurer as a permanent public record. Meeting minutes shall be made available for public review in accordance with the requirements of the South Carolina Freedom of Information Act.

#### **Sec. 2-308. Quorum.**

(A) *Determination of quorum.* Immediately at the hour appointed for the town council meeting, the mayor shall take the chair and call the meeting to order. He or she shall then direct the town clerk/treasurer to call the roll. If a quorum is present either in person or by means of electronic equipment, as provided in Sec. 2-314, the mayor shall proceed with the town council business as prescribed by the agenda. If a quorum of the town council fails to appear within 15 minutes after the appointed start time, no member shall be required to attend longer, unless he or she chooses to do so.

(B) *Conflicts of interest.* A member present but disqualified from voting on a question by state law due to a conflict of interest shall be counted for purposes of a quorum as long as he or she remains present.

#### **Sec. 2-309. Rules of order.**

(A) *In general.* Except as otherwise required by state law or the Town Code, all proceedings shall be governed by Robert's Rules of Order, Newly Revised Edition.

(B) *Addressing town council.* A member who desires to speak shall respectfully address the mayor and shall not commence to speak until recognized. When two or more members

request to speak at the same time, the mayor shall determine the order in which each member is recognized. Town council members shall conduct themselves with decorum, shall refrain from personalities, and shall avoid any disrespect to other members of town council or the public. Every member while speaking shall confine himself or herself to the subject under debate.

- (C) *Interruption.* Unless a member who has the floor yields for that purpose, no member shall interrupt another while speaking, except to submit a parliamentary inquiry or to make a point of order.
- (D) *Length and number of times a member may speak.* No member shall speak for more than ten minutes continuously on any one question. No member shall speak a second time on the same question until every member who desires to speak shall have had an opportunity to speak. No member shall speak more than twice on the same question.
- (E) *Decisions of the chair; appeals.* All questions of order shall be decided by the mayor without debate. In the event of an appeal of the mayor's decision, the mayor shall refer the question to the full council, and the final decision shall be determined by majority vote.
- (F) *Parliamentary inquiry.* Any member may make a parliamentary inquiry of the mayor at any time during the meeting.
- (G) *Points of order.* Any member may make a point of order without a second at any time. The mayor may speak to points of order in preference to other members and shall decide all such questions, subject to appeal to the full council by motion duly seconded. No other business shall be in order until the question on the appeal has been decided.
- (H) *Suspending or altering rules.* Any of the rules mentioned herein may be suspended or altered by unanimous consent of the town council members present.

#### **Sec. 2-310. Motions.**

- (A) *Form of motion.* A motion may be made by any member, either orally or in writing. An oral motion shall be reduced to writing upon request of any member of town council. A motion shall not be placed before the town council for a vote unless and until it has been duly seconded by another member.
- (B) *Decision on motions.* Every motion, when offered and seconded, shall be decided by a vote of town council unless the motion is withdrawn by its maker or superseded by an approved substitute motion.
- (C) *Reconsideration.* A motion to reconsider must be made by a member who voted with the prevailing side. A motion to reconsider must be made during the same meeting or at the next succeeding meeting.

#### **Sec. 2-311. Voting.**

- (A) *Majority vote required.* No motion may be officially decided in the affirmative except upon the favorable vote of a majority of those voting. A town council member attending a meeting by means of telephone, audio, or video conference link may cast a vote, as provided in Sec. 2-314. If a vote is equally divided, the question shall be decided in the negative.
- (B) *Town council members required to vote; conflicts of interest.* It is the duty of the mayor and each town council member present, including those attending by means of telephone, audio, or video conference link, to vote on every question except when required to refrain from voting by state law due to a conflict of interest. Those in favor of the question shall respond by saying or indicating "aye," and those opposed to the question shall respond by saying or indicating "nay." If a member abstains from voting, the effect is the same as if he or she voted on the prevailing side.
- (C) *Form of vote.* All votes taken by the town council shall be by voice vote or roll call, at the direction of the mayor. A roll call vote may be requested by any member of town council. In the event of a roll call vote, the town clerk/treasurer shall call each member by name in alphabetical order, with the mayor voting last.
- (D) *Members prohibited from leaving the meeting.* No member of town council may leave the meeting while a vote is taking place without the permission of the mayor.
- (E) *Recording.* Each motion and the result of every vote shall be recorded in the meeting minutes.
- (F) *Opportunity for members to explain vote.* Any member may have his or her reasons for voting for or against any questions recorded in the minutes of the meeting by gaining recognition by the mayor immediately following the vote and then briefly stating his or her reasons.

**Sec. 2-312. Executive session.**

- (A) *In general.* By majority vote in a public meeting, town council may enter executive session to discuss any item expressly permitted by S.C. Code 1976 Sec. 30-4-70. The reason for the executive session shall be stated publicly.
- (B) *Voting in executive session prohibited.* No vote or formal action shall be taken in executive session.
- (C) *Disclosure.* When an executive session is listed on a published town council agenda, the town clerk/treasurer shall add the following disclaimer on the agenda: "Please Note: Town Council may take action on Executive Session Items listed on the agenda when they come back into Public Session."
- (D) *Minutes.* Minutes of executive sessions shall not be taken unless required by majority vote of town council. Minutes of executive sessions shall not be public records.

- (E) *Disclosure prohibited.* It shall be unlawful for a member of town council or person in attendance to disclose to another person or make public the substance of a matter discussed in executive sessions.

**Sec. 2-313. Additional rules.**

The town council may, from time to time, by ordinance or resolution, adopt such additional rules, not inconsistent with this article, as may be necessary or expedient for the transaction of its business.

**Sec. 2-314. Remote participation and voting.**

Provided a quorum is present, either in person or by means of electronic equipment, the mayor and/or any member of town council may participate in and cast votes via telephone, audio, or video conference link provided that the member attending remotely is able to both hear the meeting and what is transpiring and that his or her comments and vote may be heard by those attending and/or viewing the meeting, including members of the public. If an executive session is called, only those allowed in the executive session pursuant to state law should be able to hear and be heard by the person attending the meeting remotely. To the extent possible, any eligible person who needs to attend such meetings remotely shall notify the mayor or town administrator in advance of the meeting; provided, however, such notice shall not be required for any meeting which is advertised and held solely by means of electronic equipment (ie. "virtual" meeting).

**Secs. 2-315—2-340. [Reserved]**

## **DIVISION 2. ORDINANCES AND RESOLUTIONS**

**Sec. 2-341. Ordinance required.**

- (A) *When required.* The town council shall act by ordinance in all matters required by law to be done by ordinance, including:
- (1) Adopting or amending an administrative code or code of ordinances;
  - (2) Establishing, altering or abolishing any municipal department, office or agency;
  - (3) Providing for an ordinance violation penalty or establishing a rule or regulation in which an ordinance violation penalty is imposed for violation;
  - (4) Appropriating funds and adopting a budget;
  - (5) Granting, renewing, extending, or amending franchises, licenses or rights in public streets or public property, and closing abandoned streets after public notice and a public hearing;
  - (6) Levying taxes, assessing property for improvements, or establishing charges for services;

- (7) Extending the corporate boundaries of the town by annexation;
  - (8) Selling, conveying, or leasing or authorizing the conveyance or lease of any lands of the town, or contracting to do so;
  - (9) Authorizing the borrowing of money or the issuance of bonds; and
  - (10) Amending or repealing any ordinance regarding the above matters.
- (B) *Other matters.* In all other matters, unless otherwise required by law, town council may act either by ordinance or resolution, written or oral, recorded in the minutes.

**Sec. 2-342. Form of ordinances and resolutions.**

- (A) *Form of ordinances.* Every proposed ordinance shall be introduced in writing in the form required for final adoption, which shall include:
- (1) A title briefly describing the content of the ordinance;
  - (2) A preamble, if appropriate, citing findings, reasons, or basis for the ordinance or resolution, if desired and appropriate;
  - (3) An enacting clause which shall be styled as follows: " Be it Ordained by the Mayor and Council of the Town of Seabrook Island, S.C.";
  - (4) The provisions of the ordinance including section numbers if the ordinance is to be codified or amend an existing codified ordinance;
  - (5) Citation of any ordinance repealed;
  - (6) The effective date of the ordinance;
  - (7) The approval of the town attorney as to form and the assignment of an ordinance number;
  - (8) Space for dates of readings and public hearing, if appropriate; and
  - (9) Space for the signatures of the mayor or presiding member of town council and the town clerk attesting notice, if required, and certifying enactment/adoption.
- (B) *Form of resolutions.* There shall be no standard form for resolutions. Resolutions submitted in writing may be in similar form approved by the town attorney.

**Sec. 2-343. Introduction of ordinances.**

An ordinance may be proposed by the mayor, any member of town council, the planning commission, the town administrator, or the head of any department of the town with the



approval of the town administrator. A proposed ordinance shall be referred to the town attorney for review and approval as to form. If requested, the town attorney shall render assistance in the preparation of required notices, if any, and in drafting ordinances. After an ordinance is in proper form, the town attorney shall send the ordinance to the town clerk/treasurer to be held for public inspection and to be placed on a regular agenda or special agenda, as appropriate. An ordinance is considered to be introduced when it appears on an agenda during a public meeting of town council and its title is read. Any member of town council may request a full reading of a proposed ordinance at its introduction and first reading.

**Sec. 2-344. Enactment of ordinances.**

- (A) *In general.* An ordinance must be prepared in writing and introduced in the form required for final adoption, as provided in Sec. 2-342.
- (B) *Two readings required.* No ordinance may be adopted until it has been read two times and on separate days with at least six days between each reading.
- (C) *Introduction.* The introduction and reading of any ordinance shall be by the reading of the title only unless full reading is requested by one or more members of town council.
- (D) *Public hearing.* After the introduction of an ordinance, any member of town council may request a public hearing be held on the ordinance if one is not required by law. If the request is approved by a majority of town council members present, a public hearing shall be advertised and held prior to adoption of the ordinance. The town clerk/treasurer shall advertise the public hearing notice in a newspaper of general circulation within the town at least 15 days prior to the public hearing date. A public hearing may be held on the same date as the final reading.
- (E) *Amendments.* An ordinance may be amended at first reading without limitation. An ordinance may be amended at final reading only if the original intent of the ordinance is not changed or significantly altered.
- (F) *Signatures and filing.* Upon final adoption by vote of town council, an approved ordinance shall be signed by the mayor and attested by the town clerk/treasurer. The town clerk/treasurer shall file and maintain all ordinances as permanent public records.
- (G) *Time period to act on ordinance.* If a proposed ordinance does not receive the required two readings within a twelve-month time period from the date of introduction, it shall automatically be tabled, and no further action may be taken on the proposed ordinance.

**Sec. 2-345. Emergency ordinances.**

To meet public emergencies affecting life, health, safety or the property of the people, town council may adopt emergency ordinances; provided, such ordinances shall not levy taxes, grant, renew or extend a franchise, or impose or change a service rate. Every emergency ordinance shall be enacted by the affirmative vote of at least two-thirds of the town council members present. An emergency ordinance is effective immediately upon its enactment without regard to any

reading, public hearing, publication requirements, or public notice requirements. Emergency ordinances shall expire automatically as of the sixty-first day following the date of enactment.

**Sec. 2-346. Introduction of resolutions.**

A voice motion is considered to be the introduction of an oral resolution which requires no written record other than a notation in the meeting minutes. A resolution proposed in writing shall be introduced in the same manner as an ordinance.

**Sec. 2-347. Adoption of resolutions.**

Written and oral resolutions may be adopted on one reading unless a public hearing is set by a majority of town council members present. Upon request by town council, a public hearing shall be advertised and held in the same manner as described in Sec. 2-344(D).

**Sec. 2-349. Codification of ordinances.**

(A) *Codification of permanent ordinances required.* The town clerk/treasurer shall send all ordinances of a general and permanent nature to the publishing company to be codified in the Code of Ordinances on a quarterly basis. Copies of the Code of Ordinances shall be made available for public inspection in the office of the town clerk/treasurer on the town's website. Paper copies of the Code of Ordinances may be purchased from the town clerk/treasurer at a cost not to exceed \$25.00.

(B) *Citation by reference.* Any standard code of technical regulations, state statute or regulation, county ordinance or regulation, or rate schedule which is adopted by reference may be cited in the Code of Ordinances by reference and maintained in separate volumes.

**Secs. 2-350—2-400. [Reserved]**

**ARTICLE IV. COMMITTEES**

**Sec. 2-401. Advisory committees.**

(A) Community Promotions and Engagement Committee

(1) *Established; powers and duties.* The Seabrook Island Community Promotions and Engagement Committee is hereby established. The committee is charged with the following powers and duties:

- a. To assist with the creation, planning, preparation, promotion, execution and evaluation of various town-sponsored events and activities;
- b. To identify resources necessary to ensure the success of town-sponsored events and activities including, but not limited to, sponsors, vendors, suppliers, entertainment, crowd control and public safety;

- c. To review and provide recommendations to town council on the procurement and awarding of contracts for goods and services related to town events and activities;
- d. To develop, recommend and implement strategies for engaging town residents, property owners, visitors and businesses;
- e. To provide recommendations on overall communication strategies and methods;
- f. To administer the town's Community Promotions Grant program; and
- g. To perform such other duties which may be assigned or requested by town council.

(2) *Membership.* The Community Promotions and Engagement Committee shall consist of five (5) members, one (1) of whom shall be a town council member appointed by the mayor to serve as chair of the committee. The remaining four (4) members shall be nominated by the chair and appointed by a majority vote of town council; provided, no more than two (2) town council members, including the chair, may be appointed as members of the committee. All members shall serve for a term of two (2) years, to run concurrently with the terms of the mayor and members of town council. Any member who resigns prior to the expiration of his or her term shall do so in writing to the town clerk/treasurer. Any member may be removed for cause by a majority vote of the town council. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment. The mayor and any other town council member who is not a member of the committee may attend and participate in committee meetings in an advisory (ie. non-voting) capacity.

(3) *Meetings; quorum; rules of order; voting.* The Community Promotions and Engagement Committee shall meet at least once per quarter at a date and time scheduled by the chair or a majority of the committee's membership. All meetings shall be held at Town Hall, unless otherwise advertised, and shall be open to the public. At least three (3) members must be present to constitute a quorum, and no official business may be conducted without a quorum present. Except as otherwise required by state law or town ordinance, all proceedings of the committee shall be governed by Robert's Rules of Order. Official decisions or actions by the committee shall require a majority vote of those members present and voting. Proxy votes shall not be permitted. Any member who has a direct or indirect conflict of interest in any matter before the committee shall be disqualified from participating in any discussion or decision related thereto.

(4) *Public notice; public records.* Public notice shall be given for each meeting pursuant to S.C. Code 1976 Sec. 30-4-80. The town clerk/treasurer shall prepare an agenda containing the date, time and location of each meeting, as well as a list of items for action and/or discussion. The town clerk/treasurer shall act as secretary to the committee and shall prepare and keep written minutes of all committee meetings. Unless exempt by state law, all records of the Community Promotions and

Engagement Committee are deemed public records and shall be made available for inspection upon request.

(B) Environment and Wildlife Committee

(1) *Established; powers and duties.* The Seabrook Island Environment and Wildlife Committee is hereby established. The committee is charged with the following powers and duties:

- a. To review and provide recommendations to town council on general matters related to the town's environment and wildlife;
- b. To periodically review and provide recommendations to town council on updates to the town's beach management ordinance;
- c. To coordinate with outside entities, community organizations and state and federal agencies on issues related to the town's environment and wildlife;
- d. To identify, develop and recommend programs and/or projects which enhance awareness, promote conservation and protect the community's environmental and wildlife resources, including programs and/or projects which may be eligible for grant funding;
- e. To monitor current and proposed legislation, regulations and litigation at the state and federal level which may impact the town's environment and wildlife;
- f. To review and provide recommendations to town council on the procurement and awarding of contracts for goods and services related to town's environment and wildlife; and
- g. To perform such other duties which may be assigned or requested by town council.

(2) *Membership.* The Environment and Wildlife Committee shall consist of five (5) members, one (1) of whom shall be a town council member appointed by the mayor to serve as chair of the committee. The remaining four (4) members shall be nominated by the chair and appointed by a majority vote of town council; provided, no more than two (2) town council members, including the chair, may be appointed as members of the committee. All members shall serve for a term of two (2) years, to run concurrently with the terms of the mayor and members of town council. Any member who resigns prior to the expiration of his or her term shall do so in writing to the town clerk/treasurer. Any member may be removed for cause by a majority vote of the town council. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment. The mayor and any other town council member who is not a member of the committee may attend and participate in committee meetings in an advisory (ie. non-voting) capacity.

- (3) *Meetings; quorum; rules of order; voting.* The Environment and Wildlife Committee shall meet at least once per quarter at a date and time scheduled by the chair or a majority of the committee's membership. All meetings shall be held at Town Hall, unless otherwise advertised, and shall be open to the public. At least three (3) members must be present to constitute a quorum, and no official business may be conducted without a quorum present. Except as otherwise required by state law or town ordinance, all proceedings of the committee shall be governed by Robert's Rules of Order. Official decisions or actions by the committee shall require a majority vote of those members present and voting. Proxy votes shall not be permitted. Any member who has a direct or indirect conflict of interest in any matter before the committee shall be disqualified from participating in any discussion or decision related thereto.
- (4) *Public notice; public records.* Public notice shall be given for each meeting pursuant to S.C. Code 1976 Sec. 30-4-80. The town clerk/treasurer shall prepare an agenda containing the date, time and location of each meeting, as well as a list of items for action and/or discussion. The town clerk/treasurer shall act as secretary to the committee and shall prepare and keep written minutes of all committee meetings. Unless exempt by state law, all records of the Environment and Wildlife Committee are deemed public records and shall be made available for inspection upon request.

(C) Public Safety Committee

- (1) *Established; powers and duties.* The Seabrook Island Public Safety Committee is hereby established. The committee is charged with the following powers and duties:
- a. To develop and maintain a planning process which will result in the systematic preparation and continual re-evaluation and updating of all elements of the town's Comprehensive Emergency Plan;
  - b. To review and provide recommendations to town council on general matters related to public health and safety;
  - c. To identify resources necessary to ensure the safety and well-being of the public;
  - d. To coordinate with outside entities, community organizations and emergency service providers on issues related to emergency management and disaster response planning;
  - e. To coordinate with emergency service providers including, but not limited to, law enforcement, fire suppression and emergency medical services, to plan for and respond to potentially unsafe or life-threatening situations;
  - f. To review and provide recommendations to town council on the procurement and awarding of contracts for emergency-related goods and services;

- g. To undertake public relations activities to increase the public's awareness of potential hazards affecting the Seabrook Island community including, but not limited to, hurricanes, floods, tornadoes and earthquakes; and
  - h. To perform such other duties which may be assigned or requested by town council.
- (2) *Membership.* The Public Safety Committee shall consist of five (5) members, one (1) of whom shall be a town council member appointed by the mayor to serve as chair of the committee. The remaining four (4) members shall be nominated by the chair and appointed by a majority vote of town council; provided, no more than two (2) town council members, including the chair, may be appointed as members of the committee. All members shall serve for a term of two (2) years, to run concurrently with the terms of the mayor and members of town council. Any member who resigns prior to the expiration of his or her term shall do so in writing to the town clerk/treasurer. Any member may be removed for cause by a majority vote of the town council. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment. The mayor and any other town council member who is not a member of the committee may attend and participate in committee meetings in an advisory (ie. non-voting) capacity.
- (3) *Meetings; quorum; rules of order; voting.* The Public Safety Committee shall meet at least once per quarter at a date and time scheduled by the chair or a majority of the committee's membership. All meetings shall be held at Town Hall, unless otherwise advertised, and shall be open to the public. At least three (3) members must be present to constitute a quorum, and no official business may be conducted without a quorum present. Except as otherwise required by state law or town ordinance, all proceedings of the committee shall be governed by Robert's Rules of Order. Official decisions or actions by the committee shall require a majority vote of those members present and voting. Proxy votes shall not be permitted. Any member who has a direct or indirect conflict of interest in any matter before the committee shall be disqualified from participating in any discussion or decision related thereto.
- (4) *Public notice; public records.* Public notice shall be given for each meeting pursuant to S.C. Code 1976 Sec. 30-4-80. The town clerk/treasurer shall prepare an agenda containing the date, time and location of each meeting, as well as a list of items for action and/or discussion. The town clerk/treasurer shall act as secretary to the committee and shall prepare and keep written minutes of all committee meetings. Unless exempt by state law, all records of the Public Safety Committee are deemed public records and shall be made available for inspection upon request.

(D) Public Works Committee

- (1) *Established; powers and duties.* The Seabrook Island Public Works Committee is hereby established. The committee is charged with the following powers and duties:
- a. To develop, recommend, and provide oversight of an ongoing capital improvements plan for the town;

- b. To review and provide recommendations to town council on major upgrades, expansion and improvements to the town's road and drainage infrastructure;
- c. To review and provide recommendations to town council on road maintenance projects including, but not limited to, major repairs, rehabilitation, landscape and vegetation control;
- d. To review and provide recommendations to town council on pathway and greenway areas including, but not limited to, maintenance, enhancement and bike and pedestrian safety;
- e. To review and provide recommendations to town council on traffic operations including, but not limited to, signage, crosswalks, signals, traffic calming devices, lighting, and similar measures;
- f. To review and provide recommendations to town council on the construction and expansion of town buildings and other facilities, as well as major upgrades thereto;
- g. To review and provide recommendations to town council on issues related to surface water management;
- h. To review and provide recommendations to town council on major beach-related projects including, but not limited to, the installation and maintenance of erosion control devices, beach renourishment and periodic relocation of Captain Sams Inlet;
- i. To review and provide recommendations to town council on proposed plans, designs and architectural renderings, as well as overall project scopes and budgets;
- j. To coordinate with outside entities, community organizations, private developers and state and federal agencies on issues related to the town's facilities and infrastructure;
- k. To review and provide recommendations to town council on the procurement of goods and services related to town facilities and infrastructure; and
- l. To perform such other duties which may be assigned or requested by town council.

(2) *Membership.* The Public Works Committee shall consist of five (5) members, one (1) of whom shall be a town council member appointed by the mayor to serve as chair of the committee. The remaining four (4) members shall be nominated by the chair and appointed by a majority vote of town council; provided, no more than two (2) town council members, including the chair, may be appointed as members of the committee. All members shall serve for a term of two (2) years, to run concurrently

with the terms of the mayor and members of town council. Any member who resigns prior to the expiration of his or her term shall do so in writing to the town clerk/treasurer. Any member may be removed for cause by a majority vote of the town council. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment. The mayor and any other town council member who is not a member of the committee may attend and participate in committee meetings in an advisory (ie. non-voting) capacity.

- (3) *Meetings; quorum; rules of order; voting.* The Public Works Committee shall meet at least once per quarter at a date and time scheduled by the chair or a majority of the committee's membership. All meetings shall be held at Town Hall, unless otherwise advertised, and shall be open to the public. At least three (3) members must be present to constitute a quorum, and no official business may be conducted without a quorum present. Except as otherwise required by state law or town ordinance, all proceedings of the committee shall be governed by Robert's Rules of Order. Official decisions or actions by the committee shall require a majority vote of those members present and voting. Proxy votes shall not be permitted. Any member who has a direct or indirect conflict of interest in any matter before the committee shall be disqualified from participating in any discussion or decision related thereto.
- (4) *Public notice; public records.* Public notice shall be given for each meeting pursuant to S.C. Code 1976 Sec. 30-4-80. The town clerk/treasurer shall prepare an agenda containing the date, time and location of each meeting, as well as a list of items for action and/or discussion. The town clerk/treasurer shall act as secretary to the committee and shall prepare and keep written minutes of all committee meetings. Unless exempt by state law, all records of the Public Works Committee are deemed public records and shall be made available for inspection upon request.

**Sec. 2-402. Special committees.**

- (A) *Authority.* Town council shall have the authority to establish, by resolution, any special committee deemed necessary for a specific purpose and duration. A resolution establishing a special committee shall specify, at a minimum:
  - (1) The purpose, powers, and duties of the special committee;
  - (2) The number and qualifications of special committee members, as well as their method of appointment;
  - (3) The duration or deadline within which the special committee shall complete its work; and
  - (4) Any special rules, requirements, provisions, or directives, as deemed necessary by the town council.

**Sec. 2-403. Ad hoc committees.**



The mayor may appoint ad hoc committees made up of town council members for any proper council purpose, subject to such direction and control as the mayor may provide.

**Secs. 2-404—2-500. [Reserved]**

## **ARTICLE V. OFFICERS AND DEPARTMENTS**

### **Sec. 2-501. Town administrator**

- (A) *Office created.* Pursuant to S.C. Code 1976 Sec. 5-9-40, the office of town administrator is hereby established.
- (B) *Appointment.* The town administrator shall be recommended by the mayor and appointed by the town council.
- (C) *Term.* The town administrator shall serve at the pleasure of the mayor and town council for an indefinite term unless the appointment is made pursuant to a contract or employment agreement, in which case the contract or employment agreement shall be for a fixed term.
- (D) *Compensation.* The town administrator shall receive such compensation as the town council may determine from time to time.
- (E) *Removal.* The town administrator may be removed from office by a majority vote of town council.
- (F) *Duties.* The town administrator shall work under the supervision of the mayor and shall be responsible for the discharge of all administrative functions delegated by the mayor. The town administrator shall act as the zoning administrator when this position is not filled.

### **Sec. 2-502. Town clerk/treasurer.**

- (A) *Office created.* Pursuant to S.C. Code 1976 Sec. 5-7-220, the office of town clerk/treasurer is hereby established.
- (B) *Appointment.* The town clerk/treasurer shall be recommended by the mayor and appointed by the town council.
- (C) *Term.* The town clerk/treasurer shall serve at the pleasure of the mayor and town council for an indefinite term unless the appointment is made pursuant to a contract or employment agreement, in which case the contract or employment agreement shall be for a fixed term.
- (D) *Compensation.* The town clerk/treasurer shall receive such compensation as the town council may determine from time to time.

(E) *Removal.* The town clerk/treasurer may be removed from office by a majority vote of town council.

(F) *Duties.* The duties of the clerk/treasurer shall include the following:

- (1) Providing notice of town council and other meetings to its members and the public;
- (2) Keeping and maintaining a record of all proceedings;
- (3) Receiving and delivering all petitions, motions, information, applications, and communications to the mayor and town council;
- (4) Preserving and making available for public inspection all papers, records, and documents of every description pertaining to the town, including, without limitation, all agendas, minutes, ordinances, resolutions, maps, contracts, agreements, deeds, bonds, insurance policies, and financial records of the town;
- (5) Issuing all notices as required by law or as directed by the mayor or town council;
- (6) Receiving and depositing all monies due or coming to the town and paying out monies as duly authorized;
- (7) Maintaining a current account of all monies, accounts, and inventories of town property, real and personal, and rendering reports thereon as directed by the mayor or town council;
- (8) Being the custodian of the town seal; and
- (9) Performing such other relevant duties and services as shall from time to time be prescribed by the mayor and/or town council.

**Sec. 2-503. Town attorney.**

- (A) *Office created.* Pursuant to S.C. Code 1976 Sec. 5-7-230, the office of town attorney is hereby established.
- (B) *Minimum qualifications.* The town attorney must be a member in good standing of the South Carolina Bar and be admitted to practice law in the state of South Carolina.
- (C) *Appointment.* After any general election, the town council shall, at the first regular meeting of the newly constituted council, appoint a town attorney.
- (D) *Term.* The town attorney shall serve for a term of two (2) years, to run concurrently with the terms of the mayor and members of town council.
- (E) *Compensation.* The town attorney shall receive such compensation as the town council may determine from time to time.

(F) *Removal.* The town attorney may be removed from office by a majority vote of town council.

(G) *Duties.* The duties of the town attorney shall include the following:

- (1) Entering appearance in all actions, cases, and special proceedings and conducting all suits in all courts in which the town is a party;
- (2) Drafting and/or reviewing the drafting of all ordinances, resolutions, agreements, and other instruments relative to the business of the town;
- (3) Providing advice and opinions on questions of law when requested to do so by the mayor, town council or town administrator;
- (4) Investigating titles;
- (5) Attending all town council meetings when notified to do so; and
- (6) Performing such other relevant duties as may be required by the mayor and town council.

**Secs. 2-504—2-600. [Reserved]**

## **ARTICLE VI. FINANCIAL ADMINISTRATION**

### **DIVISION 1. GENERALLY**

**Sec. 2-601. Fiscal year.**

The town's fiscal year shall begin each year on January 1st and end each year on December 31st.

**Sec. 2-602. Annual budget.**

- (A) *Required.* Pursuant to Article X, Section 7(b), of the South Carolina Constitution, the town council shall prepare, adopt, and maintain an annual budget which provides for sufficient income to meet the town's estimated expenses for the fiscal year.
- (B) *Preparation.* No later than October 1st of each calendar year, the mayor shall prepare and submit to the town council a recommended budget for the upcoming fiscal year. The recommended budget shall include estimates of the needed and desired expenditures for the upcoming fiscal year as well as estimates of the revenues available to pay for them. The mayor may, in his or her discretion, recommend separate budgets for capital expenditures or other specific purposes. Upon receipt of the recommended budget, the town council shall review and, if desired, revise the recommended budget prior to its adoption.

(C) *Adoption.* The town council shall adopt an annual budget, by ordinance, prior to the beginning of each fiscal year. The town council may, in its discretion, adopt separate budgets for capital expenditures or other specific purposes. Prior to adopting the annual budget ordinance, the town council shall advertise and conduct a public hearing, pursuant to S.C. Code 1976 Sec. 6-1-80.

(D) *Administration.*

(1) *Authority; limitations.* Following adoption, the mayor shall be responsible for administration of the budget. The mayor shall have the authority to approve any reasonable unbudgeted expenditure that may exceed a particular budget line-item budget but will not cause the total annual expenditures to exceed the total amount of the annual budget. The mayor shall have the authority to transfer any sum from one budget line item to another, or from one department or division to another department or division; provided, however, any transfer between funds must be approved by the town council, and any change in the budget which would increase or decrease the total of all authorized expenditures must also be approved by town council.

(2) *Use of funds and excess funds.* Revenues obtained from any source may be used for any appropriation named in the annual budget ordinance; provided, however, this provision shall not apply to revenues which are specifically restricted by the annual budget ordinance, the Town Code, the S.C. Code 1976, or any other applicable law or regulation. Actual revenues in excess of budgeted amounts may be administered by resolution of the town council.

(E) *Amendment.* The town council may amend the annual budget from time to time. Such amendments shall be made by ordinance.

**Sec. 2-603. Expenditure of funds.**

(A) *Responsibility.* It shall be the duty of the town clerk/treasurer to prepare and issue all payments on behalf of the town, in accordance with approved budget allocations, procurement procedures, purchase authorizations, debt obligations, and other applicable policies and procedures. The town clerk/treasurer is also responsible for the preparation and payment of employee payroll.

(B) *Methods of expenditure.* The town clerk/treasurer shall be authorized to expend town funds or town-controlled funds, subject to the following provisions:

(1) *Payroll.* The town clerk/treasurer shall pay, or cause to be paid, all town employees for wages earned during each payroll period. Payments shall be made by direct deposit no later than the close of business on the 1st and 15th day of each month. The town clerk/treasurer shall deduct from each employee's gross pay such taxes and other withholdings as may be required by federal and state taxing authorities. The town clerk/treasurer shall also deduct from each employee's pay the employee's share of any premiums or plan contributions for insurance, retirement, and similar

plans that are elected by the employee. The town clerk/treasurer shall make such other deductions as may be required by law or court order.

- (2) *Expenditures of \$5,000.00 or less.* For expenditures of \$5,000.00 or less, excluding those specified in subparagraph (4) below, the town clerk/treasurer may issue payment by any of the following methods, subject to approval by the town administrator:
    - a. Bank draft;
    - b. Check;
    - c. Credit or debit card;
    - d. Electronic funds transfer; and
    - e. Petty cash (limited to expenditures of \$100.00 or less).
  - (3) *Expenditures greater than \$5,000.00.* For expenditures greater than \$5,000.00, the town clerk/treasurer shall issue payment by check, subject to approval by the town administrator.
  - (4) *Partial payments and installments.* Partial payments and installments made toward a contract or purchase order with a total value greater than \$5,000.00 shall be made by check, subject to approval by the town administrator.
- (C) *Signatures required.* When payment is made by check, the check shall be signed by two authorized parties. For purposes of this section, the term “authorized parties” shall include the following town officials:
- (1) Mayor;
  - (2) Town council members;
  - (3) Town clerk/treasurer; and
  - (4) Any other individual authorized by resolution of town council to sign checks on behalf of the town.

**Sec. 2-604. Forms of payment.**

- (A) *Responsibility.* Except as may otherwise be provided by state or federal law or regulation, the Town Code, or any other ordinance, resolution, or regulation of the town, it shall be the duty of the town clerk/treasurer to receive all fees for town licenses and permits, and all claims and accounts that may be due and payable to the town and shall deposit all monies belonging to the town in such bank(s) as the town council may direct.

(B) *Methods of payment.* The town clerk/treasurer may accept payments made by any of the following methods:

- (1) Bank draft;
- (2) Cash;
- (3) Check;
- (4) Credit or debit card;
- (5) Electronic funds transfer; and
- (6) Money order.

(C) *Agreement for services.* The town clerk/treasurer is authorized to determine the specific credit cards, bank cards, and electronic transfers that will be accepted as provided in this section and, subject to approval by the town administrator, may enter into a contract or service agreement with a bank or credit card vendor for the acceptance of credit and debit cards.

(D) *Fees and service charges.* In order to offset charges incurred by the town, the town clerk/treasurer may impose and collect the following fees:

- (1) *Convenience fee.* The town clerk/treasurer may collect a fee, not to exceed 4%, on any payment made by credit or debit card. The purpose of this fee is to recoup the actual payment processing charges incurred by the town.
- (2) *Returned check fee.* The town clerk/treasurer may collect a \$25.00 fee for any check, draft, or other written order which is returned unpaid by the financial institution upon which the check was drawn. This fee shall be in addition to any other remedy allowed by law.

**Sec. 2-605. Monthly financial statements required; posting.**

The town clerk/treasurer shall keep an itemized account of all receipts and disbursements and shall prepare, or cause to be prepared, statements of such accounts on a monthly basis. Monthly financial statements shall be made available to the mayor and town council no later than the fourth Monday of each month. Monthly financial reports shall also be made available for public inspection in the office of the town clerk/treasurer and by posting on the town website.

**Sec. 2-606. Annual audit.**

(A) *Required.* The town council shall provide for an annual independent audit of all financial records and transactions of the town and any agency funded in whole by the town. Such audit shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or any of its officers.

- (B) *Public record.* Upon completion, the annual audit report shall be made available for public inspection in the office of the town clerk/treasurer and by posting on the town website.
- (C) *Filing requirement.* The town clerk/treasurer shall file copies of the annual audit report with all agencies and departments as required by law, including, without limitation, the South Carolina Revenue and Fiscal Affairs Office and South Carolina State Treasurer's Office.

**Sec. 2-607. Investment policy.**

(A) *Authority.*

- (1) *State delegation.* Subject to the requirements and limitations of S.C. Code 1976 Secs. 6-5-10, 6-6-30, and 11-1-60, the town council maintains the authority to invest money subject to its control and jurisdiction into certain financial instruments expressly authorized by law.
- (2) *Investment approval.* Funds which are subject to the town's control and jurisdiction shall not be invested unless the investment is authorized by town council resolution. A resolution authorizing the investment of town funds shall include, at a minimum, the amount to be invested, the investment type and description, the term of the investment, and the funding source(s) to be used to make the investment.
- (3) *Management responsibility.* Management of the town's investment programs is delegated to the town clerk/treasurer. As administrator of the town's financial program, the town clerk/treasurer is assigned full discretionary management of the town's investments and shall report all transactions directly to the mayor and town administrator in a timely manner. The town clerk/treasurer shall maintain all written agreements, wire transfer agreements, banking service contracts, and collateral/depository agreements.
- (4) *Authorization.* No person may knowingly invest town funds except as provided for in this section.

(B) *Policy objectives.* The primary objectives of the town's investment activities are, in order of priority:

- (1) *Safety.* Safety of principal is the foremost objective of the investment program. Investment of town funds shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The town shall seek to safeguard principal by a careful examination of credit risk and market risk of individual investments.
  - a. *Credit risk.* The risk of loss due to failure of an issuer of a security shall be mitigated by investing in safe institutions and by diversifying funds so that the failure of any one issuer would not unduly harm the town's principal.

- b. *Market risk.* The risk of market value fluctuations due to overall changes in the general level of interest rates shall be mitigated by limiting the weighted average maturity of the town's fund to less than five years.
- (2) *Liquidity.* The town's investment portfolio shall remain sufficiently liquid to enable the town to meet all operating expenditure requirements which might be reasonably anticipated.
  - (3) *Return on investment.* The town's investment portfolio shall be designed with the objective of attaining a benchmark rate of return throughout budgetary and economic cycles taking into consideration the town's investment risk constraints and the cash flow characteristics of the portfolio. Whenever possible, consistent with risk limitations and prudent investment principles, the town shall strive to achieve returns at the market average rate of return for each investment type.
- (C) *Ethics and conflicts of interest.* All persons involved in the investment process shall refrain from personal financial activities that could conflict with proper execution of the town's investment program, or which could impair their ability to make impartial investment decisions. All financial interests in financial institutions and/or investments that are, or could be, perceived as a conflict of interest in making impartial investment decisions shall be immediately reported to the mayor and town administrator upon recognition of occurrence.
- (D) *Authorized investments.*
- (1) From the town's perspective, special care must be taken to ensure that the list of instruments includes only those allowed by law and those that local investment managers are trained and competent to handle. No public deposit shall be made except in a qualified public depository as established by state law. The town clerk/treasurer shall not give full discretionary authority to external investment managers. The town clerk/treasurer shall not use external investment managers to purchase or sell securities or manage the town's portfolio unless specifically approved by the town council with a contract signed by the mayor and reviewed by the town attorney.
  - (2) Pursuant to S.C. Code 1976 Sec. 11-1-60, the town may invest money subject to its control and jurisdiction in the shares of any federal savings and loan association or in the shares of any building and loan association organized and existing under the laws of this state when such shares are insured by the Federal Deposit Insurance Corporation (FDIC) and also in bonds or debentures issued by any federal home loan bank or in the consolidated bonds or debentures issued by the Federal Home Loan Bank Board.
  - (3) S.C. Code 1976 Sec. 6-5-10, limits the investment vehicles available to local agencies. The town's investment policy further restricts the permitted investments to those listed below:



- a. Obligations of the United States and its agencies, the principal and interest of which is fully guaranteed by the United States, including United States Treasury Bills, Notes and Bonds or those for which the full faith and credit of the United States are pledged for payment of principal and interest. Offerings must be A-rated or better.
  - b. Federal agency or United States government sponsored securities, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States Government sponsored enterprises. Obligations in this category referred to as "federal agencies" include, but are not limited to, issues by the Government National Mortgage Association, Federal Mortgage Association, and Federal Home Loan Mortgage Corporation. Offerings must be A-rated or better.
  - c. Savings and loan associations, to the extent that the same are insured by an agency of the federal government. Offerings must be A-rated or better.
  - d. Certificates of deposit. Certificates of deposit are fixed-term investments that are required to be collateralized depending on the specific security pledged as security. The town shall deposit funds only with financial institutions that operate in the United States of America. The Federal Deposit Insurance Corporation (FDIC) must insure these institutions.
  - e. General obligations of any of the counties, political subdivisions or municipal corporations of any state of the United States of America. Offerings must be A-rated or better.
  - f. Revenue bonds of any of the counties, political subdivisions or municipal corporations of any state of the United States of America, if the statute pursuant to which such revenue bonds are issued shall declare them to be legal investments. Offerings must be A-rated or better.
  - g. Stable value money market mutual funds. These types of investments are to be used primarily as overnight or short-term sweep accounts for interest and maturities with the town's custodial agent and the town's bank accounts.
  - h. S.C. Code Sec. 6-6-30, allows for the sale of investments within the State of South Carolina Local Government Investment Pool to all political subdivisions with consent of the governing bodies. Money invested with SCLGIP is pooled with state money in order to earn the maximum rate of return possible in a manner consistent with sound investment practices.
- (E) *Collateralization.* Pursuant to S.C. Code 1976 Sec. 6-5-15, depositories have duties and responsibilities toward public monies on deposit that may differ from their duties relative to nonpublic funds. South Carolina law requires public funds to be collateralized; that is, the depository must secure its public fund accounts by maintaining with the agent of the depository securities having a market value consistent with the current state's policy. If a depository uses mortgage-backed securities as collateral for public funds, the market value of the securities must be consistent with the state's requirement. An independent

third party with whom the entity has a current custodial agreement must always hold collateral. A clearly marked evidence of ownership, or a “safekeeping receipt,” must be supplied to the town and retained in the office of the town clerk/treasurer.

(F) *Safekeeping and custody.*

- (1) *Delivery vs. payment.* All trades of marketable securities shall be executed by delivery vs. payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to release of the town funds.
- (2) *Safekeeping.* Securities shall be held by an independent third-party custodian selected by the town. The custodian shall provide safekeeping receipts in the town’s name and provide an annual financial report.

(G) *Diversification.*

- (1) *Purpose.* The purpose of diversification is to reduce overall portfolio risk while attaining benchmark average return. Diversification is intended to prevent over concentration in a specific maturity sector and prevent reliance on riskier instruments.
- (2) The town shall seek to diversify its investments by security type and institution. With the exception of U.S. Treasury securities and the State of South Carolina Local Government Investment Pool, no more than 50% of the town’s total investment portfolio shall be invested in a single security type, and no more than 10% of the town’s total investment portfolio shall be invested in any specific security.

(H) *Maturities.* To protect public funds from market yield losses resulting from rising interest rates, the town shall limit the maximum term of maturity. To the extent possible, the town shall attempt to match its investments with anticipated cash flow requirements. In order to maintain liquidity, no more than 70% of the portfolio shall have a maturity in excess of one year. Unless matched to specific cash flow, the town shall not directly invest in securities maturing more than five years from the date of purchase.

(I) *Internal controls.*

- (1) The Town clerk/treasurer is responsible for ensuring compliance with the town’s investment policies as well as for establishing systems of internal control to ensure that the assets of the town are protected from loss, theft, or misuse and to regulate the activities of delegated appointees.
- (2) The internal control's structure shall address the following points:
  - a. Custodial safekeeping;
  - b. Avoidance of physical delivery of securities;
  - c. Clear delegation of authority to appointees;

- d. Written confirmation of transactions for investments and wire transfers; and
- e. Assurance by the town's external auditor that the portfolio complies with applicable policies and procedures during the annual independent audit.

(J) *Performance standards.*

- (1) *Objective.* The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment constraints herein and the cash flow needs of the town.
- (2) *Market yield (benchmark).* While the investment policy is designed to provide control, the yield objective is also important. The town's investment strategy is active. The town clerk/treasurer shall identify a comparable benchmark for each type of investment within the town's investment portfolio to determine whether proper market yields are being achieved. Given the strategy, the town shall strive to achieve returns at the market-average rate of return. The market-average of return is generally defined as the average return on three-month U.S. Treasury Bills, or the South Carolina Local Government Investment Pool administered by South Carolina State Treasurer. These indices are considered benchmarks for lower risk investment transactions and comprise a minimum standard for the portfolio's rate of return. The investment program shall seek to augment returns above this threshold, consistent with authorized type, maturity, collateralization, and diversification limitations identified herein.

(K) *Reporting.*

- (1) *Quarterly and annual reporting.* The town clerk/treasurer shall provide the mayor and town council with quarterly updates on the town's overall investment performance. The town council shall annually review the town clerk/treasurer's overall administration of the town's investment program in conjunction with the annual audit.
- (2) *Audit reporting.* The town's annual audit report should contain the following information that is subject to this investment policy:
  - a. The type of investment, name of the issuer, date of maturity, par, and cost in each investment;
  - b. The weighted average maturity of the investments;
  - c. Coupon, discount, or earnings rate;
  - d. Par value, amortized book value, and market value;
  - e. Percentage of the portfolio represented by each investment category;

- f. A description of the compliance with the statement of investment policy; and
- g. Such other information which, in the opinion of the independent auditor, shall be necessary and proper to ensure compliance with current disclosure guidelines, as promulgated by the Government Standards Accounting Board (GASB).

**Sec. 2-608. Fund balance policy.**

(A) *Purpose.* The town council hereby enacts the following policy in an effort to ensure financial security through the maintenance of a healthy reserve fund that guides the creation, maintenance, and use of resources for financial stabilization purposes. The town's primary objective is to maintain a prudent level of financial resources to protect against service reductions and/or rate and fee increases due to temporary revenue shortfalls or unpredicted one-time expenditures. The town also seeks to maintain the highest possible credit ratings which are dependent, in part, upon the town's maintenance of a healthy fund balance.

(B) *Definitions.* For purposes of this section, the following definitions shall apply.

(1) *Fund balance.* Fund equity at the governmental fund financial reporting level is classified as "fund balance." Fund balance is reported in the governmental funds financial statements and generally represents the difference between current assets and current liabilities. Fund balance classifications represent a hierarchy based primarily on the extent to which the town is bound to honor constraints on specific purposes for which amounts in those funds can be spent. Fund balances are classified as follows:

- a. *Non-spendable fund balance.* Fund balances are classified as non-spendable when amounts cannot be spent because they are either: i) in non-spendable form, or ii) they are legally or contractually required to be maintained intact. The town includes items that are not expected to be converted to cash such as inventories and prepaid amounts.
- b. *Restricted fund balance.* Fund balances are reported as restricted when their use is restricted for specific purposes including: i) constraints on funds externally imposed by creditors, grantors, contributors, or laws or regulations of other governments, or ii) constraints imposed by law through constitutional provisions or enabling legislation.
- c. *Committed fund balance.* Fund balances are reported as committed if their use is for a specific purpose as approved by formal action of the town council (majority vote). Amounts committed cannot be used for any other purpose unless the town council removes or changes the specific use by approving such action through resolution at a town council meeting. Budget resolutions are considered a plan for specific use.
- d. *Assigned fund balance.* Fund balances are reported as assigned when constrained by the town's intent to use the funds for specific purposes that are neither

restricted nor committed. Assigned fund balance includes: i) all remaining amounts (except negative balances) reported in governmental funds, other than the General Fund, that are not classified as nonspendable, restricted, or committed, ii) amounts in the General Fund intended for a specific use identified by either the mayor or town clerk/treasurer, and iii) amounts appropriated to eliminate a projected budget deficit in the subsequent year.

- e. *Unassigned fund balance.* Fund balances are reported as unassigned when the balances do not meet any of the above four criterion for classification. The Town reports positive unassigned fund balance in only the general fund. Negative unassigned fund balances may be reported in all governmental funds.

(C) *Appropriate level.*

(1) *Unassigned fund balance.*

- a. *Background.* In February 2009, the Governmental Accounting Standards Board (GASB) issued *GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions*. In that statement, the GASB recommended "...at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating revenues or regular general fund operating expenditures." In its publication entitled *Fund Balance Guidelines for the General Fund*, the Government Finance Officers Association (GFOA) further recommended that "The adequacy of unrestricted fund balance in the general fund should take into account each government's own unique circumstances. For example, governments that may be vulnerable to natural disasters, more dependent on a volatile revenue source, or potentially subject to cuts in state aid and/or federal grants may need to maintain a higher level in the unrestricted fund balance." Given the town's susceptibility to natural disasters and its limited revenue sources, the town council believes it is appropriate to establish and maintain a higher threshold for its unassigned fund balance than that recommended by GASB.
- b. *Minimum level.* The town's minimum unassigned fund balance shall be the greater of 50% of the current year's budgeted general fund operating expenditures, or \$500,000.00.
- c. *Maximum level.* The town's maximum unassigned fund balance shall be 100% of the current year's budgeted general fund operating expenditures.

- (2) *All other fund balance types.* No minimum or maximum fund balance shall be required, unless required by law.

(D) *Use of fund balance.*

- (1) *Spending prioritization.* For purposes of fund balance disbursement, unless otherwise approved by the town council, the town shall expend restricted fund balance when

an expenditure is incurred for which both restricted and unrestricted fund balance is available. Next, the town shall expend committed fund balance when an expenditure is paid for which unrestricted fund balance is available. The town would next disburse fund balance assigned for purposes of the fund before disbursing other assigned fund balance amounts. In the general fund, the town would disburse unassigned fund balance prior to disbursing fund balance assigned for financial policy reserve levels or amounts assigned to eliminate subsequent year's budget deficit.

(2) *Spending of unassigned fund balance.* The town council understands that circumstances may exist that warrant the town use funds from the unassigned fund balance on a temporary basis. The town council has established the following instances where it may elect to use these funds, even if such use decreases the fund balance below the minimum percentage established by this policy:

- a. An economic downturn which results in actual revenues being below budgeted revenues;
- b. Unexpected and unappropriated costs to service and maintain current town operations;
- c. Unexpected and non-budgeted costs related to emergencies, natural disasters, and/or litigation;
- d. Grant matching;
- e. Early retirement of debt;
- f. To cover deficits in other funds due to a shortfall in budgeted revenues; and
- g. Capital asset acquisition, construction, and improvement projects.

(E) *Replenishment.*

(1) *Plan required.* If the unassigned fund balance is depleted below the minimum policy level, the town administrator, with consultation from the town clerk/treasurer, shall develop a plan to replenish the unassigned fund balance to the minimum level. The plan must be approved by resolution of the town council and may include, as necessary, recommendations for rate and/or fee adjustments, expenditure reductions, transfers from other unrestricted funds, and the use of year-end budget surpluses. The plan should be reviewed and modified on an annual basis until the minimum policy level is achieved. Any increase in discretionary expenditures should be limited until the unassigned fund balance is restored to the minimum policy level.

(2) *Time.* The town shall endeavor to replenish the unassigned fund balance to the minimum policy level within three years of use.

(F) *Unassigned fund balance above formal policy requirement.* If, upon completion of the annual audit, the unassigned fund balance exceeds the maximum policy level, the town

council may designate or expend such excess funds for capital projects, debt reduction, emergency reserves, and other non-recurring uses deemed appropriate.

**Secs. 2-609—2-620. [Reserved]**

## **DIVISION 2. PURCHASING REQUIREMENTS**

**Sec. 2-621. Authority and purpose.**

- (A) *State law reference.* This division is adopted pursuant to and in compliance with S.C. Code 1976 Sec. 11-35-5320, and S.C. Code Ann. Regs. 19-445.2155.
- (B) *Purpose.* The purpose of this division is to maximize the purchasing value of public funds, to provide safeguards for maintaining quality and integrity within the procurement system, and to provide for the fair and equitable treatment of all parties in the procurement process.

**Sec. 2-622. Definitions.**

- (A) As used in this division, the following definitions shall apply:
  - (1) “Invitation for bids” or “IFB” means a written or published solicitation issued by the procurement officer for bids to contract for the procurement or disposal of stated supplies, services, information technology, or construction, which will ordinarily result in the awarding of a contract or purchase order to the responsible bidder making the lowest responsive bid.
  - (2) “Most advantageous” means an offer, proposal, or response which has been judged by the town to be most beneficial based on the evaluation criteria contained within the RFP. In addition to cost, the evaluation criteria may include other factors, including, but not limited to:
    - a. The vendor’s qualifications to provide the goods or services;
    - b. The vendor’s approach to providing the goods or services;
    - c. The vendor’s sufficiency of financial resources;
    - d. The vendor’s ability to deliver the goods or services in a timely manner;
    - e. The vendor’s quality of workmanship;
    - f. The vendor’s character, integrity, judgment, reputation, and experience;
    - g. The vendor’s history of satisfactory performance with similar projects; and

- h. The vendor's knowledge of, and ability to comply with, associated legal or regulatory requirements.
- (3) "Procurement" means the process and procedure for buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, information technology, or construction. It also includes all functions that pertain to the obtaining of any supply, service, information technology, or construction, including the description of requirements, selection, and solicitation of sources, preparation and award of contracts, and all phases of contract administration.
- (4) "Procurement officer" means the person who is authorized by the town to administer the procurement of all supplies, services, information technology, and construction, as well as the management and disposal of surplus supplies and equipment, in accordance with the provisions of this division. The procurement officer shall act under the direction of the mayor and shall organize and execute all procurement activities for the town as set forth in this division. For purposes of this division, the town administrator is designated as the procurement officer for the town.
- (5) "Professional services" means unique, technical, and/or infrequent functions performed by an independent contractor qualified by education, experience, and/or technical ability to provide services. In most cases, these services are of a specific project nature, and are not a continuing, ongoing responsibility of the town. The services rendered are predominately intellectual in character even though the contractor may not be required to be licensed. Professional service engagements may involve partnerships, corporations, or individuals. Examples of professional services may include, but are not limited to, accountants, architects, attorneys, auditors, biologists, engineers, environmental consultants, financial advisors/planners, land use planners, management consultants, marketing and advertising services, physicians, and real estate appraisers.
- (6) "Request for proposals" or "RFP" means a written or published solicitation issued by the procurement officer for proposals to provide supplies, services, information technology, or construction which ordinarily results in the awarding of a contract to the responsible offeror whose proposal is deemed to be most advantageous to the town based on the evaluation criteria contained within the RFP.
- (7) "Request for qualifications" or "RFQ" means a written or published solicitation issued by the procurement officer for the purpose of obtaining qualification and performance data from vendors, including, but not limited to, financial capability, reputation, experience, and competency, which will ordinarily result in the subsequent issuance of an IFB or RFP to a "short list" of vendors deemed qualified by the town.
- (8) "Responsible bidder or offeror" means a vendor who is determined by the town to have the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance which may be substantiated by past performance.



(9) "Responsive bidder or offeror" means a vendor who has submitted a bid or proposal which conforms in all material aspects to the invitation for bids, request for proposals, or request for qualifications.

(10) "Successful bidder" means the vendor whose bid or proposal has been selected as the "lowest responsible" or "most advantageous," depending on the procurement method used.

(11) "Surplus property" means any materials, supplies, equipment, or other goods which, in the opinion of the procurement officer, have no further beneficial usefulness to the town or cannot economically be made useful to the town.

(12) "Vendor" means a person, company, or firm who sells goods or services.

**Sec. 2-623. Compliance with other laws and regulations.**

(A) *State and federal law supersedes.* Nothing in this division shall prevent any town official or employee from complying with the terms and conditions of state or federal laws and/or regulations which may be applicable, including those which may be less restrictive than the policies and procedures contained herein.

(B) *Other requirements.* Procurement which involves the expenditure of federal assistance, contract funds, or any grants, gifts, or bequests, shall comply with such federal and state laws and authorized regulations as are mandatorily applicable, regardless of whether they are presently reflected in this division.

**Sec. 2-624. Ethical procurements.**

(A) *Applicability of State Ethics Act.* The requirements of Title 8, Chapter 13 (Ethics, Government Accountability and Campaign Reform Act), of the S.C. Code 1976, shall be complied with and observed in all actions involving the procurement of goods and services. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the town found guilty thereof shall thereby forfeit his or her office or position.

(B) *Good faith.* Every contract or duty imposes an obligation of good faith in its negotiation, performance, or enforcement. As used in this division, the term "good faith" means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.

(C) *Voidability of contracts.* Any violation of this section with the knowledge, whether expressed or implied, of the vendor contracting with the town shall render the contract voidable by the town administrator or the town council.

**Sec. 2-625. Procurement limitations and authorization.**

(A) *Procurement policy.* It is the town's policy to develop competition to ensure maximum purchasing value for all procurement activities. The procurement officer shall have the

discretion to use a more stringent purchasing procedure if he or she determines that doing so would better serve the town's interest. When deemed appropriate, the procurement officer may utilize the services of advisory committees and/or outside consultants to assist with the preparation of IFB's, RFP's and RFQ's; the review and evaluation of bids, proposals, and qualifications; and the review, negotiation, and awarding of contracts and purchase orders. No contract or purchase order may be subdivided to avoid the requirements of this section.

(B) *Purchasing procedures.* The procurement of goods and services shall be executed as follows:

(1) *Under \$5,000.00: Open Market.*

- a. Competitive bidding is not required.
- b. The procurement officer shall have the authority to purchase goods and services on the open market using a reasonable effort to obtain pricing at or below prevailing market rates.

(2) *\$5,000.00 to \$24,999.99: Written Quotes.*

- a. Competitive bidding shall be required. The procurement officer shall solicit written quotes from at least three vendors.
- b. If the purchase was specifically budgeted in the current fiscal year budget and the lowest responsible bid is less than or equal to the amount budgeted, the procurement officer shall have the authority to award a contract or purchase order to the successful bidder.
- c. If the purchase was not specifically budgeted in the current fiscal year budget or the lowest responsible bid exceeds the amount budgeted, the procurement officer shall obtain prior approval from the mayor, subject to the limitations contained in Sec. 2-602(D)(1), before awarding a contract or purchase order to the successful bidder.

(3) *\$25,000.00 to \$49,999.99: Informal Solicitations for Bids or Proposals.*

- a. Competitive bidding shall be required. The procurement officer shall issue a written IFB or RFP, depending on the procurement method used. The procurement officer shall solicit written bids or proposals from at least three vendors.
- b. The procurement officer shall review and evaluate all bids or proposals in a timely manner and shall recommend a successful bidder to the mayor.
- c. Subject to the limitations contained in Sec. 2-602(D)(1), the mayor shall have the authority to award a contract or purchase order to the successful bidder.

(4) *\$50,000.00 or Greater: Formal Solicitations for Bids or Proposals.*

- a. Sealed, competitive bidding shall be required.
  1. *Invitation.* The procurement officer shall issue a written IFB or RFP, depending on the procurement method used. The procurement officer may, at his or her discretion, issue a written RFQ for the purpose of identifying a “short list” of pre-qualified vendors prior to the issuance of an IFB or RFP. Bid packages shall be advertised in a newspaper of general circulation within the town, on the South Carolina Business Opportunities (SCBO) website, and on the town’s website, at least ten (10) days prior to the due date, except in cases with extraneous time constraints. Additional methods of notification may be used at the discretion of the procurement officer.
  2. *Bid package.* At a minimum, the bid package shall contain the following:
    - i. Instructions for completing and submitting a sealed bid or proposal, including the deadline for the receipt of all bids;
    - ii. A detailed description of the goods or services to be purchased;
    - iii. An explanation of the criteria to be used in the evaluation of bids and proposals;
    - iv. Whether a bid security is required and the amount of same;
    - v. The date, time and location of the bid opening; and
    - vi. Any other items or information deemed appropriate by the procurement officer.
  3. *Bid security.* When deemed necessary by the procurement officer, a bid security, not to exceed five percent (5%) of the total bid amount, shall be required. A successful bidder shall forfeit his or her bid security upon failure to enter into a contract with the town within ten (10) days after the issuance of a notice of award; provided, however, the town, in its sole discretion, may waive or reduce this forfeiture.
  4. *Submission and sealing.* Bids shall be received by the procurement officer at the designated location no later than the date and time specified in the invitation. Late bids shall not be accepted. Bids shall be securely sealed in an envelope and shall be identified on the envelope in accordance with instructions contained in the bid package.
  5. *Opening.* Bids shall be opened and read publicly at the date, time, and location specified in the bid package.

6. *Tabulation.* A tabulation of all bids received shall be available for public inspection.
  7. *Rejection of bids.* The procurement officer shall have the authority to reject all bids, or parts of bids, when the public interest will be served thereby.
  8. *Bidders in default to the town.* The procurement officer shall have the authority to reject bids from any vendor who is delinquent in the payment of taxes, license fees or other monies due to the town.
  9. *Review and recommendation of bids.* The procurement officer shall review and evaluate all bids or proposals in a timely manner and shall recommend a successful bidder to the mayor. The mayor shall review the procurement officer's recommendation and submit a final recommendation of the successful bidder to the town council.
  10. *Award.* The town council shall have the authority to award a contract or purchase order to the successful bidder.
- b. *Performance bonds.* The procurement officer shall have the authority to require a performance bond before entering into any contract. Where required, a performance bond shall be in such form and amount as the procurement officer shall find reasonably necessary to protect the best interests of the town.
  - c. *Exception for construction contracting administration.* Notwithstanding the preceding, procurements involving construction may use a construction contracting administration method which is most advantageous to the town and will result in the most timely, acceptable quality, economical, and successful completion of the construction project. Any request to use an alternate form of construction contracting administration for a particular construction project must receive prior approval by the town council.
- (C) *Exceptions.* Exceptions to bidding include the sole source, professional services, emergency procurements, purchasing cooperatives, and critical procurements as defined below.
- (1) *Sole source.* Sole source procurement is acceptable when, after a good faith review of all possible sources, it is determined by the procurement officer that there is only one viable source from which to obtain the goods or services. Sole source procurements shall be executed as follows:
    - a. For goods and services with an estimated value of less than \$50,000.00, the procurement officer shall submit a written request to the mayor outlining the justification for sole source procurement. Subject to the limitations contained in Sec. 2-602(D)(1), the mayor shall have the authority to approve the sole source procurement if he or she deems the request to be justified.

- b. For goods and services with an estimated value of \$50,000.00 or greater, the procurement officer shall submit a written request to the mayor outlining the justification for sole source procurement. If the mayor determines that the sole source procurement is justified, he or she shall submit the request to the town council for consideration. Town council shall have the authority to approve the sole source procurement.
- (2) *Professional services.* Contracts for the procurement of professional service are exempt from the provisions of this ordinance. Such contracts may be negotiated on a fee basis rather than competitive bidding. Subject to the limitations contained in Sec. 2-602(D)(1), the mayor shall have the authority to approve professional service contracts with a value of less than \$50,000.00. All other professional service contracts shall be approved by the town council.
  - (3) *Emergency procurements.* Notwithstanding the requirements of this division, the mayor may make, or authorize others to make, emergency procurements where there exists a threat to public health, welfare, or safety under emergency conditions; where normal daily operations are affected or in jeopardy; or when a critical situation exists where time does not permit for ordinary solicitation or re-solicitation.
  - (4) *Purchasing cooperatives.* In the event the town is eligible to purchase goods or services through a “term” contract or purchasing cooperative offered by the State of South Carolina or any of its agencies, Charleston County or other South Carolina Counties, the Municipal Association of South Carolina or other South Carolina municipalities, the U.S. General Services Administration, or other similar public entities, the procurement officer may purchase such goods and services under the “term” contract or purchasing cooperative without seeking competitive bids or proposals; provided, however, if the purchase was not specifically budgeted in the current fiscal year budget or the purchase price exceeds the amount budgeted, the procurement officer shall obtain prior approval from the mayor, subject to the limitations contained in Sec. 2-602(D)(1), before purchasing the goods or services.
  - (5) *Purchase and sale of real property.*
    - a. When the town desires to purchase real property for public use, the following procedures shall be followed:
      - 1. The property shall be appraised by a licensed South Carolina certified general real estate appraiser.
      - 2. The mayor, or an individual designated by the mayor, may commence contractual negotiations to purchase the property.
      - 3. Contractual negotiations may be discussed with town council in executive session, as provided for by the South Carolina Freedom of Information Act.
      - 4. Town council shall make the final determination as to whether to contract for purchase of the property.

- b. When the town desires to sell surplus real property, the following procedures shall be followed:
  - 1. The property shall be appraised by a licensed South Carolina certified general real estate appraiser.
  - 2. Contiguous property owners shall be informed of the town's intent to sell the property and shall be afforded the opportunity to negotiate a contract to purchase the property.
  - 3. If more than one of the contiguous property owners desires to purchase the property, the mayor, or an individual designated by the mayor, may commence contractual negotiations for the sale of the property to the contiguous property owner making the highest offer above the appraised value.
  - 4. If none of the contiguous property owners desire to purchase the property or a contract with a contiguous property owner is not successfully negotiated, the procurement officer shall solicit offers to purchase the property by issuing an IFB.
  - 5. The mayor, or an individual designated by the mayor, may commence contractual negotiations with the highest bidder.
  - 6. Contractual negotiations may be discussed with town council in executive session, as provided for by the South Carolina Freedom of Information Act.
  - 7. Town council shall make the final determination as to whether to contract for the sale of the real property.
- c. The procedures for the purchase of real property shall not apply to the acquisition of real property to be used by the town for pump stations, lift stations, pressure reducing valve sites, public streets, water lines, sanitary sewer lines, storm drainage lines, monitoring sites, mitigation sites, stormwater projects, and utility easements.

**Sec. 2-626. Protest procedures and remedies.**

- (A) Any prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation of a contract may protest to the procurement officer. No other person or entity shall have right of action resulting from any alleged violation of this ordinance and there is no implied right to protest or right of action for any other person or entity. Any such protest must be delivered in writing within five (5) business days of the issuance of the IFB or RFP, or within five (5) business days of the issuance of any amendment thereto if the amendment is at issue.

- (B) Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract may protest to the procurement officer. Any such protest must be delivered in writing within five (5) days of the date the notice of award or intent to award is issued by the procurement officer.
- (C) A protest must set forth all specific grounds of protest in detail and explain the factual and legal basis for each issue raised.
- (D) The procurement officer may conduct any inquiries or conduct any hearings he or she deems necessary to reach his or her decision.
- (E) Within ten (10) days of receipt of the written protest, the procurement officer shall issue his or her decision in writing and send copies to all parties to the protest.
- (F) If the procurement officer finds in favor of the protestant, he or she may award the protestant its documented bid preparation costs and other damages, not to exceed a total of \$5,000.00.
- (G) Contracts shall not be stayed pending the decision of the procurement officer. The protestant's remedies set forth herein shall be the protestant's exclusive remedy, including any remedy for violation of this ordinance.
- (H) A protestant may appeal the decision of the procurement officer to the mayor by requesting a review, in writing, with the mayor within five (5) business days of the procurement officer's decision. No new issues will be considered by the mayor on appeal. The mayor may appoint a special committee to consider any such appeals. The decision of the mayor, or any special committee appointed by the mayor, shall be final.

**Sec. 2-627. Open records.**

The procurement officer shall keep a record of all open solicitations and bids submitted in competition thereon, and such records shall be open to public inspection in accordance with the South Carolina Freedom of Information Act.

**Sec. 2-628. Disposal of surplus property.**

- (A) *Authority.* The procurement officer shall be responsible for management and disposal of all surplus property, excluding real property. The authority to sell, lease or dispose of real property rests solely with town council.
- (B) *Disposal procedures.* The procurement officer may dispose of surplus property as follows:
  - (1) Items with an estimated value of less than \$500.00 may be sold on the open market without formal advertisement or competitive procedures. Such items may also be donated to local not-for-profit organizations which provide charitable services within community.

- (2) Items with an estimated value of \$500.00 or more shall be sold using one or more of the following competitive methods: in-house auction, outside auction, formal or informal bidding process, online auction services, broker services, or similar competitive methods recommended by the procurement officer and approved by the mayor.

**Secs. 2-629—2-700. [Reserved]**

## **ARTICLE VII. EMERGENCY PREPAREDNESS**

### **Sec. 2-701. Comprehensive Emergency Plan.**

- (A) *Adopted.* The "Town of Seabrook Island Comprehensive Emergency Plan," dated September 1, 2020, is hereby adopted and incorporated by reference as if fully set forth in this section. Such plan shall be used to guide the town's preparation for, response to, and recovery from those emergency situations outlined therein. The plan may be updated from time to time by resolution of town council, upon recommendation by the Public Safety Committee.
- (B) *Mayoral authority.* The mayor is herewith empowered to implement and staff the Town of Seabrook Island Comprehensive Emergency Plan, pursuant to the powers set forth therein and in Sec. 2-205(D). The individuals assigned responsibilities under the plan are herewith empowered to exercise their specified duties and responsibilities under the terms and conditions set forth therein; provided that the mayor shall submit for town council approval all nonbudgeted expense items necessary for the implementation of the plan.

**Secs. 2-702—2-800. [Reserved]**

### **SECTION 2. Severability.**

If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections, subsections, paragraphs, clauses, or provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

### **SECTION 3. Conflicting Ordinances Repealed.**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

### **SECTION 4. Effective Date.**



This ordinance shall be effective from and after the date of adoption.

**SIGNED AND SEALED** this \_\_\_\_ day of \_\_\_\_\_, 2022, having been duly adopted by the Town Council for the Town of Seabrook Island on the \_\_\_\_ day of \_\_\_\_\_, 2022.

First Reading: February 22, 2022  
Public Hearing: March 22, 2022  
Second Reading: March 22, 2022

TOWN OF SEABROOK ISLAND

\_\_\_\_\_  
John Gregg, Mayor

ATTEST

\_\_\_\_\_  
Katharine E. Watkins, Town Clerk