

TOWN OF SEABROOK ISLAND

ORDINANCE NO. 2023-14

ADOPTED _____

AN ORDINANCE AMENDING THE TOWN CODE FOR THE TOWN OF SEABROOK ISLAND, SOUTH CAROLINA, SO AS TO ESTABLISH REGULATIONS PERTAINING TO PROHIBITED NOISE; PROPERTY MAINTENANCE; TRASH, LITTER AND DEBRIS; ILLEGAL DUMPING; AND THE PARKING OF VEHICLES AND EQUIPMENT; TO REPEAL SECTIONS 14-21 THROUGH 14-24 RELATING TO PUBLIC NUISANCES; TO REPEAL SECTION 22-21 RELATING TO ILLEGAL DUMPING; AND OTHER MATTERS RELATED THERETO

WHEREAS, Chapter 18 of the Town Code for the Town of Seabrook Island (the "Town Code") contains various provisions pertaining to general offenses against public safety; and

WHEREAS, the Mayor and Council for the Town of Seabrook Island desire to amend Chapter 18 of the Town Code to establish and consolidate regulations pertaining to various public nuisances, including noise; property maintenance; trash, litter and debris; illegal dumping; and the parking of vehicles and equipment within the town; and

WHEREAS, the Mayor and Council further desire to amend the Town Code so as to remove conflicting provisions from elsewhere in the Town Code, including Sections 14-21 through 14-24, and Section 22-21; and

WHEREAS, the Mayor and Council advertised and held a public hearing on the proposed amendments during a duly called meeting on [November 28, 2023]; and

WHEREAS, in an effort to protect the public health, comfort, safety and welfare of residents within the town, 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 18 of the Town Code. The Town Code for the Town of Seabrook Island, South Carolina; Chapter 18, Offenses and Miscellaneous Provisions; is hereby amended to read as follows:

Chapter 18 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

Sec. 18-1. Uniform ordinance summons.

- (a) *Authority.* Any person or entity violating any provision of the Town Code, or any ordinance adopted pursuant thereto, within the town's corporate limits may be issued a uniform ordinance summons.
- (b) *Jurisdiction.* The issuance of a uniform ordinance summons shall vest jurisdiction in the municipal court or a designated magistrate's court, as applicable, to hear and dispose of the charge for which the uniform ordinance summons was issued and served.
- (c) *Issuance.* A uniform ordinance summons may be issued by any person or official designated or appointed as a town code enforcement officer, pursuant to the provisions of section 18-2.
- (d) *Bond.* The bond amount for violations shall be prescribed by the municipal judge or the magistrate so appointed to perform that function. Town code enforcement officers are prohibited from accepting bonds. Bonds are to be posted in the manner prescribed in the uniform ordinance summons.
- (e) *Limitations.* A uniform ordinance summons shall not be used to perform a custodial arrest, to regulate the use of motor vehicles on public highways, or to enforce any other offense or violation for which a uniform traffic ticket must be used, pursuant to S.C. Code 1976, § 5-7-10.
- (f) *Form.* The form set forth in Exhibit A to the ordinance from which this section is derived is hereby adopted as the "Town of Seabrook Island's Uniform Ordinance Summons."

Sec. 18-2. Town code enforcement officers.

- (a) *Designation of ex officio code enforcement officers.* For purposes of this section, the town administrator and zoning administrator are hereby designated, ex officio, as town code enforcement officers.
- (b) *Appointment of additional code enforcement officers.* The mayor, with the concurrence of the town council, may appoint and commission as many town code enforcement officers as may be necessary for the proper security, general welfare and convenience of the town.
- (c) *Powers and duties.* Town code enforcement officers shall be vested with the powers and duties set forth in S.C. Code 1976, § 5 7-32. Town code enforcement officers shall have the authority to exercise their powers on all public and private property within the town.
- (d) *Limitations.* No town code enforcement officer commissioned pursuant to the provisions of this section may perform a custodial arrest.

Sec. 18-3. Prohibited activities.

- (a) *False complaints, false information.* It is unlawful for any person to knowingly make a false complaint or provide false information to any town code enforcement officer concerning the alleged commission of any offense or violation by another.
- (b) *Misrepresentation of identity; failure to cooperate.* It is unlawful for any person to:
 - (1) Misrepresent his or her identity to a town code enforcement officer;
 - (2) Fail to provide necessary information or to otherwise cooperate with a town code enforcement officer in the discharge of his or her official duties; and
 - (3) Fail to accept a uniform ordinance summons issued by a town code enforcement officer.
- (c) *Penalties.* Unless otherwise prescribed by law, any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to the penalties set forth in section 1-7.

Sec. 18-4. Assaulting or resisting code enforcement or law enforcement officer.

No person shall assault, resist, hinder, oppose, molest, or interfere with any town code enforcement officer or employee of the town, of any department or board of the town, or of any law enforcement officer in the discharge of official duties.

Secs. 18-5—18-19. Reserved.

ARTICLE II. OFFENSES AGAINST PUBLIC SAFETY

Sec. 18-20. Discharging firearms.

- (a) *Firearms defined.*
 - (1) For purposes of this section, the term "firearm" includes:
 - a. Any handgun as defined in S.C. Code 1976, § 16-23-10; and
 - b. Any machine gun, sawed-off shotgun, shotgun, sawed-off rifle, rifle or antique firearm as defined in S.C. Code 1976, § 23-31-310.
 - (2) For purposes of this section, the term "firearm" does not include:
 - a. BB guns; and

b. Air rifles.

- (b) *Prohibited.* It shall be unlawful for any person to negligently or carelessly discharge or fire any firearm or crossbow within the town's jurisdiction. Any intentional discharge is prohibited subject to the exceptions set forth in subsection (c) of this section.
- (c) *Exceptions.* Exceptions to the prohibition contained in subsection (b) of this section may be granted by resolution of the town council. The following are examples of situations warranting exception:
- (1) A controlled hunt which is undertaken as part of a duly authorized wildlife management program.
 - (2) A controlled hunt to remove any animal whose presence poses a threat to public health and safety.
 - (3) Any peace officer of the state, county or municipality, in the performance of his or her office or duty.
 - (4) Any security officer employed by a property owners' association or development within the town, in the performance of his or her office or duty.
 - (5) A landowner intentionally discharging a firearm or crossbow on the landowner's property to protect the landowner's family, employees, the general public, or the landowner's property from animals that the landowner reasonably believes poses a direct threat or danger to the landowner's property, people on the landowner's property, or the general public. For purposes of this subsection, the landowner's property must be a parcel of land comprised of at least 25 contiguous acres.
- (d) *Penalties.* Unless otherwise prescribed by law, any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to the penalties set forth in section 1-7.

Sec. 18-21. Gaming vessels.

- (a) *Prohibited; exceptions.* The town hereby prohibits within its jurisdiction the docking and embarking or disembarking of passengers aboard gambling vessels, as defined in S.C. Code 1976, § 3-11-100(1), that provide gambling aboard voyages that depart from the town's jurisdiction, leave the territorial waters of the state, sail into United States or international waters, and return to the territorial waters of the state without making an intervening stop, as defined in S.C. Code 1976, § 3-11-100(3). Nothing in this section shall be construed to prohibit, regulate, or otherwise apply to passenger cruise liners, as defined by S.C. Code 1976, § 3-11-100(5), nor shall this section apply to vessels described in S.C. Code 1976, § 3-11-400(A).

- (b) *Penalties.* Anyone violating this section must be assessed a civil penalty of not more than \$100.00 per passenger for each violation, with an aggregate total in penalties not to exceed \$50,000.00 per gambling vessel for a 24-hour period. For the purposes of this section, the term "per passenger" means the total number of passengers allowed on a vessel pursuant to its United States Coast Guard certificate of documentation or equivalent foreign documentation. In addition, violations of this section are subject to injunctive relief.
- (c) *Validity.* The exceptions for passenger cruise liners and S.C. Code 1976, § 3-11-400(D) in this section are so connected with the other provisions of this section that they are mutually dependent on each other as conditions and considerations for each other, so that the town council would not have adopted this section without them; therefore, should these exceptions be found unconstitutional or invalid, it is the intent of the council that the entire section be found invalid.

Sec. 18-22. Prohibited hours of operation for establishments permitting on-premises consumption of beer, ale, etc.; penalty.

The town hereby prohibits any establishment that allows for the on-premises consumption of beer, ale, liquor, porter and/or wine from operating between the hours of 2:00 a.m. and 6:00 a.m. on Mondays through Sundays. A violation of the provisions of this section is punishable by a fine of up to \$500.00 per incident and 30 days in jail and the immediate revocation of the merchant's business license for a period of one year.

Sec. 18-23. Restraint of domestic household animals/pets.

- (a) *Definitions.* For purposes of this section, the following definitions shall apply, except where the context clearly indicates a different meaning:
- (1) *Competent person.* A person of suitable age and discretion and physically capable of restraining and controlling the domestic animal/pet in his or her care in order to prevent harm to persons, property or to other animals.
 - (2) *On a leash.* The domestic household animal/pet is restrained by a competent person using a physical restraint made of cord, rope, strap, chain or other material effective for restraining the type and size of domestic household animal/pet, the physical restraint being no more than 16 feet in length, secured to the animal's collar or harness and continually held by a competent person.
 - (3) *Effectively restrained.* The person owning or having possession, charge, custody or control of the domestic household animal/pet restrains the animal from destroying or damaging any property; attacking, threatening to attack, or interfering with any person in any manner; becoming a nuisance; or straying onto public property or the private property of another.

- (b) *Leash required.* No person owning or having possession, charge, custody or control of any domestic household animal/pet shall cause, permit or allow the animal to stray or in any manner to run at large upon public property or upon the property of another unless the animal is effectively restrained on a leash.
- (c) *Exceptions.* The provisions of this section shall not apply on any public property which is subject to the provisions of section 32-44.
- (d) *Penalties.* Unless otherwise prescribed by law, any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to the penalties set forth in section 1-7.

Secs. 18-24—18-29. Reserved.

ARTICLE III. PUBLIC NUISANCES

Sec. 18-30. Prohibited Noise

- (a) *Purpose.* The town seeks to maintain a peaceful environment while recognizing that certain types of noises may be generated by acceptable economic, recreational and social activities which contribute to the overall health and vibrance of the community. The purpose of this section is to balance the impact of such activities with the public health, comfort, safety, welfare and reasonable expectation of peaceful enjoyment by prohibiting certain types of unreasonably loud, disturbing or unnecessary noises which cause discomfort or injury to persons of ordinary sensibilities in the vicinity thereof.
- (b) *Definitions.* For purposes of this section, the following definitions shall apply, except where the context clearly indicates a different meaning:
 - (1) *Amplified sound.* Sound which is augmented by any electronic means which increases its level or volume.
 - (2) *Construction activities.* Any lawfully permitted assembly, erection, fabrication, installation, alteration, repair, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not limited to, clearing of land, earth moving, blasting, excavation and site work.
 - (3) *Decibel (dB).* A logarithmic unit for measuring the intensity of sound.
 - a. *dB(A).* A measurement of the intensity of sound in decibels, determined by the "A" weighted scale of a standard sound level meter having characteristics defined by the American National Standards Institute (ANSI) Standard S1.4: Specifications for Sound Level Meters, current edition, or its successor publication(s).

- (4) *Decibel meter.* An instrument used to measure the intensity of sound in decibels which includes a microphone, amplifier and output meter.
- a. *Decibel meter, approved.* A decibel meter of standard design and quality which conforms to American National Standards Institute (ANSI) Standard S1.4: Specifications for Sound Level Meters, current edition, or its successor publication(s), and which uses the “A” frequency weighting network for the measurement of sound levels. For purposes of this section, an approved decibel meter shall have a minimum grade of Type/Class 2.
- (5) *Landscape maintenance activities.* Activities and services which are typically necessary to establish, care for, preserve or remove organic vegetation, whether natural or ornamental, and to maintain areas of a premises containing lawns, gardens, shrubbery, trees, planting beds, natural vegetation, mulch, irrigation systems, pathways and recreational amenities in a healthy, clean, safe and attractive condition. Such activities generally include, but are not limited to, mowing, edging, pruning, trimming, chipping, raking, weeding, fertilizing, planting, harvesting and blowing by way of hand- or machine-powered tools and equipment.
- (6) *Noise disturbance.* Any unnecessary or unusually loud sound, or any sound which disrupts the peace and quiet of any neighborhood and which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensibilities.
- (7) *Person.* Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group or agency.
- (8) *Plainly audible.* A noise or sound which may be clearly heard by a person of normal sensibilities using only unaided auditory senses. Plainly audible shall refer to a sound heard at a volume level above that of normal conversation and shall not include sounds which are just barely audible. With respect to music and amplified sounds, the detection of rhythmic base reverberating type sound, beat or cadence shall be deemed plainly audible.
- (9) *Recreational properties.* Any lot, plot or parcel of land which is zoned Recreation (RC) or Camp St. Christopher (CSC) according to the official zoning map of the town.
- (c) *In general.* It shall be unlawful for any person to willfully cause, create, continue, permit or allow any activity which produces or constitutes a noise disturbance on or within any premises or public area in the town, except as expressly allowed in this section.

(d) *Specific noises prohibited.* Unless otherwise specifically provided in this section, the following are declared to constitute prima facie evidence of a noise disturbance in violation of this section:

- (1) *Alarms, horns and signaling devices (non-emergency).* Noise caused by the sounding of any alarm, horn or signaling device, except as required by law or to alert persons of imminent danger or emergency.
- (2) *Amplified sound generally.* Noise caused by amplified sound which is plainly audible from inside a neighboring residence or place of business.
- (3) *Defective building equipment and systems.* Noise caused by defective building equipment and systems including, but not limited to, mechanical, electrical and plumbing systems, which, due to frequent or long-continued occurrence, disturbs the quiet, comfort or repose of persons within a neighboring residence or place of business.
- (4) *Domestic animals.* Noise caused by barking dogs or other domestic animals, either intermittently or continuously, for periods of more than 30 minutes.
- (5) *Engine noise.* Noise caused by the engine exhaust of any motor vehicle, motorcycle, boat, steam engine or stationary internal combustion engine, except through a muffler or other device that effectively muffles noise therefrom.
- (6) *Noise on the beach.* Music or other noise on the beach that is audible more than 100 feet from its source.
- (7) *Noise from watercraft.* Music or other noise emanating from a watercraft in a marina, dock or navigable waterway, other than engine noise, that is audible more than 100 feet from the vessel.
- (8) *Radios, televisions, musical instruments and similar devices.* Noise caused by radios, televisions, musical instruments and similar devices when operated or played in such a manner as to be plainly audible from inside a neighboring residence or place of business.
- (9) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing at any time or place that annoys or disturbs the quiet, comfort, or repose of persons within a neighboring residence or place of business.

(e) *Decibel level prohibitions; exceptions.*

- (1) *In general.* Unless otherwise specifically provided in this section, it shall be unlawful for any person to willfully cause, create, continue, permit or allow the emission of noise of any type in excess of the following levels:

- a. *Daytime hours.* Between the hours of 8:00 a.m. and 10:00 p.m., sounds in excess of 70 dB(A) are declared to constitute a noise disturbance in violation of this section.
 - b. *Evening hours.* Between the hours of 10:00 p.m. and 8:00 a.m., sounds in excess of 60 dB(A) are declared to constitute a noise disturbance in violation of this section.
- (2) *Exceptions.* The decibel level prohibitions set forth above shall not apply to sounds generated by any of the following; provided, however, where additional conditions are provided, failure to comply with such conditions is declared to constitute a noise disturbance in violation of this section:
- a. *Agriculture.* Sounds generated by agricultural and silvicultural activities, subject to the following conditions:
 - 1. All internal combustion engines shall be equipped with a muffler or other device that effectively muffles noise therefrom; and
 - 2. Processing of agricultural products is only exempt if performed on farmlands.
 - b. *Alarms, horns and signaling devices (emergency).* Sounds generated by the sounding of any alarm, horn or signaling device, when required by law or to alert persons of imminent danger or emergency.
 - c. *Building maintenance.* Sounds generated by building maintenance activities including, but not limited to, cleaning, washing, vacuuming, the performance of minor repairs and similar activities, subject to the following conditions:
 - 1. Building maintenance activities which may disturb the quiet, comfort or repose of persons within a neighboring residence or place of business shall not commence before 7:00 a.m. and must cease by 10:00 p.m.; and
 - 2. The exception authorized herein shall not apply to activities which are classified as construction activities or landscape maintenance activities.
 - d. *Construction activities.* Sounds generated by lawfully permitted construction activities, subject to the following conditions:
 - 1. Construction activities which may disturb the quiet, comfort or repose of persons within a neighboring residence or place of business shall not commence before 7:00 a.m. and must cease by 6:30 p.m. on Mondays through Saturdays;

2. Construction activities shall be prohibited on Sundays, official town holidays and at such other times as may occasionally be prohibited by resolution of town council; and
 3. The conditions specified herein shall not apply to construction activities related to emergency work or work completed by, or on behalf of, a government agency.
- e. *Emergency vehicles and equipment.* Sounds generated by emergency vehicles and equipment including, but not limited to, police, fire and emergency transport services.
 - f. *Emergency work.* Sounds generated by work which is necessary to:
 1. Restore a property or structure to a safe or habitable condition;
 2. Protect persons or property from danger or potential danger;
 3. Repair or restore public or private utility services; or
 4. Repair or restore any public or private road, bridge or drainage structure.
 - g. *Fireworks displays.* Sounds which are generated by the discharge of fireworks during a public display or exhibition which is lawfully permitted pursuant to Section 16-2.
 - h. *Generators.* Sounds which are generated by an emergency generator during a power outage or emergency event, or during such periods when the generator is being tested or repaired.
 - i. *Government vehicles and equipment.* Sounds generated by vehicles and equipment operated by an official, employee or authorized contractor of any municipal, county, state or federal agency, department or unit.
 - j. *HVAC systems.* Sounds generated by properly installed and operating HVAC systems.
 - k. *Irrigation systems.* Sounds generated by properly installed and operating irrigation systems.
 - l. *Landscape maintenance activities.* Sounds generated by landscape maintenance activities, subject to the following conditions:
 1. Landscape maintenance activities which may disturb the quiet, comfort or repose of persons within a neighboring residence or place of business shall not commence before 7:00 a.m. and must cease by 6:30 p.m.;

2. In an effort to reduce off-site noise generated by landscape maintenance activities, the town encourages the use of electric-powered tools and equipment where available; and
 3. The conditions specified herein shall not apply to landscape maintenance activities at recreational properties.
- m. *Parades and public assemblies.* Sounds generated by attendees, spectators and participants in parades and public assemblies on public property, provided:
1. The parade or public assembly is lawfully permitted pursuant to Section 24-20, et seq; and
 2. The conduct of the parade or public assembly does not unreasonably disturb the use and quiet enjoyment of property owners or visitors within the vicinity of the parade or public assembly.
- n. *Pump systems.* Sounds generated by properly installed and operating pump systems.
- o. *Recreational properties.* On all recreational properties within the town, the following activities shall be exempt from the decibel level prohibitions specified in paragraph (1):
1. Sounds generated by landscape maintenance activities between the hours of 6:00 a.m. and 10:00 p.m.;
 2. Non-amplified sounds generated by participants, attendees and spectators of permissible recreational events and activities between the hours of 7:00 a.m. and 11:00 p.m.; and
 3. Amplified sounds between the hours of 7:00 a.m. and 11:00 p.m., provided the amplified sound does not exceed 75 dB(A) measured from the nearest street, right-of-way or property line.
- p. *Special exemption permits.* Sounds which are generated as part of a special exemption permit approved by town council pursuant to subsection (f) of this section, and subject to any conditions as may be imposed by town council.
- q. *Town-sponsored events and activities.* Sounds generated by attendees, spectators and participants at any outdoor event or activity which is sponsored or co-sponsored by the town and taking place on public or private property. Such examples include, but are not limited to, concerts, festivals, parades, races and similar activities.

- r. *Utility operations.* Sounds generated by the operation of any regulated utility system.
- (f) *Special exemption permits.* Town council may grant a special exemption permit to allow any person to engage in conduct or activities, on a temporary basis, which would otherwise violate the provisions of this section.
- (1) *Application for special exemption permit.* Permit applications shall be submitted to the town administrator using a form made available for that purpose. Applications must be received no less than 10 days prior to the date upon which the applicant seeks to engage in the conduct or activity. Applications shall be forwarded by the town administrator to the town council for consideration at the next available town council meeting.
 - (2) *Criteria for approval.* The following information shall be considered by town council in determining whether or not to grant a special exemption permit:
 - a. The nature of the proposed conduct or activity and whether there are any feasible and prudent alternatives;
 - b. Any adverse impacts and whether there are ways to avoid or mitigate those impacts;
 - c. The location of the proposed conduct or activity and any history of noise problems at that address;
 - d. The proximity of any residences, places of business or other uses and whether the neighbors within hearing range support or oppose the proposed conduct or activity; and
 - e. When the conduct or activity will begin and end.
 - (3) *Conditions.* In granting a special exemption permit, town council may impose conditions and safeguards to mitigate any adverse impacts of the conduct or activity.
 - (4) *Permit.* Upon approval of a special exemption permit by town council, the permit must be signed by the mayor or his or her designee and shall set forth the following:
 - a. The name of the person to whom the permit is granted;
 - b. The location of the property for which permit is issued;
 - c. A description of the conduct or activity for which the permit is granted; and

d. The date(s) and time(s) for which the permit is effective.

(g) *Method of determining violation.*

(1) *In general.* For purposes of determining whether a noise disturbance in violation of this section has occurred, other than those noises specifically prohibited in subsection (d), the sound shall be measured using an approved decibel meter from the street, right-of-way or neighboring property line; provided, however, for noise disturbances originating at or within a condominium, townhome or cluster unit, or within a mixed-use or multi-tenant building, the sound may be measured from a neighboring unit or common area.

(2) *Other considerations.* In addition to any other criteria established herein, the code enforcement officer may consider the following characteristics and conditions in determining whether a noise disturbance violation exists:

- a. The duration and intensity of the noise;
- b. Whether the noise is recurrent, intermittent or constant;
- c. Whether the noise is usual or unusual or produced naturally or unnaturally;
- d. Whether the noise is reasonably necessary due to a hearing impairment or other disability;
- e. The time of day or night at which the noise is occurring;
- f. The general character of the area where the noise is occurring;
- g. The reasonable expectation of quiet that could be expected by individuals on public or private property in the vicinity where the noise is occurring; and
- h. The frequency and/or history of prior violations at the property.

(h) *Penalties.* Failure to comply with the provisions set forth in this section shall be deemed a public nuisance. Unless otherwise prescribed by law, any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to the penalties set forth in section 1-7.

Sec. 18-31. Property maintenance.

(a) *Definitions.* For purposes of this section, the following definitions shall apply, except where the context clearly indicates a different meaning:

- (1) *Conservation lands.* Any lot, plot or parcel of land which is zoned CP Conservation according to the official zoning map of the town and which contains no principal use or structure. Such lands are generally dedicated or reserved as open space preserves, wetlands and wildlife habitat refuge areas.
- (2) *Exterior property.* The open space on the premises and on adjoining property under the control of owners or operators of such premises.
- (3) *Hazardous tree.* A tree which, due to severe disease, death, or irreparable damage due to age, storm or other injury, poses an imminent safety hazard to nearby buildings or structures; obstructs or renders dangerous any street, sidewalk, watercourse or drainage structure; or creates an unreasonable risk of injury in the use of the property or surrounding properties.
- (4) *Infestation.* The presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.
- (5) *Occupant.* Any individual living or sleeping in a building or having possession of a space within a building.
- (6) *Operator.* Any person who has charge, care or control of a structure or premises that is let or offered for occupancy.
- (7) *Owner.* Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the Charleston County Register of Deeds as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court of competent jurisdiction.
- (8) *Pest elimination.* The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.
- (9) *Premises.* A lot, plot or parcel of land, easement or public way, including any structures thereon.
- (10) *Structure.* Anything constructed or erected, which requires, more or less, permanent location on the ground or is attached to something having a permanent location on the ground.
- (11) *Tenant.* A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(b) *Scope.* The provisions of this section shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

(c) *Responsibility.* The owner of the premises shall maintain the structures and exterior property in compliance with the requirements set forth in this section. A person shall not occupy as owner-occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of this section. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises they occupy and control.

(d) *Property maintenance required.*

(1) *Vacant structures and land; conservation lands.*

- a. *Vacant structures and land.* Vacant structures and the premises thereof and vacant land, other than conservation lands, shall be maintained in a clean, safe, secure and sanitary condition, as provided herein, so as not to cause a blighting problem or adversely affect public health or safety.
- b. *Conservation lands.* Conservation lands shall be maintained in a natural condition which is consistent with their conservation purpose and conducive to native flora and fauna. While such lands need not be manicured, they shall be maintained in a clean and sanitary condition and free of hazardous trees and noxious weeds.

(2) *Exterior property areas.*

- a. *Sanitation.* Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
- b. *Sidewalks and driveways.* Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
- c. *Hazardous trees.* Exterior property and premises shall be maintained free of hazardous trees.
- d. *Weeds.* Exterior property and premises shall be maintained free from weeds or plant growth in excess of 12 inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, however, this term shall not include cultivated flowers, gardens and ornamental ground coverings.

- e. *Rodent harborage.* On all developed lots, structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
 - f. *Exhaust vents.* Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly on abutting or adjacent public or private property or that of another tenant.
 - g. *Accessory structures.* Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
 - h. *Defacement of property.* A person shall not willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.
- (3) *Swimming pools, spas and hot tubs.* Swimming pools, spas and hot tubs shall be maintained in a clean and sanitary condition, and in good repair. Private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool, spa or hot tub; provided, however, a fence or barrier shall not be required for swimming pools with a powered safety cover that complies with ASTM F 1346 or for spas and hot tubs with a lockable safety cover that complies with ASTM F 1346.
- (4) *Exterior structure.* The exterior of all structures including, but not limited to, protective treatments, premises identification, structural members, foundation walls, exterior walls, roof and drainage systems, decorative features, overhang extensions, stairways, decks, porches, balconies, chimneys and towers, handrails and guards, windows, skylights, door frames, insect screens, building security features (such as doors, windows and basement hatchways), and gates, shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
- (5) *Interior structure.* The interior of all structures and equipment therein including, but not limited to, structural members, interior surfaces, stairs and walking surfaces, handrails and guards, and interior doors, shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a

hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

- (6) *Component serviceability.* The components of all structures and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.
- (7) *Handrails and guardrails.* Except where exempted by the adopted building code, every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches above the floor or grade below shall have guards. Handrails shall be not less than 30 inches in height or more than 42 inches in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall be not less than 30 inches in height above the floor of the landing, balcony, porch, deck, ramp or other walking surface. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (8) *Pest elimination.* Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.
- (e) *Notice of violation; contents.* Upon discovery of the existence of any violation of the provisions set forth in this section, the town shall provide written notice of violation to the property owner to abate or remove such violation. The notice shall provide for the abatement or removal of the violation within a reasonable time, not to exceed 30 days from the date the notice is mailed or posted on the property, to be determined by the town based upon the severity of the violation and the imminent risk to public health or safety. The notice shall state that unless the violation is abated or removed, the town will cause it to be abated or removed and will charge the costs associated therewith to the owner, as provided in subsection (g).
- (f) *Penalties.* Failure to comply with the provisions set forth in this section shall be deemed a public nuisance. In addition to any remedial or abatement action required pursuant to subsection (g), and unless otherwise prescribed by law, any person who shall fail to abate or remove any violation of the provisions set forth in this section, upon receiving notice from the town, shall be guilty of a misdemeanor and shall be subject to the penalties set forth in section 1-7.
- (g) *Abatement.*
 - (1) *Authority.* In addition to any penalties provided in subsection (f), if a violation is not abated or removed within the time provided in the notice of violation, or if

the property owner cannot be found, any duly authorized employee of the town or contractor hired by the town shall be authorized to enter upon the property in violation to abate or remove such violation.

- (2) *Costs to be paid by property owner.* All costs associated with the town's abatement or removal of such violation shall be collected as a debt from the property owner.
- (3) *Nonpayment; collection.* If not paid in a timely manner, the costs associated with the town's abatement or removal of such violation shall be assessed against the property owner as provided by law. The town may use any remedy authorized by law to collect such funds which are due and collectible including, but not limited, the filing of a lien against the property or referral of the debt to the setoff debt collection program.

Sec. 18-32. Trash, litter and debris; illegal dumping.

(a) *Trash, litter and debris.*

- (1) *In general.* Except as otherwise provided herein, it shall be unlawful for any person to accumulate, place, store, allow, or permit the accumulation, placement, or storage of trash, litter, junk or debris on any premises within the town, except in a lawfully permitted disposal facility.
- (2) *Household waste and debris.*
 - a. *Trash and recycling.* Household trash and recycling shall be stored in covered watertight storage receptacles designed for the temporary accumulation of trash for a period not to exceed 7 days. Household trash and recycling receptacles shall not be placed curbside prior to 12:00 p.m. on the day prior to the scheduled pick-up and must be removed from the curb by the end of the day of pick-up. At all other times, trash and recycling receptacles must be removed from the curb and stored in a location which is not plainly visible from the street.
 - b. *Yard debris.* Household yard debris shall not be placed curbside prior to dawn on the Saturday prior to the scheduled pick-up date; provided, however, the mayor or council may suspend this provision for up to 180 days following any major storm or debris-generating event, or when deemed necessary to preserve public health and safety. Yard debris shall not be placed on or near storm water catch basins or drainage boxes, or within 15 feet of a fire hydrant.
 - c. *Bulk items.* Bulk items such as appliances, electronics, household furnishings, bedding, and similar items shall not be placed curbside prior to 12:00 p.m. on the day prior to the scheduled pick-up date.

(3) *Construction activities.*

- a. *Construction and demolition debris.* Trash, litter and debris generated during the construction, renovation, repair or demolition of structures, roads, bridges and other improvements shall be stored in a dumpster or similar receptacle on the construction site. In lieu of a dumpster, a trailer not more than 16 feet in length may remain on the construction site for the purpose of collecting trash, litter and debris; provided, the trailer shall have solid sides for trash containment or be covered with a tarpaulin while construction activities are not taking place. Any dumpster, receptacle or trailer shall be emptied or removed on a regular basis to ensure that any accumulated trash, litter and debris is not visible from the street.
- b. *Vegetative debris.* Vegetative debris such as trees, limbs, stumps, rocks, soils and other vegetative matter resulting from land clearing or land development activities shall be removed from each construction site by the owner or contractor as often as necessary to keep the site free of such debris.
- c. *Temporary sanitary facilities.* Temporary sanitary facilities, where provided, shall be located off the street right-of-way and screened so they are not visible from the street.

(4) *Littering.* No person shall dispose of trash by dropping, scattering or strewing it upon any public property, street or right-of-way, or upon the property of another.

(5) *Animal waste.* No person shall allow a domestic household animal/pet or livestock to defecate upon any public property, street or right-of-way, or upon the property of another, without removing and disposing the excrement as promptly as is reasonably practicable.

(b) *Illegal dumping.*

(1) *In general.* No person shall use any part of his or her property, or the property of another, as a dumping site for any type of trash, litter, junk, debris or hazardous materials.

(2) *Dumping in waterways and storm sewers prohibited; mitigation.* No person shall dump, place, or deposit, or allow the dumping, placing, or depositing, of any trash, litter, junk, debris, hazardous material, fill of any type, or other substances in any channel, stream, ditch, river, marsh, sewer, storm sewer or other waterway within the town. Any violation of this section shall require mitigation along with such fines or penalties as may be imposed.

(c) *Penalties.* Failure to comply with the provisions set forth in this section shall be deemed a public nuisance. Unless otherwise prescribed by law, any person violating

the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to the penalties set forth in section 1-7.

Sec. 18-33. Vehicle and equipment parking.

(a) *Definitions.* For purposes of this section, the following definitions shall apply, except where the context clearly indicates a different meaning:

- (1) *Carport.* An attached or detached structure with a roof and one or more open sides or an area located under a residential dwelling which is designed or used for the storage of vehicles.
- (2) *Designated parking space.* A designated area or space on a single-family lot or within a multi-family development which is used primarily for the parking of passenger vehicles. A designated parking space may be located on a driveway, shared driveway, guest parking area, or within a shared parking lot, as applicable. Designated parking spaces shall be located on an improved surface consisting of any one of more of the following materials:
 - a. asphalt or pervious asphalt;
 - b. brick or brick pavers;
 - c. concrete, pervious concrete or concrete pavers;
 - d. crushed stone, gravel or plantation mix; or
 - e. stone or stone pavers.
- (3) *Garage.* An attached or detached enclosed structure which is devoted to or designed for the storage of vehicles.
- (4) *Passenger vehicle.* Any type or class of passenger car, sport utility vehicle (SUV), pickup truck or van with a maximum seating capacity of 10 or fewer passengers (including the driver); passenger van with a maximum seating capacity of 15 or fewer passengers (including the driver); moped; motorcycle; golf cart; or low-speed vehicle (LSV); which is manufactured primarily for the purpose of carrying passengers.
- (5) *Residential area.* Any lot, plot or parcel of land which is zoned R-SF1, R-SF2, R-SF3, R-CL, R-TH, or R-MF according to the official zoning map of the town. The term shall also apply to properties in the AGR and MU zoning districts which contain a residential use or structure.

(b) *Off-street parking; generally.* In all areas of the town, no person shall park, or allow to be parked upon his or her property, any vehicle or equipment, of any type, except as provided herein:

- (1) Vehicles and equipment shall not be parked within 15 feet of a fire hydrant;
- (2) Vehicles and equipment shall not be parked in any area which has been designated as a fire lane, emergency lane, loading area or no parking area;
- (3) Vehicles and equipment shall not be parked in any location which impairs access by emergency vehicles, unreasonably impedes the flow of vehicular or pedestrian traffic, or restricts ingress to or egress from neighboring properties;
- (4) Within shared residential parking lots or parking lots in non-residential areas, vehicles and equipment shall not be parked in any aisle or driving lane; and
- (5) Parking in handicapped spaces shall be permitted only with a valid government-issued parking permit.

(c) *Off-street parking in residential areas.* In all residential areas of the town, no person shall park, or allow to be parked upon his or her property, any vehicle or equipment, except as provided herein:

- (1) Passenger vehicles shall park only upon designated parking space(s) or within a garage or carport;
- (2) Passenger vehicles shall not be parked on or within any yard, grass, landscaped area, median, pathway, or sidewalk, or within any common open space which is used for a purpose other than passenger vehicle parking;
- (3) Parking of the following types of vehicles and equipment shall be prohibited:
 - a. Vehicles larger than a passenger vehicle;
 - b. Vehicles containing more than 2 axles;
 - c. Commercial vehicles displaying a business sign or logo;
 - d. Unlicensed or unregistered vehicles;
 - e. Inoperative vehicles;
 - f. Vehicles in a state of major disassembly, disrepair, or in the process of being stripped or dismantled;
 - g. Recreational vehicles, campers, boats, and trailers; and

- h. Heavy machinery and equipment.
- (4) The prohibitions contained in the preceding paragraph (3) shall not apply to the following:
- a. Vehicles and equipment which are actively engaged in providing goods, services, deliveries or service calls to a residential property or to the occupants thereof, such as delivery trucks, moving trucks, landscapers, housekeepers, and similar contractors or vendors;
 - b. Vehicles and equipment which are making trips to transport persons or property;
 - c. Vehicles and equipment which are being used in conjunction with lawfully permitted construction activities on the property;
 - d. Vehicles and equipment which are parked within a garage or other enclosed space;
 - e. Vehicles and equipment which are temporarily parked on the property between the hours of 6:00 a.m. and 10:00 p.m. for the purpose of loading, unloading, cleaning or performing minor repairs and maintenance, such as tire or battery replacement; and
 - f. Temporary storage units which are lawfully permitted pursuant to Section 2.5(F)(2) of the Development Standards Ordinance.
- (d) *On-street parking.* In addition to the off-street parking requirements specified herein, parking on or within a recorded street or road right-of-way (hereafter "on-street parking") shall be subject to the following:
- (1) No vehicle or equipment of any kind shall be parked on or within any public street right-of-way within the town without the express authorization of the town.
 - (2) The owner of any private road within the town may impose additional on-street parking requirements including, without limitation, restricting or prohibiting on-street parking on or within any right-of-way under its ownership.
- (e) *Exceptions.* The provisions of this section shall not apply to the following:
- (1) Vehicles and equipment operated by an official, employee or authorized contractor of any municipal, county, state or federal agency, department or unit;

- (2) Vehicles and equipment operated by an official, employee or authorized contractor of any bona fide public safety agency, including, but not limited to, law enforcement, code enforcement, fire suppression and emergency medical services;
 - (3) Vehicles and equipment operated by an official, employee or authorized contractor of any public or private utility provider; and
 - (4) Vehicles and equipment operated by an official, employee or authorized contractor of the Seabrook Island Property Owners Association.
- (f) *Penalties.* Failure to comply with the provisions set forth in this section shall be deemed a public nuisance. Unless otherwise prescribed by law, any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to the penalties set forth in section 1-7.

SECTION 2. Amending Chapter 14, Article II, of the Town Code. The Town Code for the Town of Seabrook Island, South Carolina; Chapter 18, Environment; Article II, Health and Sanitation; is hereby amended to read as follows:

ARTICLE II. HEALTH AND SANITATION

Sec. 14-20. Definitions.

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

- (a) *Debris* means any material, including trees, branches, personal property and building material on public or private property that is directly deposited by a debris-generating event.
- (b) *Public nuisance* includes any condition or use of any property that in the determination of the town:
 - (1) Substantially endangers the public health or safety;
 - (2) Creates an unreasonable risk of injury in the use of the property, or of the surrounding properties; or
 - (3) Obstructs so as to render dangerous any street, watercourse or drainage structure.

Sec. 14-21. Debris-generating event—Removal of debris on public or private property.

- (a) *Intent and purpose.* The primary mission of the town will be to protect lives and property, restore services, and clear streets. Depending on the severity of the disaster and after accomplishment of the primary mission, resources may be available to the town that may not be available to private communities. The intent and purpose of this part is to establish a process by which the town may evaluate and, if necessary, remove debris from the roadways of private communities in the event of an immediate threat to life, public health, and safety after a significant disaster. While the town recognizes, as a general proposition, that the removal of debris from the roadways of private communities is the responsibility of private communities, there are occasions when the magnitude of the disaster may compel the need to remove debris from the roadways of private communities in order to prevent or minimize an immediate threat to the health, safety, and welfare of the community and the economic recovery of the town.
- (b) *Private communities.* The town shall remove debris from the roadways of private communities when such debris is determined to pose an immediate threat to the health, safety, and welfare of the community and the economic recovery of the town under the guidelines set forth in this article. The mayor and town council or their designee shall determine whether there is an immediate threat to the public health, safety, welfare and economic recovery of the town sufficient to warrant removal of all or a portion of said debris from private roadways. The following standards shall be considered in making such determination:
- (1) There is a significant likelihood that emergency and rescue vehicles will be significantly hindered from providing emergency services to residential and commercial property should the debris be allowed to remain in place absent town removal.
 - (2) The debris removal is necessary to effectuate orderly and expeditious restoration of utility services including, but not limited to, electricity, water, sewer, and telephone.
 - (3) The debris has a substantial negative impact in preventing or adversely affecting emergency repairs to buildings and/or property.
 - (4) The debris significantly adversely impacts the town's recovery efforts.
 - (5) The sheer volume of debris is such that it is impractical and unreasonable to remove the debris in an orderly and efficient manner absent action by the town.
 - (6) The debris removal is necessary to ensure the economic recovery of the town and surrounding areas.
- (c) *Waiver.* With regard to eligibility for federal public assistance funding, the Federal Emergency Management Agency (FEMA) may waive the requirement for the mayor and town council or their designee to evaluate the criteria listed in subsection 14-

25(b) as a condition precedent to town action depending on the severity of the situation.

- (d) *Indemnification and hold harmless.* Prior to removal or clearance of debris from private roadways by the town as contemplated herein, the private community association and/or governance board shall by agreement in form and substance reasonably satisfactory to the mayor and town council indemnify and hold harmless, to the maximum extent permitted by law, federal, state, and local governments and all employees, officers, and agents associated with the rendering of such service.

Sec. 14-22. Same—Abatement.

- (a) *Authority.* With respect to public nuisances created by a debris-generating event, the town, using its resources, which include, but are not limited to, debris-removal contractors or debris-monitoring services, is unconditionally authorized to take emergency measures to abate the nuisance by entering private property upon which a nuisance exists and removing debris therefrom.
- (b) *Right of entry; notice.* Depending upon the severity of the nuisance and the immanency of the risk to the public interest, the town may, in the mayor's discretion, enter private property and remove debris therefrom without notice to the property owner. Where, in the mayor's discretion, it is practicable to do so, the town shall notify the property owner and allow him a reasonable opportunity to remove, or cause to be removed, debris therefrom.
- (c) *Property owner responsible for costs.* To the extent that any cost associated with the abatement of a public nuisance created by a debris-generating event is attributable to the acts or omissions of the owner of a parcel of property, the town may seek any remedy available to it to recoup such cost, including, but not limited to, the remedies granted by this article.
- (d) Nothing contained in this section of the Seabrook Island Town Code shall be deemed to create any private right or cause of action in favor of any person or entity against the town.

SECTION 3. Repealing Section 22-21 of the Town Code. The Town Code for the Town of Seabrook Island, South Carolina; Chapter 22, Solid Waste; Article II, Garbage and Refuse Collection and Disposal; is hereby amended so as to repeal Section 22-21, Prohibited Practices; in its entirety.

SECTION 4. 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 5. Conflicting Ordinances Repealed.

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

SECTION 6. Effective Date.

This ordinance shall be effective from and after May 1, 2024.

SIGNED AND SEALED this ____ day of _____, 2023, having been duly adopted by the Town Council for the Town of Seabrook Island on the ____ day of _____, 2023.

First Reading: [November 28, 2023]
Public Hearing: [November 28, 2023]
Second Reading: [December 19, 2023]

TOWN OF SEABROOK ISLAND

John Gregg, Mayor

ATTEST

Katharine E. Watkins, Town Clerk