

Chapter 13
OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

Sec. 13-1. Masks or hoods; wearing in public demonstrations, parades, etc.

Any person who shall or may hereafter engage in a parade, procession, cavalcade, caravan or public demonstration as a party thereto shall not wear a mask or hood of any kind which would prevent recognition of his identity by any member of the police department of the city. This section shall not apply nor is it designed to apply to the wearing of masks or costumes by any person twelve (12) years old or younger who is engaged upon celebration of Halloween upon the streets and alleys of the city, nor shall this section apply to funeral processions in any event. For the purpose of enforcing this section, a cavalcade or caravan shall mean more than three (3) automobiles or motor vehicles upon a common enterprise.

Secs. 13-2--13-25. Reserved.

ARTICLE II.
OFFENSES AGAINST PROPERTY

Sec. 13-26. Damaging public property prohibited.

It shall be unlawful for any person to damage, mutilate or destroy any property of whatsoever kind or nature belonging to or under the control of the city or the city authorities.

Sec. 13-27. Damaging, destroying, etc., personal property prohibited.

- (a) It shall be unlawful for any person to willfully, unlawfully or maliciously cut, tear, break or otherwise injure or destroy any personal property, equipment or goods and chattels of another.
- (b) Any person violating the provisions of this section, when the injury or loss of property affected by such act is less than two hundred fifty dollars (\$250.00), shall be guilty of a misdemeanor.

Sec. 13-28. CATV cable connection prohibited without permission of operator.

No person shall connect to or obtain the services of a CATV cable located in the city without the authorization and permission of the owner or operator of the CATV line or cable.

Sec. 13-29. Trespass after notice.

It shall be unlawful for any person to enter upon the lands of another within the corporate limits of the city, after notice from the owner or tenant prohibiting the same. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-30. Indecent or obscene writings, figures, etc.

It shall be unlawful for any person to be guilty of any disorderly, lewd or indecent conduct by making or placing any obscene, indecent or profane writings, pictures, figures or marks on any sidewalk, street, fence, or on the outside walls or inside walls, partitions or doors of any house, structure or building or on any part of any structure or building.

Sec. 13-31. Tampering with gas, water or sewerage pipes.

It shall be unlawful for any person to tamper with or in any way obstruct the pipes of any sewerage, gas or water company within the corporate limits of the city at any time during which a test of such pipes is being made by the officers of the city. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-32. Placing advertising matter on poles prohibited.

It shall be unlawful for any person to tack, post or in any way fasten any sign, bill or notice on any telegraph, telephone or electric light pole within the city. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-33. Removal of mobile signs violating city ordinance; redemption of sign by owner.

- (a) Any mobile signs placed in violation of the zoning ordinance, this Code or any other ordinance of the city may be moved and towed in by city authorities.
- (b) The owner of such mobile sign may redeem same within thirty (30) days by the payment of a fine of fifteen dollars (\$15.00) and any and all other costs in connection with the towing and storage of such sign, and upon evidencing a valid business license.

Secs. 13-34--13-55. Reserved

**ARTICLE III.
OFFENSES AGAINST PUBLIC PEACE**

Sec. 13-56. Disorderly conduct.

- (a) It shall be unlawful for any person to engage in disorderly conduct, which shall consist of any one (1) or more of the following:
 - (1) Acting in a violent or tumultuous manner toward another, whereby any person is placed in danger of his life, limb or health;
 - (2) Acting in a violent or tumultuous manner toward another, whereby the property of any person is placed in danger of being destroyed or damaged;
 - (3) Causing, provoking or engaging in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
 - (4) Using "fighting words" directed towards any person who thereby becomes outraged and thus creates a turmoil;
 - (5) Congregating with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and refuse to clear such public way when ordered by the city public safety officers or other lawful authority;
 - (6) Being drunk or under the influence of alcohol, or any narcotic or hypnotic drug or any stimulant or depressant on any street or public place to such an extent as to be of annoyance to any other person or as to jeopardize persons or property or as to menace the public peace and safety.

- (b) This section shall not apply to peaceful picketing, public speaking or other lawful expressions of opinion not in contravention of other laws.
- (c) Any person convicted of violating any provision of this section shall be guilty of a misdemeanor.

Sec. 13-57. Disturbing city council.

It shall be unlawful for any person to molest, disturb, interfere with or interrupt any meeting of the city council, or assault, strike, menace, insult, molest or abuse the mayor or any of the councilmembers thereof during their attendance at any meeting, or while otherwise in the proper discharge of his duty as such mayor or councilmember.

Sec. 13-58. Amplified Music and permits.

(a) Buildings.

The using, operating, or permitting to be played, used or operated of any radio, tape player, compact disc player, receiving set, musical instrument, phonograph, loudspeaker or other machine or device for the producing, reproducing or amplification of music or other sounds in such a manner as to disturb the peace, quiet and comfort of persons in any office, building, structure, or in any dwelling, hotel or other type residence, or of persons in the vicinity thereof, who are not voluntary listeners to, is hereby prohibited. The operation of any such machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the property line of the building or structure in which it is located or fifty (50) feet from the person carrying same shall be a violation of this section. For the purpose of this section "plainly audible" means any sound, which can be heard, by unimpaired auditory senses based on a direct line of sight of fifty or more feet, however, need not be discernible.

(b) Vehicles.

No person operating or occupying a motor vehicle on any street, highway, alley, parking lot, or driveway, either public or private property, shall operate or permit the operation of any sound amplification system, including, but not limited to, any radio, tape player, compact disc player, loudspeaker, or any other machine or device used for the producing, reproduction or amplification of sound from

within the motor vehicle so that the sound is plainly audible at a distance of fifty (50) feet or more from the vehicle or in the case of a motor vehicle on private property, beyond the property line. For the purpose of this section, "plainly audible" means any sound which can be heard, by the unimpaired auditory senses based on a direct line of sight of fifty feet or more, however words or phrases need not be discernible and said sound shall include bass reverberation. Prohibitions contained in this section shall not be applicable to emergency or public safety vehicles, vehicles owned or operated by state, county or city government or any utility company, for sound emitted unavoidably during job-related operation, or any motor vehicle used in an authorized public activity for which a permit has been granted.

(c) Permits.

(1) Temporary Permits

The City Manager or his/her designee may grant a temporary permit which allows non-compliance with the limitations prescribed in this ordinance for the purpose of amplified sound activities of short duration. The issuance of such permits will be only for a time period not later than 12:-- midnight and not before 8:00 a.m.

(2) Entertainment Permits

a) Commercial establishments providing entertainment to customers from courtyards or outdoor areas and from indoors where the sound levels may otherwise exceed the provisions of this ordinance may apply for an entertainment permit from the Office of the City Manager that allows non-compliance with the restrictions prescribed in this ordinance. Such permit will be issued semi-annually and shall specify the day or days of the week, allowable hours along with conditions and restrictions applicable.

b) Permits shall be granted upon application, provided an initial investigation assures that the permit will not result in a condition injurious to health or safety and only after payment of the permit fee set forth in the schedule of fees established by resolution of City Council. Any permit so granted may contain conditions or requirements upon which it is granted as deemed

necessary, to minimize any adverse effects upon the people of the community or surrounding neighborhood.

c) The following factors shall be considered, in order to determine whether granting the permit will result in a condition injurious to health or safety:

1. Distance of proposed activities from residential neighborhoods, medical facilities, schools and religious institutions.
2. The likelihood that the proposed activities will create a disturbance of the peace.
3. Number of amplification devices to be used in the proposed activities.
4. Anticipated direction of the amplification devices.
5. Anticipated length of the activities.
6. Upon determination that the granting of a permit will not result in a condition injurious to health or safety, the permit shall be issued specifying place, duration, and any restrictions appropriate for the proposed activities. A copy of the permit shall be provided to the applicant who upon request by any Public Safety Officer shall produce said permit for verification of any restrictions.
7. Reapplication for a permit may be denied upon evidence of complaint(s) by a resident(s) in the locality of the permitted activity, has been charged and found guilty by the court under the provisions of this section, or other factors determined by the City Manager to have an adverse effect upon the public safety.

(3) Permits may be revoked for repeated violations of this Ordinance. The first violation within any twelve (12) months will be subject to written warning. The second violation and all subsequent violations within any twelve (12) months will be subject to prosecution pursuant to Section 1-11 of this Code. A third violation shall result in a revocation of the permit.

Sec. 13-59. Loud and unnecessary noises restricted.

- (a) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.
- (b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this and the preceding section, but such enumeration shall not be deemed to be exclusive, namely:
 - (1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city, except as a danger warning, the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one (1) operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
 - (2) *Radios, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located or from the person carrying same shall be a violation of this section.
 - (3) *Loudspeakers, amplifiers, etc., for advertising.* The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or

attracting the attention of the public to any building or structure.

- (4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 6:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- (5) *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.
- (6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) *Defect in vehicle or loud.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (8) *Loading, unloading, opening, etc., boxes, etc.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.
- (9) *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 9:00 p.m. and 7:00 a.m. and if he shall further determine that loss or inconvenience

would result to any party in interest, he may grant permission for such work to be done within the hours of 9:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

- (10) *Adjacent to schools, courts, churches, hospitals, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (11) *Hawkers, peddlers, etc.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (12) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (13) *Transporting metal rails, pillars and columns.* The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
- (14) *Pile drivers, hammers, etc.* The operation between the hours of 10:00 p.m. and 6:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- (15) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- (16) *Refrigerating or air cooling equipment.* The operation of any refrigerating or air cooling equipment used in connection with any building, structure or vehicle unless noise is muffled or such equipment is equipped with muffler device to deaden such noise.

(17) Collection of commercial solid waste. The sound created by the collection of commercial solid waste by commercial trash collection vehicles, or any vehicle, when approaching, lifting, dumping, and compacting the solid waste, except between the hours of 7:00a.m. and 9:00p.m. However, no charge shall be made against any person, unless a complaint is made to the City and the person has first been provided an opportunity to abate the offending noise immediately without penalty. For a first offense, the offender shall receive a written warning. For a second offense, the penalty shall be a \$250 fine. For a third offense, the penalty shall be a \$500 fine. A second or subsequent conviction shall be sufficient grounds for a thirty (30) day suspension of the offender's City of Spartanburg business license. A third or subsequent conviction shall be sufficient grounds for a revocation of the offender's City of Spartanburg business license pursuant to Section 9-15 of the City Code.

Sec. 13-60. Rioting; fighting; breach of peace.

Any person creating any disturbing noise or making or creating any brawl, riot, affray, fighting or indulging in any profane, obscene or vulgar language, or acting in a tumultuous, disorderly or indecent and vulgar manner, within the corporate limits of the city, shall be guilty of a misdemeanor

Sec. 13-61. Unlawful assembly.

- (a) It shall be unlawful for any person within the city to congregate and assemble in any street, avenue, alley, road or highway or in or around any public building or enclosure or any park or reservation or at the entrance of any private building or enclosure, and engage in loud and boisterous talking or other disorderly conduct or to insult or make rude or obscene gestures or commentaries or observations on persons passing by or in their hearing or to crowd, obstruct or incommode the free use of any such street, avenue, alley, road, highway or any of the foot pavements thereof or the free entrance into any public or private building or enclosure.
- (b) It shall be unlawful for any person to curse, swear or make use of any profane language or indecent or obscene words or engage in any disorderly conduct in any street, avenue, alley, road, highway, public park or enclosure, public building, church or assembly room or in any other public place or in any street, avenue, alley, road, highway, public park or enclosure, or other building or in any premises

other than those where the offense was committed. Any person violating the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-62. Failure to leave premises when requested by owner, proprietor, etc., prohibited.

Any person failing or refusing immediately to vacate and leave the premises of any business or other establishment, whether public or private, when so requested by the owner, proprietor, manager or other person in charge shall be guilty of a misdemeanor.

Sec. 13-63. Use of language intending to incite persons to violence.

It shall be unlawful for any person to be upon any public property, public street, public road, or any property open to the public and to utter or use any profane, vulgar or indecent language, racial or religious slurs or other derogatory comments which are offensive to and directed to another person with the possible consequence of violence.

Secs. 13-64. Panhandling (Commercial Solicitation).

(a) Definitions:

"Panhandling" is any request made in person on a street, sidewalk, or public place asking for an immediate donation of money or other thing of value.

"The Downtown Square" means the area defined by the boundaries of the following named streets, including both sides of each named street and each corner of intersecting named streets: With the western border being South Spring Street, the southern border being Broad Street, the eastern border being Converse Street and the northern border being Dunbar Street.

(b) Panhandling in certain areas. It shall be unlawful for any person to panhandle when the person who is being confronted is in any of the following places within the City of Spartanburg, unless otherwise provided for in this section:

- (1) On private property if the owner, tenant, or lawful occupant has asked the person not to panhandle on the property, or has posted a sign clearly indicating that solicitations are not**

welcome on the property;

- (2) Within 15 feet of the entrance to or exit from any public toilet facility, which includes any temporary use site (port-a-toilet);
 - (3) Within 15 feet of an automatic teller machine (ATM), provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
 - (4) Within 15 feet of any parking lot pay box;
 - (5) Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
 - (6) In any public transportation vehicle, or in any bus station, or within 15 feet of any bus stop or taxi stand;
 - (7) From any driver or passenger in a motor vehicle that is in traffic on a public street; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;
 - (8) In a parking lot or garage owned or operated by the City of Spartanburg, including entryways or exits and pay stations connected therewith;
 - (9) No person shall panhandle within 6 feet of any entrance to any building open to the public;
 - (10) The Downtown Square.
- (c) *Nighttime panhandling.* It shall be unlawful for any person to panhandle after sunset and before sunrise.
- (d) *Aggressive panhandling.* It shall be unlawful for any person to panhandle in any of the following manners:

- (1) By intentionally or recklessly blocking the path of the person being confronted; or
 - (2) By intentionally or recklessly approaching or speaking to or following a person before, during or after being confronted if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or other things of value; or
 - (3) By intentionally or recklessly using violent, threatening gestures, profane or abusive language, either during the panhandling or following refusal; or
 - (4) By persistently following the person being confronted with the intent of asking that person for money or other things of value after the person has given a negative response to such soliciting.
- (e) *False or misleading panhandling.* It shall be unlawful for any person to knowingly make any false or misleading representation in the course of panhandling a donation. False or misleading representations include, but are not limited to, the follows:
- (1) Stating that the panhandler is from out of town and stranded when such is not true;
 - (2) Stating or suggesting falsely that the panhandler is either a present or former member of the armed service indicated;
 - (3) Wearing or displaying an indication of physical disability, when the panhandler does not suffer the disability indicated;
 - (4) Use of any makeup or device to simulate a deformity; or
 - (5) Stating that the panhandler is homeless, when he or she is not.
- (f) *Penalties.* Penalties for violations of this section

shall be as follows:

Each act of panhandling prohibited by this subsection shall constitute a separate offense and punishable by a fine in an amount not to exceed \$500.00 or imprisonment for a period not to exceed 30 days or both.

- (g) *Severability.* If any sentence, clause or phrase of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this Ordinance.

Sec. 13-85. Reserved.

**ARTICLE IV.
OFFENSES AGAINST PUBLIC HEALTH**

Sec. 13-86. Glue sniffing prohibited.

- (a) As used in this section, the phrase "glue containing a solvent having the property of releasing toxic vapors or fumes" shall mean and include any glue, cement, or other adhesive containing one (1) or more of the following chemical compounds: acetone, an acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, or toluene.
- (b) No person shall, for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, intentionally smell or inhale the fumes from any glue containing a solvent having the property of releasing toxic vapors or fumes; provided, that nothing in this section shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes.
- (c) No person shall, for the purpose of violating subsection (b) use, or possess for the purpose of so using, any glue containing a solvent having the property of releasing toxic vapors or fumes.
- (d) No person shall sell, or offer to sell, to any other person any tube or other container of glue containing a solvent having the property of releasing toxic vapors or fumes, if he has reasonable cause to suspect that the product sold, or

offered for sale, will be used for the purpose set forth in subsection (b).

- (e) Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-11.

Secs. 13-87--13-110. Reserved.

**ARTICLE V.
OFFENSES AGAINST PUBLIC SAFETY**

Sec. 13-111. Abandoned iceboxes, refrigerators, etc.

- (a) It shall be unlawful for any person to store, place or permit any discarded, abandoned or unused icebox, refrigerator, deep freeze or similar container of an airtight character in any place where the same is accessible to children, without first removing and rendering completely inoperable all automatic catches or locks on the exterior of all doors thereof so as to prevent any person or child from becoming imprisoned therein.
- (b) This section shall not apply to the delivery, transfer or removal of any such icebox, refrigerator, deep freeze or container from one (1) location to another while in transit; provided, that such icebox, refrigerator, deep freeze or container shall not be left unattended for longer than fifteen (15) minutes at any one (1) time, and shall be checked for the presence of persons or children therein.
- (c) Any person violating any provision of this section shall be guilty of a misdemeanor.

Sec. 13-112. Electric fences prohibited.

It shall be unlawful for any person to construct or maintain an electric or electrified fence for enclosing property in the city.

Sec. 13-113. Fireworks.

- (a) It shall be unlawful within the limits of the city, for any person to sell or expose for sale, keep, store, maintain,

have in possession, transport, give or pass any squibs, torpedoes, firecracker or any other type or form of fireworks, including salutes, Roman candles, fountains, balloons carrying any lighted substance, cannon, cane, sky rockets, bombs or other similar articles of fireworks, which will be fired, lighted, ignited, set off or thrown. Cap pistols and caps for same are expressly excluded from the operation of this section.

- (b) Before any fireworks will be permitted for public exhibition in connection with fairs or other special celebrations, permission shall first be obtained from the city manager, and such fireworks shall be under the supervision of an expert, who shall be present in order to handle, maintain or fire same, and in such case of exhibition, the parties in charge of same shall be held strictly responsible for any damage to person or property resulting from the use of such fireworks. All fireworks being held in storage for special exhibition shall be in a closed wooden box until they are used.
- (c) All public exhibitions of fireworks permitted under this section shall be concluded not later than 10:00 p.m.
- (d) Any person violating the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-114. Breaking arrest; escape from jail, etc.

- (a) It shall be unlawful for any person to break arrest, to escape from city jail or to escape from the custody of any person lawfully having charge of prisoners.
- (b) Any person violating this section shall be guilty of a misdemeanor.

Sec. 13-115. Impersonating officers, etc., prohibited.

It shall be unlawful for any person, not lawfully authorized to do so, to act as a public safety officer, officer or official of the city and it shall be unlawful for any person to falsely impersonate any officer, official or public safety officer of the city and, in such pretensive or pretended character, obtain or receive from any person any money, paper, document or other valuable thing. Any person violating this section shall be guilty of a misdemeanor.

Sec. 13-116. Air guns, slingshots, etc.

- (a) It shall be unlawful for any person to fire or shoot any air gun, air pistol or other like gun or pistol by any other name whatsoever called, or to shoot or use any slingshot weapon or any other weapon of like kind, the shooting of which may cause damage or accident to any person or property, upon any of the streets, lanes or public places of the city or within one hundred (100) yards of such streets, lanes or public places. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.
- (b) The director of public safety may give written permission for the holding of target practice or other public shooting of firearms at such specified times and under such circumstances as will ensure that no damage, injury or accident to any person or property will result. The granting of such a permit shall place the full and complete responsibility upon such person or organization of taking all precautions necessary to prevent damage or injury to any person or property within the city.

Sec. 13-117. Carrying firearms into or near public gatherings prohibited.

It shall be unlawful for any person to carry into or near any public gathering any loaded or unloaded firearm and, upon conviction thereof, any such person shall be guilty of a misdemeanor and shall forfeit such weapon to the city.

Sec. 13-118. Presenting or pointing loaded or unloaded firearm at another person prohibited.

It shall be unlawful for any person to present or point at any other person any loaded or unloaded firearm and, upon conviction thereof, any such person shall be guilty of a misdemeanor, and shall forfeit such weapon to the city. Provided, however, nothing contained in this section shall be construed to abridge the right of self defense or to apply to theaters or like professions.

Sec. 13-119. Children prohibited from carrying weapons.

It shall be unlawful for any person under the age of sixteen (16) years to carry, within the corporate limits of the city any rifle, shotgun or firearm. Any person violating the provisions of this section shall be guilty of a misdemeanor.

Secs. 13-120--13-140. Reserved.

ARTICLE VI.
OFFENSES AGAINST PUBLIC MORALS

Sec. 13-141. Gambling.

- (a) *Prohibited.* No person shall within the corporate limits of the city, at any time or place, game or play for money or other stakes at any sort of game with cards, dice, coins or any other device or thing of whatsoever quality or denomination the same may be. Any person violating this subsection shall be deemed guilty of a misdemeanor and, upon conviction thereof, in addition to the penalty provided by law, shall forfeit all the stakes and everything that may have been bet on the game or used in connection with it.
- (b) *Resorts declared nuisances.* All places where persons are permitted to resort for the purpose of gambling within the corporate limits of the city are hereby declared nuisances, and the keeper, manager or proprietor of such places shall be guilty of a misdemeanor.
- (c) *Frequenting gambling houses.* Any person who, without a legitimate excuse, frequents or visits any gambling house, or is present at any place whatsoever where gambling is going on, within the corporate limits of the city, shall be guilty of a misdemeanor.

Sec. 13-142. Slot machines.

It shall be unlawful for any person to keep or permit to be kept on his premises, or to operate within the corporate limits of the city, any slot machine of any name or kind, except automatic weighing, measuring, musical and vending machines, which are so constructed as to give a certain uniform and fair return in value for each coin deposited therein and in which there is no element of chance. Any person who shall violate this section shall be guilty of a misdemeanor.

Secs. 13-143--13-199. Reserved.

ARTICLE VII.
DRUG PARAPHERNALIA AND COUNTERFEIT DRUGS

Sec. 13-200. Counterfeit drugs.

Any person who shall distribute or sell any substance under the pretense that said substance is an illegal drug, illegal narcotic or controlled substance when said substance is in fact not an illegal drug, illegal narcotic or controlled substance shall be guilty of the sale of counterfeit drugs for the purposes of this section and upon conviction shall be deemed guilty of a misdemeanor.

Sec. 13-201. Definitions.

- (a) The term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this division. It includes, but is not limited to:
- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
 - (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
 - (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.
 - (5) Scales or balances used, intended for use, or designed for use in weighing or measuring controlled substances.
 - (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.

- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining, marijuana.
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in compounding controlled substances.
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, ceramic pipes with or without screens, permanent screens, hashing heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips, meaning objects used to hold burning material such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons, and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;

- k. Chillums;
 - l. Bonges;
 - m. Ice pipes or chillers.
- (b) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
 - (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.
 - (3) The proximity of the object, in time and space, to a direct violation of this division.
 - (4) The proximity of the object to controlled substances.
 - (5) The existence of any residue of controlled substances on the object.
 - (6) Direct or circumstantial evidence of the intent of an owner or anyone in control of the object, to deliver it to persons whom he knows or should reasonably know, intend to use the object to facilitate a violation of this division; the innocence of any owner, or of anyone in control of the object, as to a direct violation of this division shall not prevent a finding that the object is intended for use, or designed for use as a drug paraphernalia.
 - (7) Instructions, oral or written, provided with the object concerning its use.
 - (8) Descriptive materials accompanying the object which explain or depict its use.
 - (9) National and local advertising concerning its use.
 - (10) The manner in which the object is displayed for sale.
 - (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
- (13) The existence and scope of legitimate uses for the object in the community.
- (14) Expert testimony concerning its use.

Sec. 13-202. Possession of drug paraphernalia.

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this division. Any person who violates this section is guilty of a misdemeanor.

Sec. 13-203. Manufacture or delivery of drug paraphernalia.

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonable should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this division. Any person who violates this section is guilty of a misdemeanor.

Sec. 13-204. Delivery of drug paraphernalia to a minor.

Any person eighteen (18) years of age or over who violates section 13-203 by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a special offense.

Sec. 13-205. Advertisement of drug paraphernalia.

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of this advertisement, in whole or in part, is to promote the sale of any objects designed or intended for use

as drug paraphernalia. Any person who violates this section is guilty of a misdemeanor.

Sec. 13-206. Civil forfeiture.

- (a) Any of the items of personal property listed in section 13-201 hereof which is legally confiscated by the city will be forfeited. Any such property will be secured by the public safety department for a period of ten (10) days and thereafter the city will either destroy and sell such thereof as may be used for legitimate purposes.
- (b) Property subject to be forfeited under this division may be seized by the public safety department upon process issued by the municipal judge. Seizure without process may be made if the seizure is incident to an arrest or a search under a search warrant.

Sec. 13-207--13-299. Reserved.

**ARTICLE VIII.
LOITERING FOR PURPOSE OF DRUG-RELATED ACTIVITY**

Sec. 13-300. Loitering.

- (a) It is unlawful for any person to loiter in or near any thoroughfare, place open to the public, or near any public or private place, in a manner and under circumstances, manifesting the purpose to engage in drug-related activity contrary to any of the provisions of state law.
- (b) Among the circumstances which may be considered in determining whether such purpose is manifested are:
 - (1) Such person is a known unlawful drug user, possessor or seller. For the purpose of this article, a "known unlawful drug user, possessor or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession, or sale of any of the substances referred to by state law, or such person has been convicted of any violations of any of the provisions of that law or substantially similar laws of the city; or a person who displays physical characteristics of drug intoxication or usage,

including but not limited to, dilated pupils, glassy eyes, slurred speech, loss of coordination or motor skills, or a person who possesses drug paraphernalia as defined by state law.

- (2) Such person has been given due notice, either verbal or written, on any occasion prior to any arrest, within one (1) block of the area where the arrest occurred, or such person is currently subject to an order or term of probation prohibiting his or her presence in a high drug activity geographic area.
- (3) Such person behaves in such a manner as to raise a reasonable suspicion that such person is engaging or is about to engage in an unlawful drug-related activity, either sale, possession or purchase, including by way of example only, such person acting as a lookout or flagging down vehicles or pedestrians.
- (4) Such person is physically identified by the officer as a member of a gang or association which has [as] its principal purpose illegal drug activity.
- (5) Such person transfers small objects or packages for currency or any other thing of value in a furtive fashion which would lead the officer to believe or ascertain that a drug sale has or is about to occur.
- (6) Such person takes flight upon the appearance of a law enforcement officer or public safety officer.
- (7) Such person endeavors to conceal any object which reasonably could be involved in an unlawful drug-related activity.
- (8) The area involved is by public repute known to be an area of unlawful drug use and trafficking.
- (9) Any vehicle involved is registered to a known unlawful drug user, possessor, seller, or a person for whom there is an outstanding warrant from a crime involving drug-related activity.

Sec. 13-301. Article cumulative.

The provisions of this article are intended as cumulative and selective, and shall not repeal any other ordinance involving the same subject matter.

Sec. 13-302. Severability.

If any provision of this article is held invalid, such invalidity shall not affect any other provision, or the application thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Sec. 13-303. Violation; penalty.

Any person who violates the provisions of this article is guilty of a misdemeanor, and upon conviction shall be imprisoned for up to thirty (30) days and be subject to a fine of not more than two hundred dollars (\$200.00), or both.
(Ord. No. 1724, § 1, 3-12-90)

Secs. 13-304--13-399. Reserved.

**ARTICLE IX.
ILLEGAL PURCHASE OF CONTRABAND**

Sec. 13-400. Prohibiting illegal purchase or attempt to purchase contraband.

No person shall offer to purchase, negotiate the terms of a purchase, or attempt to purchase, contraband in the city. For purposes of this article, the term "negotiate" shall include, but not be limited to, inquiries as to the availability of contraband for sale, examination of contraband or contraband facsimile for the purpose of determining quantity or quality, or any other overt act which a reasonable person would believe to be the initiation of a process designed to purchase contraband. The term "contraband" shall be defined as any substance the possession of which is unlawful under the provisions of Title 44, Chapter 53 of the Code of Laws of South Carolina (1976), as amended.

Secs. 13-401--13-499. Reserved.

**ARTICLE X.
SMOKING REGULATIONS IN PUBLIC PLACES AND VEHICLES**

Sec. 13-500. Findings and Determinations.

(1) Numerous studies have found that tobacco smoke is a major

contributor to indoor air pollution and that breathing second-hand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy non-smoker, including heart disease, stroke, respiratory disease, and lung cancer.

- (2) The National Cancer Institute has determined that second-hand smoke is responsible for early death of up to Sixty-five Thousand (65,000) Americans annually.
- (3) The Surgeon General has declared that:
 - (a) Second-hand smoke causes disease and premature death in non-smokers exposed to smoke;
 - (b) Children exposed to second-hand smoke have an increased risk for sudden death syndrome, acute respiratory infections, ear problems, and more severe asthma;
 - (c) Adults exposed to second-hand smoke have a higher risk of coronary heart disease and lung cancer;
 - (d) There is no safe level of exposure to second-hand smoke; and
 - (e) Separating smoke and non-smoking sections of indoor areas does not sufficiently remove the threats of second-hand smoke in enclosed areas;
 - (f) The presence of second-hand smoke in enclosed spaces inevitably results in persons who do not smoke being forced to bear unwarranted health risks and inappropriate deprivation of peaceful enjoyment of the premises to which they have been invited or permitted to enter, even when steps have been taken to separate "smoking" and "non-smoking" areas within the confined space.
 - (g) The City recognizes that smoke creates a danger to the health and safety of the public at large and that, in order to protect the health and welfare of the public, it is necessary to restrict smoking in the manner provided for in this Article.

Sec. 13-501. Use of tobacco products prohibited in all enclosed City-owned buildings.

It shall be unlawful for any person to use any tobacco product, including a lit cigarette, cigar, pipe or other lighted smoking material or equipment in any enclosed City-owned building. "No Smoking" signs shall be conspicuously displayed near all entrances to all enclosed City-owned or occupied buildings.

For purposes of this section, "enclosed" means a structure

or building that is bound on all sides by any combination of walls, half walls, windows or doorways which extend from floor to ceiling, regardless of whether the windows or doorways are open or closed.

Sec. 13-502. Use of tobacco products prohibited in City-owned vehicles.

It shall be unlawful for any person to use any tobacco product, including a lighted cigar, cigarette, or other lighted smoking material or equipment in a City-owned or leased vehicle.

Sec. 13-503. Use of tobacco products on City-owned property and during City-sponsored special events such as festivals and parades.

It shall be unlawful for any person to use any tobacco product, including a lit cigarette, cigar, pipe or other lighted smoking material or equipment on City-owned property and during City-sponsored special events, such as festivals and parades, within the event boundaries as established by the City, subject to the exceptions provided herein.

Sec. 13-504. 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:

City Attorney means the City Attorney for the City of Spartanburg, South Carolina, or their designee.

Confined commercial public place means any enclosed area, including but not limited to common lobbies, offices, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias, hallways and stairways, restrooms, and other areas of a building or structure, to which the public, including any employee, is invited, solicited or permitted access to convene, conduct business including, but not limited to, the following types of facilities: restaurants; establishments engaged in the sale or distribution of beer, wine, ale, porter or alcoholic beverages for on-premises consumption; offices; educational, health, warehouse, distribution, automotive sales; automotive repair, retail, theaters; public transportation;

recreational; manufacturing; marketing; banking; finance; professional services; or entertainment.

Director of Public Safety means the direction of public safety of the City of Spartanburg, South Carolina, or their designee.

Employee means any person who performs services for an employer, with or without compensation.

Employer means any person, partnership, association, corporation, trust or other organized group of individuals or entity, whether public or private, which utilizes the service of one or more employees.

Enclosed area means a space in any structure or building that is bound on all sides by any combination of walls, half walls, windows, or doorways extending from floor to the ceiling, regardless of whether the windows or doors are open or closed.

Private club or Lodge means a bona fide organization, whether incorporated or not, which is the occupant of a building or a portion of a building that has a different address, a separate entrance and not connected by common doors or passageways with any other business within the building, and which is used solely and exclusively for social, benevolent, patriotic, recreational or fraternal purposes, and not pecuniary gain or profit, and no part of the net earnings of which inures to the direct benefit of any member or shareholder, and if engaged in the sale of beer, wine, porter, ale or alcoholic beverages, such is incidental to its main purpose, and which maintains on the premises a complete membership list showing the date of application of the proposed member, the date of admission after election, the date initiation fees and dues are paid, the amount paid by each member and each member's correct mailing address. No organization shall qualify as a private club or lodge under this section if it admits members on demand by payment of a nominal fee.

Private workplace means any location that would not in its normal course of business activity permit access to the general public, is limited to an employer with no paid or unpaid employees of any type, and with such location being in a confined space that does not share ventilation or HVAC equipment with any other confined space or smoke does not

infiltrate into areas where smoking is prohibited under the provisions of this Article.

Service line means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other tobacco product in any manner or in any form.

Sec. 13-505. Prohibition of smoking in confined commercial public places.

- (1) Except within a private workplace, the possession of lighted smoking materials in any form, including but not limited to the possession of lighted cigarettes, cigars, pipes or other tobacco products, is prohibited in all confined commercial public places.
- (2) The possession of lighted smoking materials in any form, including but not limited to the possession of lighted cigarettes, cigars, pipes or other tobacco products, shall be prohibited in all confined commercial public places within the City.
- (3) No person shall possess lighted smoking materials in any form, including but not limited to lighted cigarettes, cigars, pipes or other tobacco products, within a sufficient distance of not less than fifteen (15) feet from an entrance to or exit from a building to prevent smoke infiltration where smoking is prohibited pursuant to this section and provided no person has to walk through the smoking area to enter or exit the building.

Sec. 13-506. Prohibition of smoking in other certain outdoor areas.

Smoking shall also be prohibited in areas where food is served in encroachment areas on public sidewalks, plazas, and parks and where food is served on decks, balconies, and patios of restaurants and bars. If a private restaurant or bar does not serve food on its plazas, parks, decks, balconies or patios, smoking is permitted if it is a sufficient distance of not less than fifteen (15) feet from the entrance or exit of a building and there is no smoke infiltration where smoking is prohibited pursuant to this

section and provided no person has to walk through the smoking area to enter or exit the building.

Sec. 13-507. Responsibilities of proprietors, owners and managers.

- (1) A person having control of a confined commercial public place shall not knowingly permit, cause, suffer or allow any person to violate the provisions of Section 13-506; provided it shall be an affirmative defense to an alleged violation of this subsection that the person having control of a place of employment or confined public place if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products.
- (2) A person having control of a place of employment or confined commercial public place shall conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) near all entrances to a building or structure where smoking is prohibited by this Article. Such signage shall consist of letters not less than two inches in height. The sign shall be a minimum of eight and one-half inches by eleven inches and shall include a statement of the minimum fine imposed by the City for violations of the "No Smoking" ordinance.
- (3) All ashtrays shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager, or other person in control of the area. Appropriate receptacles for cigarette shall be provided in all areas exempted from this Article.
- (4) Smoking shall be prohibited in all aspects of enclosed spaces within a confined commercial public place, to include common areas, auditoriums, classrooms, conference and meeting rooms, elevators, hallways, medical facilities, cafeterias, lounges, stairs, restrooms, and all other enclosed facilities or common areas.

Sec. 13-508. Where smoking is not regulated.

Notwithstanding any other provision of this Article to the contrary, the following shall not be subject to the smoking restrictions of this Article:

- (1) Private residences except when used as a licensed child care, adult day care, or any other health care facility or home occupation to which the public visits.
- (2) Hotel and motel rooms and bed and breakfast rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty-five percent (25%) of rooms rented to guests in a hotel or motel or bed and breakfast may be so designated. All smoking rooms on the same floor must be contiguous and smoke from those rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Article. The status of smoking rooms may not be changed, except to add additional nonsmoking rooms.
- (3) Establishments where more than fifty percent (50%) of the revenue, volume of trade or business activity is derived from the blending of tobaccos, or sale of tobaccos, pipes, cigars or smokers' sundries, provided that smoking areas in these establishments are enclosed and smoke does not infiltrate into areas where smoking is prohibited under the provisions of this Article.
- (4) Religious ceremonies where smoking is part of a ritual.
- (5) Private club or lodge operating within a building or portion of a building owned or leased by the club provided there is a separate ventilation or HVAC system and smoke does not infiltrate into areas where smoking is prohibited under the provisions of this Article.
- (6) Designated outdoor smoking areas provided that the tobacco smoke does not enter the confined public space through entrances, windows, ventilation systems or other means and provided that no persons have to pass through the smoking area to enter the confined public space. Designated outdoor areas must provide containers for the disposal of the tobacco products.
- (7) Any location where smoking is regulated under S.C. Code 1976, § 44-95-10 et seq., as amended, the Clean Indoor Air Act, to include:

- (a) Public schools and preschools where routine or regular kindergarten, elementary or secondary educational classes are held, including libraries;
- (b) All other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law and all other child day care facilities, as defined in S.C. Code 1976 § 20-7-200, which are licensed to S. C. Code 1976, Sub-article 11, Article 13, Chapter 7 of Title 20, as amended;
- (c) Health care facilities as defined in S. C. Code 1976, § 44-7-130, as amended, but excluding designated smoking areas in employee break areas, unless the governing board of the facility has determined to maintain a smoke free environment;
- (d) Government buildings, as defined in S. C. Code 1976, § 44-95-20(4), except health care facilities as provided for in subpart © hereof, and except for buildings owned or occupied by the City of Spartanburg;
- (e) Elevators;
- (f) Public transportation vehicles that are not owned or operated by the City of Spartanburg, excluding taxicabs;
- (g) Arenas and auditoriums of public theaters or public performing art centers, excluding areas that may be designated for smoking in foyers, lobby or other common areas, and excluding smoking as part of a legitimate theatrical performance.

Sec. 13-509. Enforcement.

- (1) This Article shall be enforced by the City of Spartanburg Department of Public Safety as authorized by the City Manager.
- (2) Notice of the provisions of this Article shall be given to all applicants for a business license in the City.
- (3) An owner, manager, operator, or employee of an establishment regulated by this Article shall inform persons violating this Article of the appropriate provisions thereof.
- (4) Any citizen who desires to register a complaint under this Article may initiate enforcement with the office

of the Director of Public Safety.

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

Sec. 13-510. Penalty for violation of this Article.

- (1) The City of Spartanburg Municipal Court shall collect the penalties due hereunder for any infraction(s) of the provisions of this Article.

- (2) The City of Spartanburg's Department of Public Safety shall have the power to enforce the provisions of this Article by issuing a Uniform Ordinance Summons.

- (3) Any person violating the provisions of this Article shall be guilty of an infraction and subject to a civil fine of not less than \$10.00 or more than \$25.00.

- (4) Any person who owns, manages, operates, or otherwise controls a confined public place who fails to adhere to the provisions of this Article shall be guilty of an infraction and subject to a civil fine of not less than \$10.00 or more than \$25.00.

- (5) In addition to the fines established by this section, repeated violations of this Article by a person who owns, manages, operates, or otherwise controls a confined public place may result in the suspension or revocation of any occupancy permit or business license issued to the person for the premises on which the violation occurred.

- (6) Each violation of this Article shall be considered a separate and distinct offense.

Sec. 13-511. Other applicable laws.

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

Sec. 13-512. Nonretaliation.

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

Sec. 13.513. Interpretation for intent.

It is the intent of Council to prohibit smoking whenever the private choice of smoking intrudes or has the capacity to intrude upon the choice of others to be free from the hazards and inconvenience of second and smoke in places where they work, stand, sit, dine, drink, read, study or engage in entertainment and recreation in a confined public place. All provisions of this Article shall be construed to achieve these purposes.

**ARTICLE XI.
MISCELLANEOUS PROVISIONS***

Sec. 13-510. False information to law enforcement officers.

It is unlawful for any person to give any false information including a fictitious name or the name of another person, false or fictitious dates of birth and social security numbers to any law enforcement officer on any type of official report. These reports shall include but are not limited to Traffic Accident Reports, Incident Reports, Arrest Reports and Uniform Traffic Tickets. Any person violating the provisions of this section is guilty of a misdemeanor and must be punished by a fine not to exceed five hundred dollars (\$500.00) or by a term of imprisonment not to exceed thirty (30) days.

(Ord. No 1866A, § 1, 8-22-94)

Secs. 13-511--13-599. Reserved.

Sec. 13-600. ALARMS AND FALSE ALARMS

Sec. 13-601. DEFINITIONS

- (a) Alarm Administrator means a person or persons designated by the Director of Public Safety to administer, control and review alarm applications, permits and false alarm reduction efforts.

- (b) Alarm Notification means a notification intended to summon the Department of Public Safety, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion, holdup, fire, or other emergency situation.
- (c) Alarm Company means the business, by individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an alarm system in an alarm site.
- (d) Alarm System means a mechanical or electrical device that emits, transmits or relays a signal intended to summon, or that would reasonably be expected to summon Department of Public Safety services of the City, including but not limited to local alarms. Alarm system does not include:
 - (1) An alarm installed on a vehicle unless the vehicle is permanently located at a site; nor
 - (2) An alarm designed to alert only the inhabitants of a premises that does not have an external local alarm.
- (e) Alarm Site means a single premises or location served by an alarm system or systems.
- (f) Alarm User means any person, firm, partnership, corporation or other entity who (which) uses or is in control of any Alarm System at its Alarm Site.
- (g) False Alarms shall be defined as any communication generated by or as a result of an alarm system that results in a response by emergency service providers to include law enforcement officers, fire suppression personnel, emergency medical personnel, code enforcement personnel or rescue personnel and which, upon investigation, reveals no evidence or indication of criminal activity or other hazard. False alarms shall include negligently or accidentally activated signals; signals which are the results of faulty, malfunctioning or improperly installed or maintained equipment; signals which are purposely activated to summon the law enforcement personnel in non-emergency situations; and alarms for which the actual cause are not determined. False alarms shall not include signals activated by weather conditions or other causes which

are identified and determined by the authorized emergency responder to be beyond the control of the owner.

- (h) False Alarm Notification (F.A.N.) means an alarm notification to the Department of Public Safety or the Emergency Communication Center, when the responding emergency service providers find no evidence of a criminal offense, attempted criminal offense, fire, smoke, medical emergency, or other hazardous situation. Excluded from this definition are:
- (1) Alarms occurring during electrical storms, hurricanes, tornadoes, blizzards and acts of God; or,
 - (2) The intermittent disruption or disruption of the telephone circuits beyond the control of the alarm company and/or Permit Holder; or,
 - (3) Alarms caused by a failure of the equipment at the communications center. Proof of such cause is the responsibility of the Permittee.
- (i) Local Alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and is not monitored by a remote monitoring facility.
- (j) Permit Holder means the person designated in the application as required in Subsection 13-602(b) who is responsible for responding to alarms and giving access to the site, and who is responsible for proper maintenance and operation of the alarm system and payment of fees.
- (k) Verify means an attempt by the Monitoring Company, or its representative, to contact the Alarm Site and/or Alarm User by telephone and/or other electronic means, whether or not actual contact with a person is made, to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary Alarm Dispatch Request. For the purpose of this ordinance, telephone verification shall require, as a minimum, that a second call be made to a different number if the first attempt fails to reach an Alarm User who can properly identify themselves to determine whether an alarm signal is valid before requesting law enforcement dispatch.

Sec. 13-602. REGISTRATION REQUIRED; APPLICATION; FEE

- (a) Permit Requirements. Upon receipt of a completed application form an Alarm Permit shall be issued. Alarms operating prior to January 1, 2005 are required to have a permit within ninth (90) days from the effective date of the ordinance. Alarms installed as of January 1, 2005 are required to have a permit within thirty (30) days of the installation date. After April 1, 2005, any alarm that is responded to by the Public Safety Department that is not registered will be cited for failure to register the alarm and will be subject to a penalty up to a five hundred dollar (\$500.00) fine and/or thirty (30) days imprisonment. Applications are obtained from the Finance Department License Enforcement, Public Safety Department and via the Internet.
- (b) Application Requirements. The application form for an Alarm Permit shall include information as required by the Director of Public Safety.
 - 1) Applicant's Name or name of business
 - 2) Alarm Location
 - 3) Alarm Company's name
 - 4) Names & relation of two people with keys to the premises and working knowledge of the Alarm System who could respond within one-half hour of law enforcement and/or fire personnel.
- (c) Service Charge and Penalty. If assessed, service charge must be paid before required permit will be issued. If the permit is not obtained within thirty (30) days after notification by City of Spartanburg, of such requirement, and continued operation of the alarm system by the owner or tenant occurs, it shall constitute a misdemeanor.
- (d) Changes. Any changes in the permit information must be reported within ten (10) days of the change to the Spartanburg Public Safety Alarm Coordinator, PO Box 1746, Spartanburg, SC 29304, Phone (864) 596-2000; Facsimile (864) 596-2152.
- (e) Failure to Respond. There will be a \$100.00 service

charge if owner or tenant or designee fails to arrive at premises within one (1) hour of being notified by the law enforcement or fire personnel to respond in connection with an alarm activation. The registered owner of the alarm on the permit will be the liable party to ensure that personnel are available to respond upon request.

- (f) Revocations. Failure to pay any service charges within thirty (30) days shall constitute grounds for revocation of an alarm system permit by City of Spartanburg. A late payment penalty of ten percent (10%) or ten dollars (\$10.00), whichever is greater, shall be added to the account upon referral to the City debt collection division. Interest upon the principal amount due and penalty will accrue at the rate of ten percent (10%) annually from the first of the month following the day the account is referred to the debt collection division. Continued operation after revocation shall constitute a misdemeanor. Each day of operation after revocation shall constitute a separate offense.
- (g) Reinstatement. To reinstate a revoked alarm permit will require payment of all amounts owing.

Sec. 13-603. AUTOMATED DIALING DEVICE.

It shall be unlawful for any automated dialing device or system to call, or in any other manner make direct or indirect contact, with the City's enhanced 911 emergency telephone system. A violation of this section shall constitute a misdemeanor which shall be punishable by fine or imprisonment as set forth by state law.

Sec. 13-604. REQUIRED REGISTRATION OF ALARM COMPANIES

- (a) All alarm companies with the desire to function within the City limits of the City are required to be registered through the Director of Public Safety.
- (b) The alarm company must have proof of license to operate in South Carolina as an alarm company under the provisions of the State Board of Private Investigations and Private Security Agencies Act. Article 4413 (29bb) V.A.T.C.S. as amended by the South Carolina Legislature.

- (c) Any company who violated this section shall be subject to having its alarm permits revoked and further permits denied.
- (d) All alarm company registrations shall be made on forms provided by the Director of Public Safety and shall contain information as required by the Director of Public Safety.
 - 1) The full business name, address, and telephone number of the alarm company.
 - 2) The license number as issued to the alarm company by the State Board of Private Investigators and Private Security Agency Board.
 - 3) The names, home addresses and telephone numbers of each owner, office, partner or stockholder holding twenty-five percent (25%) or more interest in said Alarm Company.
 - 4) A description of services made available and offered to Permit Holders within the City, relating to the sale, installation, servicing, monitoring and testing of Alarm Systems communication service provided.
 - 5) Alarm company registration shall be renewed annually on the first day of each year and shall be non-transferable. All updating of information is required as it occurs with the alarm company having sole responsibility.
- (e) Alarm vendors/installers must obtain a permit to install any alarm system within the City of Spartanburg.

Sec. 13-605. DUTIES OF THE ALARM USER

- (a) The Alarm User liability shall be:
 - 1) Maintain the premises and the Alarm System in a method that will reduce or eliminate False Alarms.
 - 2) Make a solemn endeavor to respond or cause a representative to respond to the Alarm System's location within thirty (30) minutes when notified by the municipality to deactivate a malfunctioning Alarm System, to provide right of entry to the premises, or to provide alternative security for the premises.

- 3) Not manually activate an alarm for any reason other than an occurrence of an event that the Alarm System was intended to report.
- 4) An Alarm User shall have a properly Licensed Alarm Company inspect the Alarm System after two (2) False Alarms within a calendar year period from the date of registration issuance or renewal. The Alarm Administrator may waive an inspection requirement if it is determined that A False Alarm(s) could not have been related to a defect or malfunction in the Alarm System. After four (4) False Alarms within a calendar year period from Alarm User must have a properly Licensed Alarm Company modify the Alarm System to be more False Alarm resistant or provide additional user training as appropriate.
- 5) An Alarm User must obtain a new permit if there is a change in address or ownership of a business.
- 6) An Alarm User shall maintain at each Alarm Site, a set of written operating instructions for each Alarm System.

Sec. 13-606. DUTIES OF THE ALARM COMPANY

- a) Prior to activation of the Alarm System, the Alarm Company must provide instructions explaining the proper operation of the Alarm System to the Alarm User.
- b) Provide written information of how to obtain service from the Alarm Company for the Alarm System.
- c) Provide the property operational training of the Alarm System to the Alarm User, the Alarm User's employees, or other persons designated by the Alarm User to operate the Alarm System.
- d) Upon enactment of this ordinance, Alarm Companies shall not install a device activating a robbery alarm system that is a single action non-recessed button. An Alarm Company must remove all single action non-recessed buttons when a takeover or

conversion occurs.

- e) Upon enactment of this ordinance, Alarm Companies shall install only control panels which comply with CP-01 standards. This shall apply to all new installations and panel replacements.
- f) An Alarm Company which begins monitoring a previously unmonitored Alarm System or an Alarm System previously monitored by another Alarm Monitor shall notify the Alarm Administrator of the conversion within five (5) days after the date of conversion.
- g) An Alarm Company performing monitoring services shall:
 - 1) Attempt to verify an alarm signal from an Alarm System before requesting a law enforcement or fire personnel response; and
 - 2) Communicate a cancellation to the law enforcement or fire personnel as soon as possible following a determination that emergency response is unnecessary.
 - 3) Communicate any available information about the location of the alarm.
 - 4) Provide Alarm User registration number at the request of emergency response.
 - 5) Endeavor to contact the Alarm User or designated representative when an Alarm Notification is made.
 - 6) Provide the law enforcement or fire personnel of any other information about the alarm and Alarm Site that may be of safety importance to the individuals responding.
 - 7) Any Alarm Company failing to comply with the duties listed in this section shall have their Company's License revoked or suspended.

Sec. 13-607. Standards and Administration.

- (a) Except as authorized by law, it will be unlawful for any person to buy, sell, lease, repair, alter or replace any alarm system which does not meet minimum standards set for the in the sections of this ordinance, or to cause, permit, or suffer any alarm system to emit more than three (3) false alarms within thirty (30) day period.
- (b) The provisions of this ordinance will be administered and enforced by the Department of Public Safety. The Department of Public Safety is authorized to make inspections of alarm systems and of the premises whereon said system is located, and to make and enforce such rules and regulations as are necessary to implement the provisions prescribed in this ordinance.
- (c) It shall be unlawful for any person to engage in, conduct, or carry on any alarm business within the City of Spartanburg unless he or she has first registered his or her intention to engage in such alarm business with the Spartanburg Public Safety Department, giving the department such information as it may require.

Sec. 13-608. Charges.

- (a) False Alarm Charges. There is no charge for the first two (2) false alarms within a calendar year, however, the following charges will be applicable for subsequent false alarms:

(1) First and second false alarms	No charge
(2) Third, fourth and fifth false alarm	\$ 50.00
(3) Sixth and seventh false alarm	100.00
(4) Eighth and ninth false alarm	200.00
(5) Tenth and each false alarm thereafter within a calendar year	500.00

Sec. 13-609. Appeals.

- (a) Upon evidence that any provision of this ordinance has been violated; and written notice therefore has been served upon the Permit Holder, either by persona service or by certified

mail, postage prepaid addressed to the Permit Holder at the address set forth on the permit, the Director of Public Safety may suspend a Permit Holder permit effective on the

date of service of notice when served personally or upon the expiration of five (5) days from the deposit of the notice in the mail when served by certified mail. In the latter case, failure of the Permit Holder to receive the notice shall not in validate the service of notice. The suspension of the permit shall result in a confirmation required status.

- (b) Failure or refusal by a Permit Holder user to correct any condition in violation of the provisions of this ordinance shall result in suspension continuing until the condition is corrected, and may result in the revocation of the Permit Holder permit, as provided hereinafter.
- (c) If the Director of Public Safety or their designee determines that a Permit Holder permit should be revoked, he or she shall give the Permit Holder fifteen (15) days notice of his or her intentions to do so, stating generally the grounds therefore, and of the right of the Permit Holder to have a hearing before the City Manager on the notice of intention to revoke permit, notice may be given by personal service or by certified mail with return receipt requested, non-restricted delivery, postage prepaid, addressed to the Permit Holder at the address set forth on the permit. Notice shall commence on the day of mailing to coincide with the notice of intent. Upon failure of the Permit Holder to cause the system to be repaired, or to be operated properly, or to pay the fee established pursuant to section "False Alarms and Fees" of this ordinance within such fifteen (15) day period, or to file an appeal to the City Manager as provided in this ordinance, the permit shall be revoked at the expiration of such fifteen (15) day period.
- (d) If the Director of Public Safety has issued a notice of intent to revoke a Permit Holder's permit or the Department of Public Safety has levied a charge under this Ordinance, the Permit Holder may within ten (10) days of the date of the service thereof, submit a written request by personal delivery or by first-class mail for a hearing before the City Manager, setting forth the reasons why the permit should not be revoked or the charge levied. If served by mail, the request shall be made on the day of mailing.

- (e) If, a written request for a hearing is made, the City Manager shall set a hearing for a time no sooner than a fifteen (15) days nor later than thirty (30) days from service of the request and shall serve a written notice of the time and place thereof, on the Permit Holder by first-class mail at least ten (10) days prior to the date of such hearing. If such a request is received more than fifteen (15) days from the date of issuance of the notice of intent, the City Manager may set a hearing as provided herein if he or she finds there was good cause for the tardiness filing the request.
- (f) The proposed permit revocation and/or appeals from charges shall be heard by the City Manager or by a person designated by the City Manager to act as the hearing officer.
- (g) The Department of Public Safety's representatives and the Permit Holder or their authorized representative shall be heard and may present evidence including oral, documentary, and other evidence, and may examine and cross-examine witness. The City Manager or hearing officer may conduct such inquires and investigations as he or she deems proper, and shall not be bound in the conduct thereof by common law or statutory rules of evidence and procedure, but he or she may make such inquiry and investigation, through oral, documentary, and other evidence, which is best calculated to ascertain the substantial rights of the public and parties.
- (h) The decision of the City Manager shall not be invalidated because of the admission into the record and the use as any proof of any fact in dispute of any evidence not admissible under the common law or statutory rules of evidence and procedures.
- (i) The decision of the City Manager shall be final and conclusive.

Sec. 13-610. Notification of Installation of an Alarm System.

Alarm businesses shall notify the Spartanburg Public Safety Department each time the business sells, installs, operates, modifies, or maintains an Alarm System within the City of Spartanburg. Permits are required for all new installations. This notification shall be in writing, and shall include the following information:

- 1) The name, address, and telephone number of the business or its alarm agent.
- 2) The name of the Permit Holder and his or her business address and telephone number and residential address and telephone number.
- 3) The name of at least two other persons responsible to respond to the Alarm Site and his or her business address and telephone number, and residential address and telephone number.

Sec. 13-611. Audible Alarm Systems Standards.

- (a) It shall be unlawful to buy sell, install, or operate within the City of Spartanburg an audible alarm system which upon activating emits a sound similar to sirens in use on emergency vehicles or for civil defense purposes. For the purpose of this section, any electronic sounding device that produces a variable pitch-tone shall be considered similar to an emergency vehicle siren. This shall not apply to sirens mounted inside a building which cannot be heard from outside of the building.
- (b) Upon notification by the Spartanburg Public Safety Department, the Permit Holder or his or her representative shall promptly proceed within one (1) hour to the scene of the alarm and render any necessary service. This service shall include opening the premises so they may be searched.

Every audible alarm system installed after the effective date of this ordinance shall have a timing device which automatically shuts off the alarm within six (6) minutes when the alarm system is located on a residence and within thirty (30) minutes when the Alarm System is located on other types of premises after the alarm is activated. Alarm Systems shall be programmed with the Swinger Shut Down feature programmed at 1.

- (c) Every audible Alarm System which was installed prior to the effective date of the ordinance, but which does not have a timing device as described in the subdivision (b) of this section, shall be required to have such device installed within one hundred eighty (180) days thereafter.

- (d) Notwithstanding the installation of an automatic timing device, it shall be unlawful for any Alarm Business or Permit Holder to cause, permit or allow an audible Alarm System to be activated for a period in excess of one (1) hour.

- (e) All alarm systems shall have a standby power supply which will automatically assume the operation of the Alarm System should any interruption occur in the power to the system. The transfer of power from the primary source to the backup source must occur in a manner which does not activate the alarm.