

ORDINANCE NO. 1

ENACTING ORDINANCE

AN ORDINANCE TO CODIFY ALL ORDINANCES OF  
THE TOWN OF McBEE INTO ONE VOLUME

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MCBEE, S.C.:

SECTION 1. There is hereby adopted by the Town Council of The Town of McBee, South Carolina, THE CODE OF ORDINANCES OF THE TOWN OF MCBEE, SOUTH CAROLINA, which has codified all ordinances adopted by the town and other pertinent state regulations.

SECTION 2. Any act prohibited by this Code, for which a penalty is not herein prescribed, shall be punishable as a misdemeanor by fine or imprisonment, or both, to the extent permitted by the laws of South Carolina; provided, however, no fine shall exceed five hundred dollars (\$500.00) or imprisonment for a term not to exceed thirty (30) days, or both, as provided by Section 14-25-65, 1976 South Carolina Code of Laws, as amended. Each day any such violation shall continue shall be treated as a separate offense, unless otherwise provided.

SECTION 3. The provisions of the Town Code of Ordinances adopted on September 1, 1983, and such other ordinances not codified therein, unless rescinded by this ordinance, shall continue in full force and effect until amended by the Town Council.

SECTION 4. An official copy of this Code shall be filed in the office of the Municipal Clerk to be made available to persons desiring to examine the same. It shall be the duty of the Clerk to insure that all subsequent amendments to this Code are inserted in the official copy, amended parts removed and new amendments distributed to the holders of this Code in the form of supplements.

SECTION 5. No person shall change or amend any part of this Code except by official action of the Council, and anyone guilty of so doing shall be guilty of a misdemeanor and punished as provided by Section 2 of this Ordinance.

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SECTION 6. All ordinances or parts of ordinances in conflict herewith, to the extent of such inconsistency, are hereby repealed; provided, however, that all ordinances pertaining to annexation; assessments; bonded indebtedness; budgets; contracts; conveyances of property; drought response; franchises; grant agreements; leases; loans; options and tax levies are not repealed. The repeal of these would be contrary to and inconsistent with the intent of this ordinance, and they shall continue in full force and effect and are not repealed. No resolutions are repealed by this Code.

SECTION 7. This ordinance shall become effective February 1, 1994.

01-24-94  
First Reading

Levon Mack  
Levon Mack, Mayor

02-01-94  
Second Reading

Paulette T. Humphries  
Paulette T. Humphries, Council Member

Attest:

Kay W. McCutcheon  
Kay McCutcheon, Council Member

Audrey Steen  
Audrey Steen  
Municipal Clerk

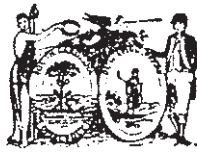
Don Robinson  
Don Robinson, Council Member

As to Form:

Kenneth C. Segars  
Kenneth C. Segars, Council Member

H. F. Bell  
H. F. Bell  
Town Attorney

# THE STATE OF SOUTH CAROLINA



## BY THE SECRETARY OF STATE

WHEREAS, the municipality of the Town of McBee, S. C.,  
is incorporated under the laws of the State of South Carolina.

AND WHEREAS, a charter has been issued to the above municipality of  
the Town of McBee, S. C. (October 8, 1901).

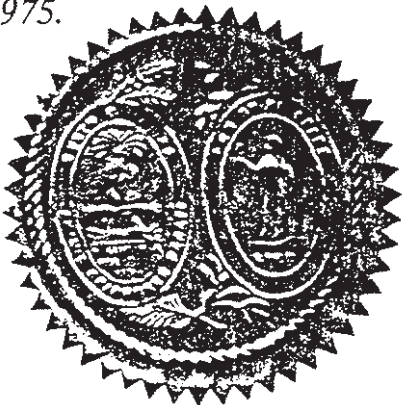
AND WHEREAS, Section 47-20 of the 1962 Code of Laws, as amended,  
requires that all municipalities to adopt a specific form of government.

AND WHEREAS, an ordinance was filed with the Secretary of State on  
August 17, 1976, setting forth;

FIRST: The name of the municipality is the Town of McBee, S. C.

SECOND: The form of government adopted is Council  
form of government.

NOW THEREFORE, I, O. Frank Thornton, Secretary of State, by virtue  
of authority vested in me by section 47-22 of the 1962 Code, as amended,  
do hereby issue to the municipality of the Town of McBee, S. C.,  
this Certificate of Incorporation with the privileges, powers and  
immunities, and subject to the limitations prescribed in Act. No. 283 of  
1975.



GIVEN under my Hand and Seal of the State,  
this the 17th day of August in the year  
of our Lord one thousand nine hundred and  
76, and in the two hundred and 1st  
year of the Independence of the United States  
of America.

*O. Frank Thornton*  
.....  
Secretary of State

# CHARTER

CHAPTER 1. CHARTER

ARTICLE I. THE CHARTER

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- 1.202. Provisions Considered as Continuation of Existing Ordinances.
- 1.203. Severability of Parts of Code.
- 1.204. Catchlines or Catchwords of Sections.
- 1.205. Definitions.
- 1.206. Rules of Construction.
- 1.207. General Penalty, Continuing Violations.
- 1.208. Reserved.
- 1.209. Liability of Corporations, etc., and Agents for Violations.
- 1.210. Effect of Repeal or Expiration of Ordinance.
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CHAPTER 1. CHARTER

ARTICLE I. THE CHARTER

Editor's Note. In 1975, the South Carolina Legislature enacted into law Act 283 which has become known as "The Home Rule Act." It revised Article VIII of the South Carolina Constitution dealing with local government.

The municipalities of this state were required to adopt, by ordinance, one of three prescribed forms of local government; namely, the Mayor-Council, the Council or the Council-Manager.

The form adopted was required to be "...the form most nearly corresponding to the form in effect in the particular municipality on March 1, 1974, as determined by the municipal governing body."

(1976 SC Code 5-5-10)

Subsequently, the Town Council adopted the Council form and the Secretary of State issued a confirming Charter on August 17, 1976 which is shown on the following page.

Statutory authority for this form of government is found at Title 5, Chapter 11, 1976 South Carolina Code of Laws. A reprint of that chapter is included in this Code as Appendix C.

ARTICLE II. THE CODE

1.201. HOW CODE DESIGNATED AND CITED.

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

1.202. PROVISIONS CONSIDERED AS CONTINUATION OF EXISTING ORDINANCES.

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

1.203. SEVERABILITY OF PARTS OF CODE.

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

1.204. CATCHLINES OR CATCHWORDS OF SECTIONS.

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

1.205. DEFINITIONS.

In the construction of this Code and all other ordinances, the following definitions shall be observed, unless the context clearly requires otherwise:

AND, OR - The word "and" may be read as "or" and the word "or" may be read as "and" where the sense requires it.

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

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BUSINESS DISTRICT shall mean the territory contiguous to and including a street when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

CLERK shall mean the Municipal Clerk. However, the title may be used interchangeably with, "Clerk", "Town Clerk" or "Clerk-Treasurer," if one person holds both positions.

COMPUTATION OF TIME shall mean the time within which an act is to be done and be computed by excluding the first day and including the last, and if the last day be Sunday or a legal holiday, that shall be excluded. (1976 SC Code, 15-1-20)

COUNCIL OR TOWN COUNCIL shall mean the Mayor and Council as defined in the 1976 S.C. Code of Laws, Section 5-9-20.

GENDER - See "Rules of Construction." (See 1.206 of this chapter)

EMERGENCY VEHICLE shall mean vehicles of the fire and police departments, ambulances and/or emergency vehicles or public service corporations as are designated or authorized by the South Carolina Department of Transportation (SCDOT) or by the Mayor and Council.

MAY shall be permissive.

MONTH shall mean a calendar month, unless defined otherwise.

MUNICIPALITY may be used interchangeably with town and shall mean the entire area within the corporate limits.

NUMBER See "Rules of Construction." (Sec. 1.206 of this chapter.)

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

OWNER shall mean and include, when applied to a building or land, any part-owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

PERSON shall include a corporation, firm, partnership, association, organization and any other group as a unit, as well as an individual or individuals.

PERSONAL PROPERTY shall include every species of property, except real property, as defined in this section.

PRECEDING, FOLLOWING shall mean the next before and the next after, respectively.



McBEE TOWN CODE

PROPERTY shall include real and personal property.

REAL PROPERTY AND REAL ESTATE shall include lands, tenements and the hereditaments.

RESIDENCE DISTRICT shall mean territory contiguous to and including a street not comprising a business district when the property on such street for a distance of three hundred (300) feet or more is in the main improved with dwellings or dwellings and buildings in use with residences.

ROADWAY shall mean that portion of a street improved, designed or ordinarily used for vehicular travel.

SHALL shall be mandatory.

SIDEWALK shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb and the adjacent property line intended for the use of pedestrians.

SIGNATURE OR SUBSCRIPTION shall mean a "mark," when a person cannot write.

STATE shall mean The State of South Carolina.

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

TENANT OR OCCUPANT, when applied to a building or land, shall include any person who occupies the whole or part of such building or land, whether alone or with others.

TOWN shall mean all the area lying within the corporate limits.

WRITING- The words "writing" or "written" shall include printing and any other mode of representing words and letters.

YEAR shall mean a calendar year unless otherwise defined.

1.206. RULES OF CONSTRUCTION.

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

1. Any word importing the singular number shall be held to include the plural and all words in the plural shall apply also to the singular.

2. All words importing the masculine gender shall apply to females also and words in the feminine gender shall apply to males.

3. All words importing the present tense shall apply to the future, also.

1.207. GENERAL PENALTY, CONTINUING VIOLATIONS.

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

(1976 SC Code 14-25-65)

1.208. RESERVED.

1.209. LIABILITY OF CORPORATIONS, ETC., AND AGENTS FOR VIOLATIONS.

a. Any violation of this Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.

b. Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any provision of this Code, where such violation was the act or omission, or the result of the act, omission or order of any such person.

(State v. Johnson, 255 S.C. 14, 176 S.E. 2nd 575 (1970).)

1.210. EFFECT OF REPEAL OR EXPIRATION OF ORDINANCE.

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

1.211. AMENDMENTS TO CODE.

a. All ordinances adopted subsequent to this Code of Ordinances, which amend, repeal or in any way affect this Code of Ordinances, shall be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections, or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.

b. Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following, but not necessarily the exact language: "that Section xxx of the Town Code of The Town of McBee is hereby amended as follows: ...." The new provisions may then be set out in full as enacted; the text and numbering system consistent with this Code.

c. In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "...that the McBee Town Code is hereby amended by adding a section, to be numbered which shall read as follows: ...." The new section shall then be set out in full. The sections of this ordinance may be renumbered to accomplish such intention.

d. All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

1.212. ALTERING CODE.

It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever, which may cause the laws of this municipality to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in Section 1.207 hereof.

1.213. PROSECUTION WHERE DIFFERENT PENALTIES EXIST FOR SAME OFFENSE.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the municipality, the prosecuting officer may elect under which to proceed. Not more than one (1) recovery shall be had against the same person for the same offense.

1.214. MUNICIPAL SEAL.

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