

ORDINANCE NO. 14 AMENDED
(MUNICIPAL COURT UPDATED)

A. AN ORDINANCE HEREBY CREATING AND ESTABLISHING A MUNICIPAL COURT. PURSUANT TO THE AUTHORITY CONTAINED IN CODE OF LAWS OF SOUTH CAROLINA G SECTION 14. CHAPTER 25. THE MUNICIPAL COURT FOR THE CITY OF TEGA CAY SHALL BE A PART OF THE UNIFIED JUDICIAL SYSTEM OF THIS STATE, FOR THE TRIAL AND DETERMINATION OF ALL CASES WITHIN ITS JURISDICTION.

B. TO PROVIDE FOR THE DISPENSING OF JUSTICE IN NONDISCRETIONARY MATTERS WITHIN THE LEGAL BOUNDARIES OF TEGA CAY.

NOW, THEREFORTH BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEGA CAY AS FOLLOWS:

ESTABLISHMENT

- A. There is hereby created and established pursuant to the authority contained in South Carolina Act. No. 480 of 1980, 2000 Act. No. 394, 1994 Act. No 520, and any amendments, a Municipal Court for the City of Tega Cay, which shall be a part of the unified judicial system of this state, for the trial and determination of all cases within its jurisdiction. The ordinance shall provide for the appointment of one or more full-time or part-time judges and the appointment of a clerk.
- B. The City of Tega Cay shall provide facilities for the use of judicial officers in conducting trials and hearings and shall provide sufficient clerical and nonjudicial support personnel to assist the municipal judge.
- C. The City of Tega Cay may prosecute any of its cases in any magistrate court in the county in which The City of Tega Cay is situate upon approval by the governing body of the county.

APPOINTMENT OF MUNICIPAL JUDGE

- A. A municipal judge shall be appointed by the council to serve for a term not to exceed four years and until his successor is appointed and qualified. His compensation shall be fixed by the council.
- B. The council shall notify South Carolina Court Administration of any personas appointed or reappointed as municipal judges.
- C. Before entering upon the discharge of the duties of his office, the judge shall take and subscribe the oath of office prescribed by Article VI, Section 5 of the South Carolina Constitution.
- D. Notwithstanding any other provision of law relating to the terms and qualifications of municipal judges:
 - 1. All municipal judges shall complete a training program or pass certification or recertification examinations, or both, pursuant to standards established by the Supreme Court of South Carolina. The examination must be offered at least three times each year. The Chief Justice of the Supreme Court shall establish guidelines for exempting municipal judges from taking an examination based upon experience or education factors.
 - a. Municipal judges appointed for the first time on or before April 30, 2001, shall complete the training program and pass the certification examination within one year after taking office, or before April 30, 2001, whichever is later.
 - b. Municipal judges serving in the county of York, as of the effective date, August 4, 2000, 2000 Act. No. 394, shall pass a certification examination before April 30, 2002.
 - c. Every municipal judge shall pass a recertification examination within eight years after passing the initial certification examination and at least once every eight years thereafter.
 - 2. If any municipal judge does not comply with these training or examination requirements, his office is declared vacant on the date the time expires or when he is notified, as provided in subsection (E), whichever is earlier.
- E. Upon written notification of the Supreme Court or its designee to the affected municipal judge and the City Council of the failure of the municipal judge to complete the training program or pass the certification examination required pursuant to subsection (D), the municipal judge's office is declared vacant, the municipal judge does not hold over, and the City Council shall appoint a successor, as provided in Section 14-25-25; however, the Council shall not reappoint

the current municipal judge who failed to complete the training program or pass the certification examination required pursuant to subsection (D) to a new term or to fill the vacancy in the existing term.

- F. No municipal judge who is admitted to practice in the courts of this State shall practice law in the municipal court for which he is appointed.
- G. All municipal judges shall attend annually the number of approved continuing education hours in criminal law and subject area related to municipal judges' duties which are required by the Supreme Court of South Carolina. The Chief Justice of the Supreme Court shall establish guidelines for exempting municipal judges from the continuing education hours required by this section based upon experience or education factors.

ELIGIBILITY FOR JUDGESHIP

A municipal judge shall not be required to be a resident of The City of Tega Cay. The City of Tega Cay may contract with any other municipality in York County or with the county governing body to employ the municipal judge of the other municipality or a magistrate to preside over its court.

In case of vacancy in the office of municipal judge, a successor shall be appointed in the manner of original appointment for the unexpired term. In case of the temporary absence, sickness, or disability of a municipal judge, the court shall be held by a judge of another municipality or by a practicing attorney or some other personal who has received training or experience in municipal court procedure, who shall be designated by the Mayor and take the prescribed oath of office before entering upon his duties.

APPOINTMENT AND DUTIES OF CLERK OF COURT

The municipal clerk, or in his/her absence, other municipal employees, may be appointed to serve as clerk of the court. The clerk of the court shall keep such records and make such reports as may be determined by the State Court Administrator.

POWERS, DUTIES AND JURISDICTION

The municipal court so established shall have jurisdiction to try all cases arising under the ordinances of the City. The court shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates by state law. The court shall have the

power to punish for contempt of court by imposition of sentences up to the limits imposed by him upon such terms and conditions as he deems proper, including without limitation, restitution or public service employment. Fine or imprisonment imposed by the court shall not exceed the maximum amount allowed by South Carolina law or thirty (30) days. All fines and penalties collected by the Municipal Court shall be forthwith turned over the clerk of municipal court to the treasurer of the City. The court shall have no jurisdiction in civil matters. The City of Tega Cay may provide for prosecution of any of its cases in any magistrate court in York County, upon approval by the governing body of York County.

CHIEF OF POLICE

The chief of police of the City, or someone designated by him, shall attend upon the sessions of the court. The chief of police and the police officers of the City shall be subject to the orders of the court and shall execute the orders, writs and mandates thereof and perform such other duties in connection therewith as may be prescribed by the ordinances of the City. The chief of police and police officers shall also be invested with the same powers and duties as are provided for magistrates' constables.

JURY TRIAL

Any person to be tried in a municipal court may, prior to trial, demand a jury trial, and such jury when so demanded shall be selected and composed of six (6) properly qualified jurors provided in the manner prescribed by law in Code of Laws of South Carolina for 1976, Sections 14-25-125; as now of force or as hereafter amended. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial.

MAXIMUM PENALTIES

If the municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine of not more than five hundred dollars or imprisonment for thirty days, or both. In addition, the municipal judge may order restitution in an amount not to exceed five thousand dollars. In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

The municipal judge may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.

JUDGE MAY SUSPEND SENTENCES

The municipal judge may suspend sentences imposed by him upon such terms and conditions as he deems proper including, without limitation, restitution or public service employment.

DISPOSITION OF FINES AND PENALTIES

All fines and penalties collected by the municipal court shall be forthwith turned over by the clerk to the treasurer of The City of Tega Cay.

APPEALS TO COURT OF COMMON PLEAS

Any party shall have the right to appeal from the sentence or judgment of the municipal court to the Court of Common Pleas of York County, S.C., in the manner and under the conditions, limitations and requirements of Code of Laws of South Carolina for 1976, Sections 14-25-95 and 14-25-105, as now of force or as hereafter amended. Notice of intention to appeal must be given in the manner prescribed by law within ten (10) days after sentence is passed or judgment rendered, or the appeal shall be deemed waived. The party appealing shall enter into a bond, payable to the City, to appear and defend the appeal at the next term of the Court of Common Pleas or shall pay the fine assessed.

MUNICIPAL JUDGE TO MAKE RETURN TO COURT OF COMMON PLEAS IN EVENT OF APPEALS

In the event of an appeal, the municipal judge shall make a return to the Court of Common Pleas, and the appeal must be heard by the presiding judge upon the return. The return of the municipal judge shall consist of a written report of the charges preferred, the testimony, the proceedings, and the sentence or judgment. When the testimony has been taken by a reporter as provided herein, the return shall include the reporter's transcript of the testimony. The return must be filed with the Clerk of the Court of Common Pleas of York County and the cause must be placed on the motion calendar for the Court of Common Pleas. There shall be no trial de novo on any appeal from a municipal court.

DEMAND FOR JURY TRIAL; COMPOSITION OF JURY

Any person to be tried in a municipal court may, prior to trial, demand a jury trial, and such jury when demanded, shall be composed of six persons drawn from the qualified electors of the municipality in the manner prescribed herein. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial.

JURY COMMISSIONERS

The City Council shall appoint not less than three nor more than five persons to serve as jury commissioners for the municipal court; *provided*, however, that the Council may act as jury commissioners in lieu of appointing such commissioners.

COMPOSITION OF JURY LIST

The jury list of the City shall be composed of all names on the official list of qualified electors of the municipality furnished to the City by the State Election Commission each year, or copied from the official voter registration list of the City.

Compartment "A" of the jury box shall contain a separate ballot or number for each name on the jury list.

DRAWING AND COMPOSING JURIES

(A)(1) The drawing and composing of juries for single trials or terms of court must be conducted, *mutatis mutandis*, according to the statutes relating to the drawing and composing of juries in magistrates courts, except as otherwise specifically provided in Code of Laws of South Carolina for 1976, Sections 14-125 and 14-25-205.

- (2) A person appointed by the municipal judge who is not connected with the trial of the case for either party shall draw out of Compartment "A" of the jury box thirty names, and the list of names so drawn must be delivered to each party or to the attorney for each part.
- (3) If the Court has experienced difficulty in drawing a sufficient number of jurors from the qualified electors of the area, and prior to implementing a process pursuant to this item, seeks and receives the approval of South Carolina Court Administration, the person selected by the presiding municipal judge may draw not less than thirty, but

not more than a number determined sufficient by court administration for the jury list, and shall deliver this list to each party or the attorney for each party.

(B)(1) In addition to the procedure for drawing a jury list as provided for in subsection (A), in those courts which schedule terms for jury trials, the judge may select a jury list in the manner provided by this subsection.

(2) Not less than ten nor more than twenty days before a scheduled term of jury trials, a person selected by the presiding judge shall draw at least forty jurors to serve one week only.

(3) If the Court has experienced difficulty in drawing a sufficient number of jurors from the qualified electors of the City, and, prior to implementing a process pursuant to this item, seeks and receives the approval of South Carolina Court Administration, the person selected by the presiding municipal judge may draw not less than forty, but not more than a number determined sufficient by court administration to serve one week only.

(4) Immediately after the jurors are drawn, the judge shall issue his writ of venire facias for the jurors requiring their attendance on the first day of the week for which they have been drawn. This writ must be delivered to the chief of police or may be served by regular mail by the clerk of the court.

(C) The names drawn pursuant to either subsection (A) or (B) shall be placed in a box or hat and individual names randomly drawn out one at a time until six jurors and four alternates are selected. Each party shall have a maximum of six peremptory challenges as to primary jurors and four peremptory challenges as to alternate jurors and such other challenges for cause as the court may permit. If for any reason it is impossible to select sufficient jurors and alternates from the names drawn, names shall be randomly drawn from Compartment "A" until sufficient jurors and alternates are selected.

(D) Where a jury is drawn and composed for a single trial, as provided in subsection (A) above, the parties shall exercise peremptory challenges in advance of the trial date, and only persons selected to serve and alternates shall be summoned for the trial.

DRAWING AND SUMMONING JURORS BY COMPUTER

In lieu of the manner required by this Ordinance, jurors for municipal courts, at the discretion of the City Council of The City of Tega Cay, may be drawn and summoned by computer in the manner the Supreme Court by order directs.

DISPOSITION OF NAMES DRAWN

Upon the adjournment of the court, the clerk having the custody of the names drawn under any method in this Ordinance shall take the names or number of the jurors who appeared and shall return these ballots or numbers to Compartment "B" of the jury box, and the ballots or numbers corresponding to the names of the jurors who were unable to appear or who were excused by the municipal judge shall be returned to Compartment "A" of the jury box. When all names or numbers in Compartment "A" have been exhausted, the names or numbers from Compartment "B" shall be returned to Compartment "A" and thereafter juries shall continue to be drawn therefrom in the manner provided herein.

ESSENTIAL SERVICE TO BUSINESS EXCUSE

Upon furnishing an affidavit to the clerk of court requesting to be excused from jury duty, a person either may be excused or transferred to another term of court by the municipal judge if the person performs services for a business, commercial, or agricultural enterprise, and the person's services are so essential to the operations of the business, commercial, or agricultural enterprise that the enterprise must close or cease to function if the person is required to perform jury duty.

FAILURE OF JUROR TO APPEAR

Any juror who, being duly summoned, shall neglect or refuse to appear in obedience to any summons issued by this Court, and shall not within forty-eight hours render to the municipal judge a sufficient reason for his delinquency, may be punished for contempt.

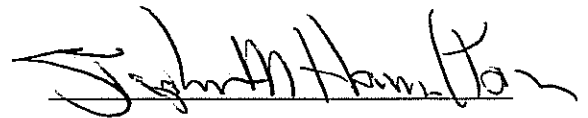
RIGHT TO RECORD PROCEEDINGS

Any party shall have the right to have the testimony given at a jury trial in any municipal court taken stenographically or mechanically by a reporter; provided, that nothing

herein shall operate to prevent any such party from mechanically recording the proceedings himself. The requesting party shall pay the charges of such reporter for taking and transcribing if such testimony is recorded by a City court reporter.

THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE THE DATE OF THE FINAL READING AND ADOPTION OF THIS ORDINANCE.

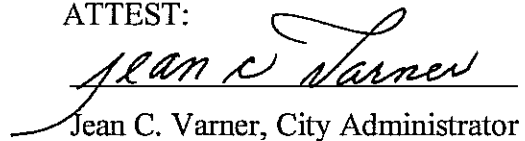
FIRST READING: January 23, 2001



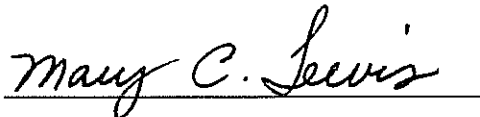
Stephen M. Hamilton, Mayor

SECOND READING: February 19, 2001

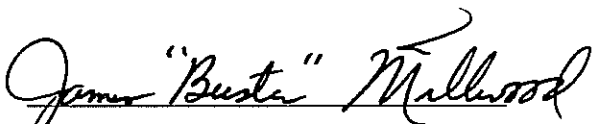
ATTEST:



Jean C. Varner, City Administrator



Mayor Pro Tem Mary Lewis



Councilman James "Buster" Millwood



Councilman Larry Harper



Councilman Gerry Parker

ORDINANCE NO. 14

A. AN ORDINANCE HEREBY CREATING AND ESTABLISHING A MUNICIPAL COURT. PURSUANT TO THE AUTHORITY CONTAINED IN SOUTH CAROLINA ACT NO. 480 OF 1980. THE MUNICIPAL COURT FOR THE CITY OF TEGA CAY SHALL BE A PART OF THE UNIFIED JUDICIAL SYSTEM OF THIS STATE, FOR THE TRIAL AND DETERMINATION OF ALL CASES WITHIN ITS JURISDICTION.

B. TO PROVIDE FOR THE DISPENSING OF JUSTICE IN NONDISCRETIONARY MATTERS WITHIN THE LEGAL BOUNDARIES OF TEGA CAY.

NOW, THEREFORTH BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEGA CAY AS FOLLOWS:

ESTABLISHMENT

There is hereby created and established, pursuant to the authority contained in South Carolina Act No. 480 of 1980, a Municipal Court for the City of Tega Cay, which shall be a part of the unified judicial system of this state, for the trial and determination of all cases within its jurisdiction.

JURISDICTION; POWERS

The municipal court so established shall have jurisdiction to try all cases arising under the ordinances of the City of Tega Cay. It shall also have all such powers, duties and jurisdiction in criminal cases made under state law as is conferred upon magistrates by state law. The court shall have the power to punish for contempt of court by imposition of sentences up to the limits imposed by him upon such terms and conditions as he deems proper, including, without limitation, restitution or public service employment. Fine or imprisonment imposed by the court shall not exceed two hundred dollars (\$200.00) or thirty (30) days. All fines and penalties collected by the municipal court shall be forthwith turned over by the clerk of municipal court to the treasurer of the municipality. The court shall have no jurisdiction in civil matters. The city may provide for prosecution of any of its cases in any magistrate court in York County, upon approval by the governing body of York County.

JUDGES, MINISTERIAL RECORDERS, CLERK OF COURT, FACILITIES

(a) The municipal council shall provide for the appointment of one or more full-time or part time judges, who shall hold office for a term of (2) years and until a successor is elected and qualified, and shall receive such compensation as is fixed by council. The two-year term of any of such appointee shall normally commence on _____ and continue for two(2) years; provided that any initial appointments may be for a lesser or a longer term, ending on _____ in _____. Before entering upon the discharge of duties of his office, each judge shall take and subscribe to the oath of office prescribed by Article VI, Section 5 of the South Carolina Constitution. No municipal judge who is admitted to practice in the courts of this state shall practice law in the municipal court for which he is appointed. A municipal judge shall not be required to be a resident of the municipality by whom he is employed. A municipality may contract with any other municipalti in the county or with the county governing body to employ the municipal judge of the other municipalti or a magistrate to preside over its court. Vacancies or temporary absence or disability shall be handled in the manner prescribed by South Carolina Code of 1976, Section 14-25-25, as now of force or hereafter amended.

(b) The council may also provide for the appointment of one or more full-time or part-time ministerial recorders, who shall hold office at the pleasure of the council. Ministerial recorders shall have such qualifications and shall have and exercise such powers, after first taking the Constitutional Oath of Office, as provided by South Carolina Code of Laws of 1976, Section 14-25-115, as now of force or as hereafter amended.

(c) The municipal clerk or any other municipal employee selected by the council may be appointed to serve as clerk of the municipal court during the pleasure of the council. The clerk of court shall keep such records and make such reports as may be determined by the state court administrator.

(d) The municipality shall provide facilities for the use of judicial officers in conducting trials and hearings and shall also provide sufficient clerical and nonjudicial support personnel to assist the municipal judge.

CHIEF OF POLICE

The chief of police of the municipality, or someone designated by him, shall attend upon the sessions of the court. The chief of police and the police officers of the municipality shall be subject to the orders of the court and shall execute the orders, writs and mandates thereof and perform such other duties in connection therewith as may be prescribed by the ordinances of the municipality. The chief of police and police officers shall also be invested with the same powers and duties as are provided for magistrates' constables.

JURY TRIAL

Any person to be tried in a municipal court may, prior to trial, demand a jury trial, and such jury when so demanded shall be selected and composed of six (6) properly qualified jurors provided in the manner prescribed by law in Code of Laws of South Carolina for 1976, Sections 14-25-125 through Sections 14-25-185, as now of force or as hereafter amended. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial.

TAKING OF TESTIMONY

The court shall permit and allow any party to a jury trial to have the testimony given at such trial in municipal court taken stenographically or mechanically by a reporter under the conditions prescribed in Code of Laws of South Carolina for 1976, Section 14-25-195, as now of force or as hereafter amended.

APPEAL TO COURT OF GENERAL SESSIONS

Any party shall have the right to appeal from the sentence or judgment of the municipal court to the Court of General Session for York County, S. C., in the manner and under the conditions, limitations and requirements of Code of Laws of South Carolina for 1976, Sections 14-25-95 and 14-25-105, as now of force or as hereafter amended. Notice of intention to appeal must be given in the manner prescribed by law within ten (10) days after sentence is passed or judgment rendered, or the appeal shall be deemed waived.

THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE THE DATE OF THE FINAL READING AND ADOPTION OF THIS ORDINANCE.

FIRST READING May 2, 1983

SECOND READING May 9, 1983

Anthony J. Tarulli
Anthony J. Tarulli, Mayor

ATTEST:
Jean C. Varner
Jean C. Varner, Clerk-Treasurer