Zoning Ordinance
Gaffney, South Carolina

Table of Contents

PREAMBLE vi

ARTICLE 1: ESTABLISHMENT, PURPOSE AND RULES FOR THE INTERPRETATION OF ZONING DISTRICTS 1
Section 1.1: Establishment of Districts 1
Section 1.2: Purpose of Districts 1
Section 1.3: Establishment of Official Zoning Maps 5
Section 1.4: Amendments to Official Zoning Maps 5
Section 1.5: Rules for Interpretation of District Boundaries 5
Section 1.6: Additions to Official Zoning Map (Annexations) 6

ARTICLE 2: DISTRICT REGULATIONS 7
Section 2.1: Establishment of Regulations 7
Section 2.2: Application of Regulations 7
Section 2.3: Table 1, Schedule of Permitted and Conditional Uses, and Off-Street parking Requirements, By Zoning District 9
Section 2.4: Table 2, Schedule of Lot Area, Yard, Setback, Height, Density and Impervious Surface Ratios, By Zoning District 16
Section 2.5: PDD, Planned Development District 18
Section 2.6: HPOD, Historic Preservation Overlay District 21

ARTICLE 3: CONDITIONAL USE REGULATIONS 29
Section 3.1: Manufacturing Uses 29
Section 3.2: Communication Towers 32
Section 3.3: Bed and Breakfast Inns 34
Section 3.4: Street Vendors 35
Section 3.5: Multi-Family Housing, Residential Care Facilities and Group Occupied Dwellings 35
Section 3.6: Townhouses 36
Section 3.7: Patio and Zero Lot Line Housing 37
Section 3.8: Manufactured Dwellings 37
Section 3.9: Outdoor Displays 38
Section 3.10: Home Occupations 39
Section 3.11: Open Storage Areas 39
Section 3.12: Temporary Uses 40
Section 3.13: Shipping Containers 42
Section 3.14: General Auto Repair 42
Section 3.15: Accessory Apartments 43
Section 3.16: Resource Recovery Facilities 43
Section 3.17: Adult Uses 44
Section 3.18: Crop Production 46
### Section 7.6: Visibility at Intersections 88
### Section 7.7: Nonconformities 89
### Section 7.8: Orientation of Principal Building On Lot 92

**ARTICLE 8: ESTABLISHMENT, POWERS AND DUTIES OF OFFICIALS, COMMISSIONS AND BOARDS RESPONSIBLE FOR ADMINISTRATION OF THIS ORDINANCE** 93
- Section 8.1: Educational Requirements 93
- Section 8.2: Zoning Administrator 93
- Section 8.3: Planning Commission 93
- Section 8.4: Board of Zoning Of Appeals 98

**ARTICLE 9: ADMINISTRATION, APPLICATIONS AND PERMITS** 102
- Section 9.1: Intent 102
- Section 9.2: Responsibility 102
- Section 9.3: Types of Applications 102
- Section 9.4: Eligible Applicants 103
- Section 9.5: Application Procedures 104
- Section 9.6: Application Requirements and Fees 107
- Section 9.7: Types of Required Permits and Certificates 109
- Section 9.8: Inspections For Compliance 111
- Section 9.9: Expiration of Sign or Building Permit 111
- Section 9.10: Complaints Regarding Violations 111
- Section 9.11: Penalties for Violations 111
- Section 9.12: Consideration of Denied Applications/Appeals 112
- Section 9.13: Vested Right 112

**ARTICLE 10: DEFINITIONS** 115

**ARTICLE 11: LEGAL STATUS PROVISIONS** 129
- Section 11.1: Conflict With Other Laws 129
- Section 11.2: Validity 129
- Section 11.3: Repeal of Conflicting Ordinances 129
- Section 11.4: Effective Date 129

**ARTICLE 12: STANDARDS FOR PLACEMENT OF SMALL WIRELESS FACILITIES IN COVERED AREAS** 130
- Section 12.1: Definitions 130
- Section 12.2: Purpose and Scope 133
- Section 12.3: Permitted Use; Application Process and Fees 134
- Section 12.4: Action or Permit Application 137
- Section 12.5: Requirements for Small Wireless Facilities in Covered Areas 138
- Section 12.6: Effect of Permit 142
- Section 12.7: Removal, Relocation or Modification of a Small Wireless Facility in the ROW 142
LIST OF TABLES

Table 1: Schedule of Permitted and Conditional Uses, and Off-Street parking Requirements, By Zoning District 9
Table 2: Dimensional Requirements: Schedule of Lot Area, Yard, Setback, Height, Density, and Impervious Surface Ratio, By Zone Districts 16
Table 3: Bufferyard Requirements 49
Table 4: Regulation of Signs By Type, Characteristics, and Zoning Districts 69
Table 5: Number, Dimension and Location of Signs By Zoning District 70
Table 6: Temporary Signs 72
Table 7: Setbacks For Accessory Uses 88
Table 8: Applicant Requirements/Eligibility 103
Table 9: Information Required To Support Application 108

LIST OF ILLUSTRATIONS

Bufferyard Illustrations 50
Fence and Wall Illustrations 54
Landscaping Illustration 58
Sign Measurement Illustration 77
Buildable Area Illustration 86
Vision Clearance Illustration 89

ORDINANCE REVISIONS (SINCE ADOPTION 01/17/2017, ORDINANCE 2017-01)

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<td>11/13/2018</td>
<td>Add Article 12 - Small Wireless Facilities</td>
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<td>2018-12</td>
<td>12/03/2018</td>
<td>Revise Section 2.6-8, #2 (vinyl siding)</td>
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<td>12/03/2018</td>
<td>Correct minor errors throughout Ordinance</td>
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<td>03/04/2019</td>
<td>Remove footnote (b) in Sec 2.3, Tbl 1 (CC)</td>
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<td>03/02/2020</td>
<td>Correct minor errors; Revise Sec 2.3; Tbl 1, Footnote (a); Revise Sec 5.5, Tbl 6; Revise Sec 6.2; Revise Sec 6.3, 1 &amp; 4; Insert new Sec 6.4 &amp; update remaining Art 6 section headings</td>
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ZONING ORDINANCE

GAFFNEY, SOUTH CAROLINA


PREAMBLE

ARTICLE 1

ESTABLISHMENT, PURPOSE, AND RULES FOR THE INTERPRETATION OF ZONING DISTRICTS

Section 1.1 Establishment of Districts

For purposes of this Ordinance, the following zoning districts are hereby established:

**PRIMARY DISTRICTS**

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<thead>
<tr>
<th>Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>R-20</td>
<td>Low Density Single-Family Residential District</td>
</tr>
<tr>
<td>R-12</td>
<td>Medium Density Single-Family District Residential District</td>
</tr>
<tr>
<td>R-4</td>
<td>High Density Single-Family Residential District</td>
</tr>
<tr>
<td>RG</td>
<td>General Residential District</td>
</tr>
<tr>
<td>RM</td>
<td>Multi-Family Residential District</td>
</tr>
<tr>
<td>NC</td>
<td>Neighborhood Commercial District</td>
</tr>
<tr>
<td>CC</td>
<td>Core Commercial District</td>
</tr>
<tr>
<td>GC</td>
<td>General Commercial District</td>
</tr>
<tr>
<td>CE</td>
<td>College Educational District</td>
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<tr>
<td>ID</td>
<td>Industrial District</td>
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</table>

**SPECIAL PURPOSE DISTRICTS**

<table>
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<tr>
<th>Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>PDD</td>
<td>Planned Development District</td>
</tr>
<tr>
<td>HPOD</td>
<td>Historic Preservation Overlay District</td>
</tr>
</tbody>
</table>

Section 1.2 Purpose of Districts

Collectively, these Districts are intended to advance the purposes of the City’s Comprehensive Plan and this Ordinance, as stated in the Preamble. Individually, each district is designed and intended to accomplish the following more specific objectives.

**PRIMARY DISTRICTS**

**R-20 Low Density Single-Family Residential District**

The purpose of this District is to foster, sustain, and protect areas in which the
principal use of land is for single-family dwellings and support uses on relatively large lots, at low densities.

**R-12 Medium Density Single-Family Residential District**

The purpose of this District is to foster, sustain, and protect areas in which the principal use of land is for single-family dwellings and support uses, at medium densities.

**R-4 High Density Single-Family Residential District**

The purpose of this District is to foster, sustain, and protect areas in which the principal use of land is for single-family dwellings and support uses, at high densities on small lots.

**RG General Residential District**

The purpose of the RG District is to promote and accommodate housing development that meets the diverse economic and social needs of a diverse population. To this end, this District is designed and intended to allow for the development of a variety of housing styles, types and densities on small lots or in project settings, including single-family, duplexes, triplexes, air-space condominiums, rental apartments, patio homes, townhouses, and manufactured homes, and to do so in a protected, compatible residential environment. The District is intended for application in areas accessible by major streets, and in proximity to commercial uses, employment opportunities and community facilities.

**RM Multi-Family Residential District**

The purpose of the RM District is to promote and accommodate air-space condominiums, apartments, town-house developments and other high-density housing projects in settings designed exclusively for such development. The District is intended for application in areas accessible by major streets, and in proximity to commercial uses, employment opportunities and community facilities.

**NC Neighborhood Commercial District**

The purpose of this District is to meet the commercial and service needs
generated by nearby residential areas. Goods and services normally available in this District are of the “convenience variety.” The size of this District should relate to surrounding residential markets and the location should be at or near major intersections, in proximity to and/or on the periphery of residential areas, existing or proposed.

CC Core Commercial District.

The purpose of this District is to promote the concentration and vitality of commercial and business uses in historic downtown Gaffney. This district is characterized by wall-to-wall and lot-line-to-lot-line development, sidewalks, street and public parking.

GC General Commercial District

The purpose of this District is to provide for and promote the development and maintenance of commercial and business uses strategically located to serve the traveling public, the resident population and the larger region of which the City is a part. Toward this end, a wide range of business, and commercial uses are permitted in this District.

CE College Educational District

The purpose of this District is to promote and accommodate the unique, growing and evolving needs of the City’s two institutions of higher learning, while making them desirable neighbors and integral parts of the community.

ID Industrial District

The purpose of this District is to accommodate and protect on individual lots or in business park settings industrial and related wholesaling, distribution, warehousing, processing, office and administrative uses in an environment suited to such uses and operations, while promoting land use compatibility with the aid of performance standards. This District also is intended to protect for future development vacant sites and tracts with industrial potential.
SPECIAL PURPOSE DISTRICTS

PDD  Planned Development District

The intent of the Planned Development District is to encourage flexibility in the development of land in order to promote its most appropriate use; and to do so in a manner that will enhance public health, safety, morals, and general welfare.

Within the PDD District, regulations adapted to unified planning and development are intended to accomplish the purpose of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are designed to control unscheduled development on individual lots or tracts, promote economical and efficient land use, provide an improved level of amenities, foster a harmonious variety of uses, encourage creative design, and produce a better environment.

In view of the substantial public advantage of "planned development", it is the intent of these regulations to promote and encourage or require development in this form where appropriate in character, timing, and location, particularly for large undeveloped tracts.

HPOD  Historic Preservation Overlay District

The Historic Preservation Overlay District is designed and intended to promote the educational, cultural, economic and general welfare of the community by providing a mechanism for the identification, recognition, preservation, maintenance, protection and enhancement of existing historic and architecturally valuable structures, and properties which serve as visible reminders of the social, cultural, economic, political and/or architectural history of the City of Gaffney, thereby:

(1) Fostering civic pride;

(2) Preserving local heritage;

(3) Fostering public knowledge and appreciation of structures and areas which provide a unique and valuable perspective on the social, cultural, and economic mores of past generations;
(4) Fostering architectural creativity by preserving physical examples of outstanding architectural techniques of the past; and

(5) Encouraging new structures and development that will be harmonious with existing structures, properties and sites included in said districts.

Section 1.3 Establishment of Official Zoning Map

The boundaries of the Use Districts established by this Ordinance are shown on the official zoning map, which map shall be maintained by the Zoning Administrator. The official zoning map and all amendments, certifications, and other matters entered on the official zoning map are hereby made a part of this Ordinance and have the same legal effect as if fully set out herein.

Section 1.4 Amendments to Official Zoning Map

Amendments to the official zoning map shall be adopted by Ordinance as provided for herein. Promptly after the adoption of an amendment, the Zoning Administrator shall alter or cause to be altered the official zoning map to indicate the amendment, and shall enter the date of adoption and the effective date of the Ordinance amending the map.

Section 1.5 Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of a district shown on the official zoning maps, the following rules shall apply:

Boundaries indicated as approximately, following the centerlines of streets, highways, railroad tracks, alleys, or public utility easements shall be construed to follow such centerlines.

Boundaries indicated as approximately, following platted lot or tract lines shall be construed as following such lines, whether public or private.

Boundaries indicated as approximately, following political boundaries shall be construed as following such boundaries.

Boundaries indicated as approximately, following the centerlines of natural barriers such as streams, shall be construed to follow such centerlines.
Boundaries indicated as parallel to, or extensions of features indicated in Subsections 1 through 4 above, shall be determined by the Zoning Administrator.

Where uncertainties continue to exist after the application of the above rules, an appeal may be taken to the Board of Zoning Appeals.

**Section 1.6 Additions to the Official Zoning Map (Annexation)**

Wherever any petition for the annexation of any area to the City of Gaffney, pursuant to the provisions of any procedure for annexation now or hereafter authorized under the laws of South Carolina, is presented to City Council, the Council shall, upon acceptance of such petition refer same to the Planning Commission for a recommended zoning designation.

The Planning Commission shall review the petition in relation to the applicant’s request for a specific zoning designation, if any; the City’s Comprehensive Plan, present use, former property configuration; and surrounding development, and shall recommend an appropriate zoning classification. The recommendation may be contingent on petition of previously subdivided property to include the larger tract from which the petitioned property was subdivided.

The recommended zoning classification for the subject property shall accompany the petition for annexation, and shall be brought before the City Council as a single ordinance, providing for both the annexation and zoning of the subject property.
ARTICLE 2  
DISTRICT REGULATIONS 

Section 2.1 Establishment of Regulations 

The uses permitted in the Primary Districts and Special Purpose Districts established by Article 1, the off-street parking requirements, and the dimensional requirements of each are set forth in this Article. 

Section 2.3 (Table 1) sets forth use and off-street parking requirements for each zoning district. Section 2.4 (Table 2) sets forth lot area, yard, setback, height, density, and impervious surface requirements for all districts. Section 2.5 establishes regulations for the Planned Development District. Section 2.6 establishes regulations for the Historic Preservation Overlay District. 

Section 2.2 Application of Regulations 

The North American Industry Classification System, 2012, is the basis for determining the use of property permitted by the various zoning districts. Where uncertainty exists relative to a given use not specifically listed by Table 1, the NAICS Manual should be consulted. In general, all uses listed by a given NAICS number and category should be construed as being permitted in the assigned zoning district, unless separately listed. 

Uses not listed in the NAICS Manual are identified by the letters "NA" (Not Applicable) in the NAICS Column. 

Where the letter "P" is shown, the use to which it refers is permitted as a use by right in the indicated district, provided it complies fully with all applicable development standards of this Ordinance. 

Where the letter "C" is shown, the use to which it refers is conditionally permitted in the indicated district, subject to applicable requirements set out in Article 3, or in the case of the PDD, Section 2.5. 

Where the letter “N” is shown, the use to which it refers is not permitted in the indicated district.
Where a given use or NAICS reference is not listed by Table 1 said use shall not be permitted.

A section number reference following a use category means the use must meet the additional conditions and requirements of the referenced section.

To aid in the use of Table 1, it is arranged by NAICS Sectors, followed by the uses and codes included in the respective sector:

- Sector 11: Agriculture, Forestry, Fishing and Hunting
- Sector 21: Mining
- Sector 22: Utilities
- Sector 23: Construction
- Sector 31-33: Manufacturing
- Sector 42: Wholesale Trade
- Sector 44-45: Retail Trade
- Sector 48-49: Transportation and Warehousing
- Sector 51: Information
- Sector 52: Finance and Insurance
- Sector 53: Real Estate and Rental and Leasing
- Sector 54: Professional, Scientific, and Technical Services
- Sector 55: Management of Companies and Enterprises
- Sector 56: Administrative and Support and Waste Management and Remediation Services
- Sector 61: Educational Services
- Sector 62: Health Care and Social Assistance
- Sector 71: Arts, Entertainment, and Recreation
- Sector 72: Accommodation and Food Services
- Sector 81: Other Services (except Public Administration)
- Sector 92: Public Administration

Uses and NAICS code references are displayed within the appropriate sector in numerical order, beginning with Sector 11 (Agricultural, Forestry, Fishing and Hunting) and running through Sector 92 (Public Administration).
### Section 2.3 Table 1: Schedule of Permitted and Conditional Uses, and Off-Street Parking Requirements, By Zoning Districts

<table>
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<tr>
<th>Zone Districts</th>
<th>NAICS</th>
<th>R-4 R-12 R-20</th>
<th>RG</th>
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<td><strong>Sector 23:</strong> Construction</td>
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### Zone Districts

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<td>P</td>
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<td>Domestic Animals &amp; Shelters (Sec. 7.5(7))</td>
<td>NA</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>N</td>
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<td>C</td>
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<tr>
<td>Satellite dishes, etc.</td>
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<td>P</td>
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<td>P</td>
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<td>C</td>
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<td>P</td>
<td>N</td>
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<td><strong>Accessory Uses to Non-Residential Uses</strong></td>
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<td>C</td>
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<td>NA</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>C</td>
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<tr>
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<td>P</td>
<td>P</td>
<td>P</td>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>C</td>
<td>C</td>
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<td>7225</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<td>C</td>
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<td>C</td>
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<td>None</td>
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<td>Antennas &amp; Antenna Towers</td>
<td>5172-4</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
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<td></td>
<td></td>
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<td></td>
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<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
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</table>

(a) Off-Street parking requirements computed on basis of number of spaces per square feet of Gross Floor Area (GFA). Off-street parking not required in CC District., except for residential uses located above first floor of commercial buildings.

See Section 6.4 for uses that provide drive-thru services.

NA = Not Applicable.
### Notes to Table 2

<table>
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<tr>
<th>Districts</th>
<th>R-20</th>
<th>R-12</th>
<th>R-4</th>
<th>RG</th>
<th>RM</th>
<th>NC</th>
<th>CC</th>
<th>GC</th>
<th>CE</th>
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<tr>
<td><strong>Minimum Lot Area (per 1,000 Square Feet)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>20</td>
<td>12</td>
<td>4</td>
<td>B</td>
<td>(C)</td>
<td>NA</td>
<td>4</td>
<td>NA</td>
<td>(C)</td>
<td>NA</td>
</tr>
<tr>
<td>Non-residential</td>
<td>30</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>4</td>
<td>20</td>
<td>20</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td><strong>Width at Building line (ft.)</strong></td>
<td>100</td>
<td>75</td>
<td>40</td>
<td>50</td>
<td>50</td>
<td>75</td>
<td>NA</td>
<td>100</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

**Minimum Yard & Building Setback (measurement in feet from property line)**

#### Front

| Arterial Street | 35 | 35 | 35 | 35 | 35 | None | 35 | 35 | 50 |
| Collector Street | 35 | 35 | 35 | 35 | 35 | None | 35 | 35 | 35 |
| Local Street | 15 | 15 | 15 | 15 | 15 | None | 25 | 25 | 25 |

#### Side

| Residential | 10 | 10 | 5 | (D) | (D) | NA | None | NA | 10 | NA |
| Non-residential | 25 | 25 | 25 | 25 | 25 | 15 | None | (E) | 25 | 20 |

#### Rear

| Residential | 20 | 15 | 5 | (D) | (D) | NA | None | NA | 10 | NA |
| Non-residential | 40 | 40 | 25 | 25 | 25 | 15 | None | (E) | 25 | 40 |

**Maximum Height (ft.) (H)**

| (A) | (A) | (A) | (A) | (A) | (A) | (A) | (A) | (A) | (A) |
| 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 50 |

**Maximum Impervious Surface Area Ratio**

| 35% | 35% | 55% | 55% | NA | 65% | 100% | 65% | 45% | 45% |

**Maximum Density (F)**

| 2 | 3 | 5 | 8 | (G) | NA | (I) | NA | (G) | NA |

Notes to Table 2: NA = Not applicable; NM = No Maximum.

(A) A riparian buffer setback not less than 40' or one-third the depth of a lot or parcel, whichever is less, shall be provided along the banks of all lakes, streams and rivers. The buffer area shall remain undeveloped, except for piers, docks, and pervious access paths to the water's edge. Any disturbance of the buffer area shall adhere to Best Management Practices, (BMP’s) For Forestry, in streamside management zones, promulgated by the SC Forestry Commission.

(B) 6,000 square feet for one residential unit: 4,000 additional square feet for each additional unit.
(C) 6,000 square feet for one residential unit; area requirements for additional units based on meeting minimum applicable yard setback requirements, off-street parking requirements, buffering and landscaping requirements.

(D) 5 feet for Single-family and Duplex units; 10 feet for buildings with more than two units.

(E) 20 feet; except where the proposed use abuts a residential district or a residential use on a local classified street, where a 40 foot setback, plus 3.5 feet for each additional floor over the first shall be required.

(F) Measurement in dwelling units per acre.

(G) Maximum density is determined by the number of units that can be constructed on site after all off-street parking, buffering, landscaping, and other dimensional requirements of Table 2 have been met.

(H) Measurement from the average finished grade at the building line to the highest point of a flat roof or midpoint of a pitched roof.

(I) Density is restricted to the number of units that can be accommodated in the upper floor space of existing buildings and the City Building Code.
Section 2.5 PDD, Planned Development District

Section 2.5-1 Establishment of PDD

A new PDD shall be established on the official Zoning Map by the same procedure as for amendments generally and in accord with the requirements of this section.

Section 2.5-2 Identification of PDD

All approved PDDs shall be assigned a prefix and number indicating the particular district, as for example "PDD-14-1" (Zone-Year-Number), together with whatever other identification appears appropriate.

Section 2.5-3 Permitted Uses in PDD

Any use or combination of conditional uses permitted by Table I may be established in a PDD upon review and approval by the Planning Commission and City Council. Once approved, the proposed use(s) and no others shall be permitted. Said uses shall be identified and listed on the basis of classification, i.e. retail, office, wholesale, residential, multi-family residential, single-family detached housing, manufactured housing, etc. The list of approved uses shall be binding on the applicant and any successor in title, so long as the PDD zoning applies to the land, unless otherwise amended by Ordinance.

Section 2.5-4 Development Standards

1. Minimum Area Required for establishing a PDD shall be five acres.

2. Overall Site Design shall be harmonious in terms of landscaping, enclosures of principal and accessory uses, size of structures, street patterns, and use relationships. Variety in building types, heights, facades, setbacks, and size of open spaces shall be encouraged.

3. Residential density, setbacks, impervious surface ratios, and building heights shall be determined by the scale of the project in relation to its surroundings and its impact on existing and proposed support facilities, i.e. transportation, water, and sewerage systems, recreation facilities, fire and police protection, etc.
4. Off-street parking and loading spaces for each PDD shall comply with the requirements of Section 2.3, Table 1 and Article 6 of this ordinance.

5. Buffer areas shall be required for peripheral uses only, and shall be provided in accord with the minimum requirements for adjacent uses prescribed by Section 4.2. Buffer areas are not required for internal use.

6. All PDDs shall be made to comply with the Environmental Protection, Appearance, Lighting and Screening provisions of Article 4.

7. Signage shall be in harmony and scale with and reflective of the proposed PDD.

Section 2.5-5 Plan Requirements

Preliminary plan requirements, and final plat requirements shall be as prescribed in Section 9.6 of this Ordinance.

Section 2.5-6 Action by Planning Commission and Council

Action by the Planning Commission and/or Council may be (1) to approve the Plan and application to establish a PDD, (2) to include specific modifications to the Plan, or (3) to deny the application to rezone or establish a PDD. If the Plan and/or rezoning are approved, the applicant shall be allowed to proceed in accord with the approved PDD Plan as supplemented or modified in a particular case, and shall conform to any time or priority limitations established for initiating and/or completing the development in whole, or in specified stages. If the application is denied, the applicant shall be so notified.

Section 2.5-7 Administrative Action

After a PDD Plan has been approved and the zone classification established on the official zoning map, building and sign permits shall be issued in accord with the approved Plan as a whole or in stages, or portions thereof, as approved. Said permits shall be issued in the same manner as for building and sign permits generally.
Section 2.5-8 Changes in Approved PDD Plans

Except as provided below, approved PDD plans shall be binding on the owner and any successor in title.

Upon application by the applicant, minor changes in approved PDD site plans may be accommodated by the Zoning Administrator with review and concurrence by the City Attorney, upon making a finding that such changes are in accord with all applicable regulations in effect at the time of the creation of the PDD District; or in accord with all applicable regulations currently in effect.

Major changes to an approved PDD shall require consent of the Planning Commission. In reaching a decision as to whether the change is minor or substantial enough to require reference back to the Planning Commission for approval, the Zoning Administration shall use the following criteria:

1. Any increase 10 percent or greater in intensity or use shall constitute a modification requiring Planning Commission approval. An increase in intensity of use shall be considered to be an increase in usable floor area; an increase in the number of dwelling or lodging units; or an increase in the amount of outside land area devoted to sales, displays, or demonstrations.

2. Any change in parking areas resulting in an increase or reduction of ten (10) percent or more in the number of spaces approved shall constitute a change requiring Planning Commission approval.

3. Structural alterations significantly affecting the basic size, form, style and location of a building, as shown on the approved Plan, shall be considered a change requiring Planning Commission approval.

4. Any reduction in the amount of open space or buffer area resulting in a decrease of more than five percent or any substantial change in the location or characteristics of open space, shall constitute a change requiring Planning Commission approval.

5. Any change in use from one use group to another shall constitute a change requiring Planning Commission approval.
(6) Substantial changes in pedestrian or vehicular access or circulation shall constitute a change requiring Planning Commission approval.

Section 2.5-9 Expiration of Time Limits on PDD Amendments

If a time limit is set as part of the establishing agreement and action is not taken within the time limit set, the Zoning Administrator shall review the circumstances and recommend (1) that the Planning Commission grant an extension or (2) initiate action to rezone the property to its previous zone classification.

Section 2.5-10 Financial Guarantees

Where public improvements and/or "common" amenities or infrastructure are proposed, such improvements shall be installed prior to Final Plat Approval or within 12 months thereafter, subject to financial guarantees acceptable to City Council.

In the event the developer fails to install or construct the required improvements during the specified time period and in conformity with these regulations, the improvement guarantee shall be forfeited to the City to be used for completion of the improvements. If it appears to the developer that he may not complete construction of the required improvements before expiration of his Improvement Guarantee, it shall be his obligation, at least 45 days prior to the expiration period, to submit an extended guarantee request. Such extension, if approved by the City Attorney and City Council, shall be for a period of six months. A maximum of two such extensions shall be allowed.

Any funds received from financial guarantees required by this Section shall be used only for the purpose of making the improvements for which said guarantees are provided. When the improvements or any part thereof have been completed in conformity with these regulations, a commensurate portion of the cost will be released and returned to the developer.

Section 2.6 HPOD Historic Preservation Overlay District

Section 2.6-1 Establishment

The HPO District is hereby established as an overlay district. As such, permitted uses are determined by the “underlying” or primary zone district. Where this district overlays a Residential Zoning District, for example, only those uses
permitted in the Residential Zoning District shall be permitted in the HPO District, subject to the additional requirements and standards of this Section.

Section 2.6-2 Architectural Review Board to Govern

To help accomplish the purpose of this district, an Architectural Review Board is hereby established in accord with the provisions of 6-29-870 of the Code of Laws of South Carolina. The Board shall consist of five (5) members appointed by City Council.

Persons appointed to serve on the Board should be knowledgeable in architecture, building construction and design, real estate, finance and related professional disciplines.

Board members shall be appointed for overlapping four (4) year terms and shall serve until their successors are appointed. Any vacancy in the membership shall be filled for the unexpired term by City Council. None of the Board members may hold any other public office or position in the City.

Section 2.6-3 Organization and Meetings of the Board

The Board shall elect a Chairman and a Vice-Chairman who shall serve for one year or until reelected. The Board shall adopt rules of procedure and keep a record of its proceedings in accordance with the State Statutes and these regulations.

Three (3) members of the Board shall constitute a quorum for the conduct of business. The members shall serve without compensation, except for reimbursement for expenses attendant to the performance of their duties and authorized by the City Council. The Board shall meet upon the call of the Chairman and at such regular intervals as determined by the Board.

Section 2.6-4 Powers and Duties of Board

Where within the Historic Preservation Overlay District, the exterior appearance of any building or structure is involved, the Building Official and /or Zoning Administrator shall issue no permit for erection, alteration, demolition or moving of such building or structure unless and until a development application has been submitted to and approved by the Board, and a Certificate of Appropriateness issued at the Board's direction.
Any action by an applicant following issuance of a permit requiring a Certificate of Appropriateness shall be in accord with the certificate.

The Board shall not cause to be issued a Certificate of Appropriateness authorizing issuance of any permit if it finds that the action proposed would adversely affect the character and environment of the affected area. Where certification is denied, the Board shall record its reasons for denial.

Additionally, the Board shall have the power and duty to hear appeals from decisions of the Building Official or Zoning Administrator in matters under the purview of the Board where there is alleged error in any order, requirement, determination or decision.

**Section 2.6-5 Process for Expansion and Modification**

1. An HPO District shall be established, modified, expanded or contracted in size on the Official Zoning map in accord with the provisions for amendments generally, and in accord with the requirements of this section. However, before an amendment to establish or modify an existing designation is forwarded to the Planning Commission for action, it must first be referred to the Architectural Review Board for consideration and recommendation.

   The Architectural Review Board shall conduct investigative studies of the proposed amendment to determine the historical significance of the area, buildings and/or structures in question, conduct a public meeting on the matter, then recommend to the Planning Commission a course of action to approve, approve with conditions, or disapprove the proposed amendment.

2. Upon receiving the results of such studies, reports, and recommendation from the Board, the Planning Commission shall review the matter in accord with the guidelines for processing amendments generally, then forward a recommendation to City Council.

3. The City Council shall then act on such recommendation, following an advertised public hearing and, if approved, shall instruct the Zoning Administrator to establish the HPO district on the official zoning map.
Section 2.6-6 Certificate of Appropriateness Required

Once a property or area has been designated and included in an Historic Preservation Overlay District, a Certificate of Appropriateness, approved by the Architectural Review Board, shall be required before any new development or existing building or structural alterations not expressly exempt by this section may occur, and no building permit shall be issued without said certificate.

Applications for Certificates of Appropriateness shall be submitted through the office of the Building Official to the Architectural Review Board for review and action. The Board shall act on such application within 30 days of receipt thereof.

By general rule or by specific request in a particular case, the Board may require submission of any or all of the following information in connection with the application: architectural plans, site plans, landscaping plans, proposed signs and appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view and indications as to construction materials, design of doors and windows, ornamentation, colors and the like, photographs or perspective drawings indicating visual relationships to adjoining properties, and such other exhibits and reports as necessary for its determination.

General certification of appropriateness for specific classes of uses may be issued by the Board if it is found that particular materials, designs, architectural features or styles, or other characteristics are generally acceptable and appropriate within the district, and that continued detailed consideration of individual applications involving such matters would be superfluous. If the Building Official finds, upon examining the application, that all aspects which would otherwise require Board review are covered by general certification, he/she may proceed without referral to the Board, identifying the general certification in the record of the application.

Section 2.6-7 General Design Standards for Existing Development

In its deliberations of an application for a Certificate of Appropriateness, the Board shall be guided by the following.
1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

2. The historic character of a property shall be retained and preserved to the extent practical and feasible. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other buildings, should not be undertaken.

4. Changes to a property that have acquired historic significance in their own right should be retained and preserved. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property should be preserved.

5. Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture, and, where possible, materials. Replacement of missing features must be substantiated by documentary and physical evidence.

6. Archeological resources should be protected and preserved in place. If such resources must be disturbed, mitigation measures should be undertaken.

7. New additions, exterior alterations, or related new construction should not destroy historic materials, features, and spatial relationships that characterize the property. The new work should be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.

8. All first floor openings originally designed as windows should be maintained as windows, complete with sills, lintels, frame and glass. All windows shall be repaired or replaced, and no windows may be permanently boarded up.

9. All exterior surfaces, which require paint or sealing in order to protect the underlying surface from deterioration shall be sealed and painted in a color approved by the Board.
10. All exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railing properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free of defects.

11. All paneled areas, which cover original brickwork, other than as recessed in the original transom areas or in areas below the original transom area, shall be removed, and the original brickwork restored.

12. The Board shall not consider interior changes to buildings and no Certificate of Appropriateness shall be required for interior changes. However, this does not excuse the property owner from obtaining required building permits for interior work.

Section 2.6-8 General Design Standards for New Construction

At a minimum, the following general design standards shall be considered by the Zoning Administrator/Architectural Review Board when considering an application for appropriateness of new construction:

1. Building Design – Building design and exterior architectural features including signs and other exterior fixtures of any new buildings and structures to be included within the district. The general exterior design, scale, proportion, arrangement, texture, and material, and the relation of such factors to similar buildings in the immediate area.

2. Building Façade Treatment – Predominate exterior building materials shall include wood, brick, stone, glass and stucco. No portion of a building constructed of unadorned masonry, concrete blocks or metal siding, while also permissible, should be visible from the street.

3. Building Façade Colors – Facade colors shall be low-reflective, subtle, neutral or earth tone colors. Building trim and accent areas may feature brighter colors, including primary colors, approved by the Zoning Administrator. Garish colors shall not be permitted.
4. **Yards and Entrances** - The design of front yards, location of entrance drives into the property, and sidewalks along the public right-of-way, which might affect the character of any building or structure.

However, the Board may not make requirements as to the use of such structure as long as the use is permitted by the primary or “underlying” zone district.

**Section 2.6-9. Exemptions from Requirements for Certificate**

The following activities shall be exempt from the requirements for a Certificate of Appropriateness.

1. Ordinary maintenance or repair of any exterior architectural feature which does not involve a change in the design, material, color, or outer appearance of a building or structure.

2. Construction, reconstruction, alteration, restoration or demolition of any such feature, which is determined to be a threat to the public safety. The Building Inspector shall certify in writing to the Board that such action is required for the public safety because of an unsafe or dangerous condition.

**Section 2.6-10 Deviations**

Because of the wide range of locations, buildings and properties to which this section must apply, it is neither possible nor prudent to establish inflexible requirements related to minimum standards. Therefore, the Zoning Administrator and the Architectural Review Board may authorize deviations from the requirements of this section wherever they find that such deviations are necessary because of particular circumstances associated with a building, property or business. Whenever the Board and Administrator allow or require a deviation from the requirements, such deviations shall be noted on the face of the certificate of appropriateness, along with the reasons for allowing or requiring the deviation.

**Section 2.6-11 Appeals from Zoning Administrator to Architectural Review Board**

Any person aggrieved or having a substantial interest in any decision made by the Zoning Administrator relative to a notice of noncompliance may appeal such decision to the Architectural Review Board.
Appeals to the Board must be taken within 30 days of a decision by the Zoning Administrator, by filing with the Zoning Administrator notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from is taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property.

The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice of it, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

Section 2.6-12 Appeals from Architectural Review Board to Circuit Court

Any person who may have a substantial interest in any decision of the Board or any officer, or agent of the City may appeal from any decision of the Board to the Circuit Court in and for the County of Cherokee by filing with the clerk of court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty (30) days after the affected party receives actual notice of the decision of the Architectural Review Board.
ARTICLE 3

CONDITIONAL USE REGULATIONS

The regulations contained in this Article are intended to ameliorate the impact and improve the siting of uses, buildings, and projects whose design and/or operational characteristics could adversely affect surrounding property and environmental conditions. To this end, standards and criteria over and above those set forth elsewhere in this Ordinance are imposed herein on all conditional uses listed on Table 1, set out below.

<table>
<thead>
<tr>
<th>Section Reference</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>Manufacturing Uses</td>
</tr>
<tr>
<td>3.2</td>
<td>Communication Towers and Antennas</td>
</tr>
<tr>
<td>3.3</td>
<td>Bed and Breakfast Inns</td>
</tr>
<tr>
<td>3.4</td>
<td>Vendors</td>
</tr>
<tr>
<td>3.5</td>
<td>Multi-family, Residential Care and Group Occupied Dwellings</td>
</tr>
<tr>
<td>3.6</td>
<td>Townhouses</td>
</tr>
<tr>
<td>3.7</td>
<td>Patio and Zero Lot Line Homes</td>
</tr>
<tr>
<td>3.8</td>
<td>Manufactured Dwellings</td>
</tr>
<tr>
<td>3.9</td>
<td>Outdoor Displays</td>
</tr>
<tr>
<td>3.10</td>
<td>Home Occupations</td>
</tr>
<tr>
<td>3.11</td>
<td>Open Storage</td>
</tr>
<tr>
<td>3.12</td>
<td>Temporary Uses (portable buildings, tents, etc.)</td>
</tr>
<tr>
<td>3.13</td>
<td>Shipping Containers</td>
</tr>
<tr>
<td>3.14</td>
<td>General Auto Repair</td>
</tr>
<tr>
<td>3.15</td>
<td>Accessory Apartments</td>
</tr>
<tr>
<td>3.16</td>
<td>Resource Recovery Facilities</td>
</tr>
<tr>
<td>3.17</td>
<td>Adult Uses</td>
</tr>
<tr>
<td>3.18</td>
<td>Crop Production</td>
</tr>
<tr>
<td>3.19</td>
<td>Elementary School Safety Drop-Off Pick-Up Design Standards</td>
</tr>
<tr>
<td>3.20</td>
<td>Sidewalk Cafes</td>
</tr>
<tr>
<td>3.21</td>
<td>Restaurants in College Educational District</td>
</tr>
</tbody>
</table>

Section 3.1  Manufacturing Uses (Division D)

The following performance standards are designed to ensure that all permitted manufacturing uses produce no injurious or obnoxious elements related to the operation of such uses beyond the premises.
(1) **Vibration.** No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at any point beyond the lot line; nor shall any vibration produced exceed the following particle velocity levels, measured with a vibration monitor in inches per second at the nearest:

- a) Residential property line: 0.02
- b) Non-residential property line: 0.10

Vibration emanating from construction activities between 7:00 a.m. and 9:00 p.m. shall be exempt from these regulations.

(2) **Fire and Explosives.** All activities and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazards of fire and explosion, including adequate fire fighting and fire suppression equipment, as prescribed in the International Building Code.

(3) **Noise.** All noise shall be muffled. In no event shall the sound pressure level of noise radiated continuously from a facility exceed at the lot line the following values in any octave band or frequency. Sound pressure shall be measured with a Sound Meter and Octave Band Analyzer conforming to specifications of the American Standards Association.

### Night Time Schedule

Maximum permissible sound pressure levels at the lot line for noise radiated continuously between the hours of 9 p.m. and 7 a.m.

<table>
<thead>
<tr>
<th>Frequency Band (Cycles Per Second)</th>
<th>At Residential Lot Line</th>
<th>At Non-Res. Lot Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 - 75</td>
<td>79</td>
<td>65</td>
</tr>
<tr>
<td>75 - 150</td>
<td>60</td>
<td>50</td>
</tr>
<tr>
<td>150 - 300</td>
<td>56</td>
<td>43</td>
</tr>
<tr>
<td>300 - 600</td>
<td>51</td>
<td>38</td>
</tr>
<tr>
<td>600 - 1,200</td>
<td>42</td>
<td>33</td>
</tr>
<tr>
<td>1,200 - 2,400</td>
<td>40</td>
<td>30</td>
</tr>
<tr>
<td>2,400 - 4,800</td>
<td>38</td>
<td>28</td>
</tr>
<tr>
<td>4,800 - 10,000</td>
<td>35</td>
<td>20</td>
</tr>
</tbody>
</table>
Day Time Schedule

Maximum sound pressure levels at the lot line for noise radiated from a facility between the hours of 7 a.m. and 9 p.m. shall not exceed limits of the preceding table except as specified and corrected below.

<table>
<thead>
<tr>
<th>Type of Operation in Character of Noise</th>
<th>Correction in Decibel*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daytime operation only</td>
<td>Plus 5</td>
</tr>
<tr>
<td>Noise source operates less than 20% of any one-hour period</td>
<td>Plus 5</td>
</tr>
<tr>
<td>Noise source operates less than 5% of any one-hour period</td>
<td>Plus 10</td>
</tr>
<tr>
<td>Noise of impulsive character (hammering, etc.)</td>
<td>Minus 5</td>
</tr>
<tr>
<td>Noise of periodic character (hum, speech, etc.)</td>
<td>Minus 5</td>
</tr>
</tbody>
</table>

* Apply to the preceding tables one of these corrections only.

Noises emanating from construction activities between 7:00 a.m. and 9:00 p.m. shall be exempt from these requirements.

(4) **Air Pollution.** The emission of visible smoke, dust, dirt, fly ash, particulate matter from any pipes, vents, or other openings, or from any other source into the air, shall comply with the regulations of the South Carolina Department of Health and Environmental Control.

(5) **Odor.** When an industrial plant is operating at close to maximum production the odors emissions measured at the property line shall not exceed a D/T (Dilution Threshold) of 100. Odor samples shall be taken and tested by an independent, qualified, odor-testing laboratory using ASTM (American Society of Testing and Materials) method E679-91.

(6) **Glare.** There shall be no direct or sky reflected glare, whether from floodlights, high temperature processing, combustion, welding or otherwise, so as to be visible in any residence.

(7) **Fumes and Vapors.** There shall be no emission of any fumes or vapors of a noxious, toxic or corrosive nature, which can cause damage or irritation to health, animals, vegetation, or to any form of property.
(8) **Heat, Cold, Dampness or Movement of Air.** Activity, which would produce an adverse impact on the temperature, motion or humidity of the atmosphere beyond the lot line, shall not be permitted.

(9) **Toxic Matter.** The applicant of a permit for any facility which would utilize toxic matter in the process of manufacturing, fabricating, assembling, packaging, or any related activity, shall provide with the application a certificate from the South Carolina Department of Health and Environmental Control, indicating compliance with the rules and regulations of such agency.

(10) **Compliance Guarantee.** The applicant of a permit for a manufacturing or processing plant which would produce any of the above “objectionable elements” shall acknowledge in writing his understanding of the performance standards applicable to the proposed use and shall submit with the permit application, an agreement to conform with such standards at all times. Any violation of the agreement shall constitute a violation of this Ordinance and shall be treated accordingly. Where there is a potential problem in meeting any one of the performance criteria in this Section, the applicant shall be required to mitigate to the satisfaction of the Zoning Administrator any potential adverse impacts of such operation and/or request a variance before the Zoning Board of Appeals.

Compliance with the provisions of this section shall not apply to existing manufacturing and processing uses.

**Section 3.2 Communication Towers**

Where conditionally permitted by Table 1, commercial communication towers and antennas shall adhere to the following regulations. Publicly owned and/or operated safety, service and information towers conditionally permitted by Table I shall be exempt from these regulations.

(1) All new towers shall be designed to accommodate additional antennas equal in number to the applicant’s present and future requirements. Prior to the issuance of a permit for a new tower the applicant shall submit documentation indicating a good faith but unsuccessful effort was made to co-locate on an existing communication tower, building or other structure, and that no suitable facilities within the desired coverage area were
available. Documentation shall include coverage maps, letters from adjacent tower owners, and calculations from a specialist with appropriate radio frequency credentials.

(2) All applicable safety code requirements shall be met, including those of the U. S. Fish and Wildlife Service to minimize harm to birds.

(3) Towers shall not be painted or illuminated unless otherwise required by state or federal regulations.

(4) No tower shall be located within 2,000 feet of an existing tower or antenna, except where the applicant certifies that the existing tower does not meet the applicant’s structural specifications and applicant’s technical design requirements, or that a co-location agreement could not be obtained.

(5) The height of a tower mounted on a building, water tank or other structure shall not exceed 30% of the height of the structure. Towers are prohibited on the tops of buildings or structures in all Zoning Districts except GC and ID. Where a telecommunication tower is to be located on a lot with an existing principle use, the tower shall be located in the rear yard only.

Towers shall be located such that adequate setbacks are provided on all sides to prevent the tower’s fall zone from encroaching onto adjoining properties. Should this fall zone encroach onto another property, a recorded easement may be prepared and signed by the adjacent property owner to ensure there will not be any structure built within the fall zone.

(6) Permit requirements for the erection or replacement of a tower shall be accompanied by the following:

(a) One copy of typical specifications for proposed structures and antenna, including description of design characteristics and material.

(b) A site plan drawn to scale showing property boundaries, tower location, tower height, guy wires and anchors, existing structures, fall zone (as determined by a structural engineer, licensed & certified in South Carolina), photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property; [site plan not required if antenna is to be mounted on an approved existing structure].
(c) Identification of the owners of all towers and equipment to be located on the site.

(d) Written authorization from the site owner for the application.

(e) Evidence that a valid FCC license has been issued.

(f) A written agreement to remove the tower within 120 days after cessation of use.

(g) A certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, together with written indemnification of the affected government and proof of liability insurance or financial ability to respond to claims up to $1,000,000 in the aggregate which may arise from operation of the facility during its life, at no cost to the City.

Towers no longer in service shall be dismantled and removed by the owner within 120 days of discontinuance. Towers in need of repair or reconstruction shall require a permit.

Section 3.3 Bed and Breakfast Inns

Bed and Breakfast Inns are intended to provide a unique transit lodging experience in predominantly residential environs. As a result, care should be taken to protect the environs that contribute to the experience of such lodging while promoting their use. Toward this end, Bed and Breakfast Inns, where conditionally permitted by this Ordinance, shall:

(a) Be occupied by the resident/owner.

(b) Only be permitted in older residential structures that are architecturally, historically or culturally significant.

(c) Limit meals to registered guests.

(d) Maintain the interior architectural integrity and arrangement of the structure and shall not increase the number of guestrooms above the number of bedrooms in the original structure.
(e) Maintain the exterior architectural integrity of the structure and grounds.

(f) Be permitted one non-illuminated identification sign, not to exceed four (4) square feet in area.

Section 3.4 Street Vendors
Vendors, including mobile or street vendors, shall be governed by the following.

(1) A request to establish a vending operation shall be accompanied by a letter of permission to use the property, proposed hours and length of vending operation, and adhere to the following requirements.

(2) No portion of a vending operation shall be allowed to occupy or obstruct access to any required off-street parking stall.

(3) No merchandise, vehicles, structures, signage, etc. shall be left on the site after closure.

(4) No goods or merchandise offered for sale may be stored in or sold from a tractor-trailer.

(5) Only one sign per vendor shall be allowed, regardless of where it’s mounted. Advertising materials attached to or painted onto automobiles are construed to be signs. Signs shall not exceed ten (10) square feet in area and shall meet all applicable sign requirements contained in Article 5.

Section 3.5 Multi-Family Housing, Residential Care Facilities and Group Occupied Dwellings

Apartments conditionally permitted in the CC District shall be restricted to the upper floors of buildings; provided, the ground floor is occupied by a commercial use, further provided that off-street parking shall be provided in accord with the requirements of Table 1, except that said parking may be located off-site.

In all other districts, where conditionally permitted, apartments and multi-family housing projects consisting of five or more units or two or more residential care facilities, dormitories, rooming houses or group occupied dwellings designed to accommodate 20 or more individuals shall meet the following design standards:
(a) At least one main entrance within each building must face the street, place, or the main access drive within the development. Entrances must include architectural elements that emphasize the entrance, including but are not limited to front porches, transom and sidelight windows, decorative trim and moldings, and arches.

(b) Connecting walkways must be provided for internal pedestrian circulation within the site to connect to street or place and to connect parking spaces with the main building entrance. Connecting walkways may cross parking aisles or driveways if distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, scored concrete or scored and painted asphalt to enhance pedestrian safety and comfort.

(c) Sidewalks must be provided along the street. To the maximum extent feasible, provision must be made in the design of developments for connections with existing or future pedestrian systems on adjoining properties, including but not limited to connections to existing or future sidewalks, bikeways and walkways.

(d) The on-site pedestrian circulation system must be illuminated to a level where the system can be used at night by residents and visitors.

(e) Buildings shall be set apart not less than 20 feet.

(f) Not less than 20 percent of the project site shall be designated, landscaped and permanently reserved as usable common open space, as specified in Section 4.5.

(g) Buildings shall not exceed 400 feet from end to end.

(h) Multiple buildings shall be oriented toward common open space, away from adjacent single-family residential uses and off-street parking areas.

(i) Trash receptacles shall be oriented away and screened from adjacent residential uses.

**Section 3.6 Townhouses**

Due to the unique design features of Townhouses, the following supplemental design requirements shall apply:

(a) Such projects shall have a minimum of 1 acre.
(b) Not more than six (6) or fewer than three (3) Townhouses may be joined together, with approximately the same (but staggered) front line.

(c) Minimum distance between rows of buildings shall be not less than 20 feet.

(d) Minimum lot width shall be 18 feet.

(e) Sidewalks not less than five (5) feet in width shall be provided along the front property line of all project buildings.

(f) Not less than 15 percent of the project site shall be diverted to common open space, as specified by Section 4.5.

Section 3.7 Patio and Zero Lot Line Housing

Due to the unique design features of patio and zero lot line housing, the following supplemental design requirements shall apply:

(a) Such projects shall have a minimum of 2.5 acres.

(b) Minimum lot area shall be 3,000 square feet per unit.

(c) Minimum lot width shall be 40 feet.

(d) Where a unit is to be constructed at or on the property line, a five-foot private maintenance easement shall be provided on the adjoining lot.

(e) At least one side yard extending not less than five (5) feet from the property line shall be provided. Where a second side yard is provided, though not required, it too shall have a minimum width of five (5) feet.

(f) The side yard of the exterior units shall be as prescribed by Table 2.

Section 3.8 Manufactured Dwellings

Manufactured dwellings, where permitted by this Ordinance, shall:

(a) Be built according to the Federal Manufactured Housing Construction and Safety Standards Code (245 CFR 3280), enacted June 15, 1976.
Evidence of compliance shall accompany each and every permit request to install a manufactured home. Manufactured housing built prior to the effective date of the Code shall not be permitted for reasons of safety.

(b) Be installed in accord with the Manufacturer’s Installation Manual. In the absence of such a Manual, the home must be installed in accord with the requirements of Section 19-425.39 of the South Carolina Manufactured Housing Board Regulations.

(c) Be under-skirted around the entire home with brick, masonry, or similar materials designed and manufactured for permanent outdoor installation.

(d) Have installed or constructed and attached firmly to the home and anchored securely to the ground, permanent landing steps at each exterior doorway, in accord with applicable International Codes.

(e) Have all moving or towing apparatus removed or concealed including hitch, wheels and axles.

(f) Be landscaped in accord with the requirements of Section 4.4

Section 3.9 Outdoor Displays

Outdoor displays of merchandise customarily used outdoors such as motor vehicles, boats, shrubbery, lawn mowers, lawn furniture, etc., may be permitted where allowed by Table I.

Outdoor displays of merchandise not customarily used outdoors may be permitted for a period not to exceed seven days duration at intervals of not less than 90 days. The display must be confined to within eight (8) feet of the building from which the display is staged. Additionally, the display shall not be placed or located within seven (7) feet of the front property line or within the required front yard buffer area, whichever is greater.

Outdoor displays shall be limited to merchandise of the same type as that sold indoors of the business displaying the merchandise, and shall be subject to the permit and removal requirements of Section 3.12.
Section 3.10  Home Occupations

Home occupations, as defined by this ordinance, shall meet the following requirements, where conditionally permitted by Table 1.

(1) Home occupations shall be carried on wholly within the principal building; attached garages may be used only for the storage of parts and materials.

(2) The floor area of the principal residential dwelling dedicated to such home occupation shall not exceed 25% of the total floor area.

(3) No activity shall be conducted outside the residence.

(4) No signs shall be allowed, except in conformance with the zone district regulations within which the use is located.

(5) No merchandise or articles shall be displayed so as to be visible from outside the building.

(6) No more than one person not residing in the residence shall be employed.

(7) There is no alteration of the residential character of the building(s) and/or premises.

(8) The occupation shall not involve the retail sale of merchandise manufactured off the premises.

Section 3.11  Open Storage Areas

Open storage as an accessory use may be permitted where indicated by Table 1, provided such storage area does not occupy over 20 percent of the buildable area, is not located in any required setback area, and is screened from public view. Open storage does not include retail sales items such as vehicles, boats etc.
Section 3.12  Temporary Uses

Section 3.12- 1  Permit Required

The Zoning Administrator/Building Official is authorized to issue a permit for temporary uses as specified in this Ordinance. No temporary use may be established without receiving such permit, except that garage and yard sales shall be exempt from permit requirement.

Temporary use permits may be renewed, provided said use will not create traffic congestion or constitute a nuisance to surrounding uses, as determined by the Zoning Administrator. Any temporary use that is determined to be creating a nuisance or disruption may have its temporary permit revoked by the Zoning Administrator.

Section 3.12- 2  Type and Location

The following temporary uses and no others may be permitted, subject to the conditions herein.

(1) Tents and other temporary structures for sales and publicly sponsored events are allowed in the Commercial Districts only. Tents allowed for sales events shall be limited to merchandise of the same type as that sold indoors of the business displaying the merchandise. The permit period shall not exceed ten (10) days, at intervals of not less than ninety (90) days. The use of tents for private use is not regulated by this section.

(2) Contractor’s office and equipment shed, in any district, for a period covering construction phase of a project not to exceed one (1) year unless re-permitted; provided that such office be placed on the property to which it is appurtenant.

(3) Portable classroom buildings in any district for cultural or community purposes, educational or religious purposes for an indefinite period provided all required setbacks for the district in which the structures are located shall be met and the structure shall be located on the same site as the principal structure.

(4) Temporary office trailers for the conduct of business in any non-residential zone district where the principal building is being expanded,
rebuilt, or remodeled.

(5) Community and publicly sponsored events providing for one (1) or more of various types of cultural, social, or recreational uses intended to serve the surrounding community, i.e. church or school activities. The term publicly sponsored means that an investment by the City, local school, civic organization or local church is involved in some fashion in the sponsorship of the event.

(6) Festival, carnival, circus, fair or outdoor concert for a period not to exceed 14 days; provided off-street parking is provided for all attendees and participants and that ingress/egress is clearly marked both for all main entrances and designated parking areas; further provided, that the Gaffney Police Department be notified at least fourteen days prior to the event. The promoter/sponsor must present a Traffic Control and Security Plan to the Police Department. The Department must approve the plan. Any cost for providing traffic control and security is the responsibility of the promoter/sponsor. A minimum of two security officers per event day are required. The event must comply all times with the approved Traffic Control and Security Plan. If security is required the event must cease operations if the security is no longer present.

(7) Open lot sale of Christmas trees and/or pumpkins for a period not to exceed 45 days in any non-residential district.

(8) Real estate sales office in any district for a period not to exceed one year, provided no cooking or sleeping accommodations are maintained in the structure.

(9) Portable storage facilities (PODs) may be permitted in any District not to exceed 30 days; provided not more than one such facility shall be allowed at one time and said facility shall not be located in any required setback area or the public right-of-way. Applicable sign regulations notwithstanding, leasing information may be displayed on the storage facilities.

(10) Fire works stands in the GC and ID Districts for a period not to exceed six weeks prior to a commemorative holiday such as Fourth of July.

(11) Garage and Yard Sales shall be permitted in residential districts only for not more than two days at intervals of not more once per month.
Further, no more than one directional off premise sign may be erected and the sale shall discontinue at 6:00 P. M. No new merchandise shall be brought in for the sale.

(12) Collection boxes for donations.

(13) Street vendors, subject to compliance with the requirements of Section 3.4

After removal of a temporary use, the site shall be cleaned and restored by the occupant to its original state.

Section 3.13 Shipping Containers

Where conditionally permitted by Table I, the use and storage of shipping containers shall be governed by the following:

(a) Shipping containers shall not be used as a principal use or structure.
(b) Shipping containers shall not be located in front of any principal building or structure.
(c) Shipping containers shall be screened from public view.
(d) Shipping containers shall not be stacked.
(e) Shipping containers shall not be located in any required side or rear yard set back area.
(f) The number of accessory shipping containers shall not exceed one per establishment or lot, except where the building to which it is accessory exceeds 20,000 square feet, then an additional shipping container may be established for each 20,000 square feet or fraction thereof; provided they meet the above requirements.
(g) Shipping containers shall not be placed or stored on any lot or parcel for sale or distribution.
(h) Shipping containers shall be rust and damage free.

Section 3.14 General Auto Repair

General auto and other motor vehicle repair operations shall be conducted within fully enclosed buildings or paved outside areas that can be cleaned and maintained. Open storage of junked vehicles, dismantled parts, scrap parts or other salvage material shall be screened from public view. Disabled vehicles with current license plates shall be exempt from screening requirements. All off-street parking areas shall be paved. Customer parking shall be striped and
Section 3.15 Accessory Apartments

Accessory apartments, where permitted as conditional uses, shall meet the following conditions:

(a) The principal structure (dwelling) must be owner occupied.
(b) The apartment, whether attached or detached, cannot exceed 50 percent of the gross floor area of the principal dwelling, or contain more than two bedrooms.
(c) The apartment must be a complete living space, with kitchen and bathroom facilities separated from the principal unit.
(d) An accessory apartment may be accessory only to a single family dwelling, and not more than one apartment shall be allowed per dwelling or lot.
(e) Minimum lot size shall be at least 50 percent greater than the minimum lot requirement for the district in which the apartment is to be located.
(f) The apartment shall meet all yard setback requirements and, where detached from the principal dwelling, shall be setback not less than 10 feet from the principal dwelling.
(g) Evidence of the accessory apartment should not be apparent from the street.
(h) An additional off-street parking space shall be required.
(i) Neither the primary residence nor the accessory apartment shall be a manufactured home.

Section 3.16 Resource Recovery Facilities; Solid Waste Collection, Storage and Transfer Facilities

In keeping with the goals of the State’s Solid Waste Policy and Management Act of 1991: to reduce the amount of solid waste being received at public landfills and incinerators and to promote recycling of waste resources; and to promote land use compatibility in the process, the above referenced facilities, where conditionally permitted, shall meet the following siting and location criteria:

(1) No such use shall be located closer than 1,000 feet to any residence, church, school, historical place, or public park, and shall have direct access on an arterial street.
(2) No material shall be placed in open storage areas in such a manner that it may transferred out by the elements.

(3) All materials and activities shall be screened in such fashion as not to be visible from off-site. Screening may be accomplished by any combination of fences, walls, berms or landscaping. Where plants are to be used, they shall be evergreens of sufficient size to accomplish screening at installation.

Section 3.17 Adult Uses

Section 3.17-1 Location

Owing to potentially objectionable operational characteristics of sexually oriented or adult uses, and the deleterious affect of such uses on existing businesses and/or residential areas around them, the location of such uses shall be tempered by the supplemental siting criteria of this section.

No such use shall be located within 1,000 feet (measured in a straight line and documented on a map drawn to scale) of:

(1) a church or religious institution,
(2) public or private schools and educational facilities,
(3) public parks and recreational facilities,
(4) public library, governmental or historical building or marker,
(5) a cemetery,
(6) another sexually oriented business,
(7) day care facilities, or
(8) Residential care homes and facilities.

Section 3.17-2 Permit Required

It shall be a misdemeanor for a person to operate a sexually oriented business without a valid permit issued by the City.

(1) An application for a permit must be made on forms provided by the Zoning Administrator.
(2) The premises must be inspected and found to be in compliance with the law by health, fire and building officials.

Section 3.17-3 Expiration of Permit

Each permit shall expire at the end of each fiscal year and may be renewed only by making application as provided herein.

Section 3.17-4 Inspection

(1) A person who operates a sexually oriented business shall permit representatives of the City’s police department, health or fire departments or other governmental departments or agencies involved in code enforcement to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

Section 3.17-5 Suspension and Revocation

The Zoning Administrator shall suspend a permit for a period not to exceed thirty (30) days if he determines that a permittee has violated or is not in compliance with any section of this Ordinance, or refused to allow an inspection of the sexually oriented business premises as authorized by this Section.

The Zoning Administrator shall revoke a permit if he determines that:

(1) A permittee gave false or misleading information in the material submitted to the building department during the application process.

(2) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.

(3) A permittee or an employee has knowingly allowed prostitution on the premises.
(4) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee’s and/or licensee’s permit and/or license was suspended.

(5) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted and/or licensed premises.

(6) A permittee is delinquent in payment to the City for any taxes or fees past due.

Section 3.18 Crop Production

Where permitted as a Conditional Use, crop production shall be restricted to undeveloped lots and parcels not less than one-half acre in size

Section 3.19 Elementary School Drop-Off Pick-Up Design Standards

Drop-Off Pick-Up queue length for vehicles shall be in accord with SCDOT guidelines of two linear feet of drop-off/pick-up stacking per student, with minimum of 900 feet.

Section 3.20 Sidewalk Cafes

Sidewalk cafes and outdoor seating areas are permitted between a storefront of an existing restaurant, delicatessen, or food store and the curb as an accessory use to an existing restaurant, delicatessen, or food store, conditioned on the following requirements:

1) vehicular and pedestrian circulation shall not be unreasonably restricted;

2) the sidewalk area shall be maintained in a clean, orderly, and sanitary condition;

3) tables and chairs shall not be bolted or otherwise affixed to the sidewalk, but tables and chairs shall be made of material of substantial weight such that they are not susceptible to being blown or bumped into areas which could impede pedestrian or vehicular traffic or inconvenience neighboring businesses;

4) sidewalk cafes and outdoor seating areas shall not unreasonably obscure or interfere with adjacent storefronts and businesses;

5) glass bottles and containers shall not be used.
Section 3.21 Restaurants in College Educational District

Restaurants in the CE District shall be located no closer than 500’ to the nearest residentially zoned property (measured at the property line).
ARTICLE 4

ENVIRONMENTAL PROTECTION, APPEARANCE, LIGHTING AND SCREENING REGULATIONS

The regulations contained in this Article are intended to protect the natural environment, ensure land use compatibility, promote the greening of development, improve aesthetics, ensure adequate provision of open space, and protect trees.

Section 4.1 Environmental Protection

Environmental Protection starts with good site design, which. shall be based on a site analysis. To the extent practical, development shall be located to preserve any natural features on the site, to avoid areas of environmental sensitivity, to minimize negative impacts and alteration of natural features, to avoid adversely affecting ground water and aquifer recharge, to reduce cut and fill, to avoid unnecessary impervious cover, to prevent flooding, to provide adequate access to lots and sites, and to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

The following specific areas and resources shall be preserved to the extent consistent with the reasonable utilization of the site.

a. Unique and/or fragile areas, including wetlands as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1972, as determined by the U.S. Corps of Engineers.

b. Protected trees identified by Section 4.6-2.

c. Flood plain areas, as determined by FEMA (Federal Emergency Management Agency) and delineated on Flood Boundary and Floodway Maps for Gaffney City.

d. Habitats of endangered wildlife, as identified on federal and state lists.

e. Historically significant structures and sites, as listed on federal, state, and/or local lists of historical places.
Section 4.2 Bufferyards

Section 4.2-1 Definition

The bufferyard is a unit of yard together with the planting, fences, walls, and other screening devices required thereon.

Section 4.2-2 Purpose

The purpose of a bufferyard is to ameliorate any adverse impact between adjacent land uses, and promote land use compatibility.

Section 4.2-3 Where Required

Bufferyards shall be required for new uses or substantially expanded uses (over 50% gross floor area) in accord with the requirements of Table 3.

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Abutting Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office / Institutional</td>
<td>0 3 2 1 0 0 0 1</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>0 3 2 0 1 2 3 1</td>
</tr>
<tr>
<td>Low Impact Commercial</td>
<td>0 3 2 1 0 0 0 1</td>
</tr>
<tr>
<td>Commercial</td>
<td>1 4/5C 3 2 0 0 0 1</td>
</tr>
<tr>
<td>Non-effluent Producing Industry</td>
<td>2 5 4 3 2 0 0 1</td>
</tr>
<tr>
<td>Effluent Producing Industry</td>
<td>3 6 6 5 3 2 0 3</td>
</tr>
</tbody>
</table>

Section 4.2-4 Specifications and Options

From Table 3, match the abutting use with the proposed new or expanded use to determine the type of bufferyard required. Should a question arise as to the land use classification of a proposed or abutting use the Zoning Administrator shall determine the classification. Next, refer to the Bufferyard Illustrations to determine the amount of bufferyard required. Several options of landscaping are available under each bufferyard. The requirements are given in 100-foot
units as measured along the property line. Whenever a wall or fence is required, the location of the structure may be on either side of the required bufferyard.

<table>
<thead>
<tr>
<th>Bufferyard Illustrations</th>
<th>Space Required</th>
<th>Plants Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bufferyard 1</td>
<td>10'</td>
<td>5 trees or 3 trees &amp; 6 shrubs or 12 shrubs or 6’ solid wood fence (Fences &amp; trees not required for street)</td>
</tr>
<tr>
<td>Bufferyard 2</td>
<td>15'</td>
<td>10 trees or 6 trees &amp; 12 shrubs or 24 shrubs or 6’ fence</td>
</tr>
<tr>
<td>Bufferyard 3</td>
<td>20'</td>
<td>15 trees or 8 trees &amp; 24 shrubs or 48 shrubs or 6’ fence &amp; 20 shrubs or trees</td>
</tr>
<tr>
<td>Bufferyard 4</td>
<td>25'</td>
<td>25 trees &amp; 30 shrubs or 12 trees &amp; 60 shrubs or 8’ fence &amp; 10 trees or shrubs</td>
</tr>
<tr>
<td>Bufferyard 5A</td>
<td>50'</td>
<td>30 trees &amp; 40 shrubs or 20 trees &amp; 80 shrubs or 8’ fence &amp; 25 trees or shrubs</td>
</tr>
<tr>
<td>Bufferyard 5B</td>
<td>25'</td>
<td>6’ masonry wall &amp; 25 trees or shrubs</td>
</tr>
<tr>
<td>Bufferyard 5C</td>
<td>5'</td>
<td>8’ masonry wall</td>
</tr>
<tr>
<td>Bufferyard 6A</td>
<td>50'</td>
<td>8’ wall &amp; 45 trees &amp; 80 shrubs or 8’ wall &amp; 30 trees &amp; 120 shrubs</td>
</tr>
<tr>
<td>Bufferyard 6B</td>
<td></td>
<td>6’ wall/fence &amp; 25 trees or shrubs</td>
</tr>
</tbody>
</table>
BUFFERYARD #1

Minimum 100' Between Curb Cuts

Property Line

Ornamental Shrubs
(cluster)

STREET

20' Max

Minimum Bufferyard Width

PROPOSED USE

BUFFERYARD #3

EXISTING USE

Minimum Bufferyard Width

40'-60' Tree Spacing

PROPOSED USE

10'

Single Row
10' Spacing on Center

51
The length of a bufferyard shall extend the length of the property line separating two uses, except for property lines in excess of 200 feet, where the bufferyard need only extend 100 feet beyond either end of the existing building or use to be buffered.
Section 4.2-5 Use of Existing Vegetation

Existing vegetation, including all trees of any dimension, shall be retained to the extent practical and feasible. In no event shall a developer clear-cut the site of a required bufferyard. Instead, the developer shall conduct an Existing Tree Inventory, identifying the location, species, and diameter (breast high) of all trees in the bufferyard, and complement the presence of such trees with appropriate shrubs and other vegetation to meet all requirements of this Section.

Section 4.2-6 Materials

To achieve the desired results, only coniferous (evergreen), drought resistant plants, suitable for local conditions, shall be used. When structures are used, the materials shall be durable and suitable for screening.

Section 4.2-7 Plant Size and Caliper

The minimum tree at planting shall be 6 to 7 feet in height and two (2) inches in diameter at a height of 18 inches above the ground. The minimum shrub shall be 2 to 3 feet in height. Both trees and shrubs shall be nursery stock with well-developed root systems unless plants found in place can be used. If the existing vegetation provides a screen equal to or greater than that which would be planted, no other plant material shall be required. In case of open woods, an additional planting of eye shrubs such as hemlock or pines may be needed to improve screening. A wooded site does not change fencing requirements.

Section 4.2.8 Substitutions

The following substitutions for opaque walls, fences, and plant materials may be made:

1. Berms may be used to compensate for fences. An eight (8) foot high opaque structure can be a combination of berm and fence to total eight (8) feet.

2. Chain link fences with evergreen hedge on the outbound side may be substituted for wooden fences. All plants must be sized and spaced to obscure the chain link fence within five (5) years of planting.
3. Any existing plant material that otherwise satisfies the requirements of this section may be substituted and counted toward satisfying the requirements of this section.

Section 4.2-9  Fence and Wall Specifications

All fences and walls used as part of the bufferyard requirement must have the finished side facing outward. Fences shall be wooden or other durable or opaque material approved by the Zoning Administrator. Wooden fences shall be made of rot resistant material such as locust, cedar or redwood. If made of pine, the post shall be rated for soil contact and the boards rated for outside use. Chain link fences with wood, plastic, or metal strips are expressly prohibited as bufferyard material. However, a chain link fence with evergreen hedge is acceptable. Walls must be made of masonry materials including poured concrete, concrete block covered with stucco, and brick.

![Fence and Wall Illustrations](image)

Section 4.2-10  Responsibility

It shall be the responsibility of the proposed new use to provide the bufferyard where required by this Ordinance, except that no new detached single-family dwelling or duplex shall be required to provide such bufferyard.

Section 4.2-11  Required Maintenance

The maintenance of required bufferyards shall be the responsibility of the property owner. All such areas shall be properly maintained so as to ensure continued buffering. All planted areas shall be provided with an irrigation system or a readily available water supply to ensure continuous healthy growth and development. Dead trees shall be removed; debris and litter shall be cleaned; and berms, fences, and walls shall be maintained at all times. Failure
to do so is a violation of this Ordinance and may be remedied in the manner prescribed for other violations.

Section 4.2-12 Use of Bufferyards

A bufferyard may be used for passive recreation and may be interrupted by access driveways not exceeding 16 feet in width (exceptions for uses requiring wide curb cuts may be approved by the Zoning Administrator). All other uses are prohibited, including off-street parking.

Section 4.3 Screening

Section 4.3-1 Definition

Screening is a type of buffer that is designed to block or obscure a particular element or use from view.

Section 4.3-2 Purpose

The purpose of screening is to minimize if not eliminate entirely the visual impact of potentially unsightly open storage areas and refuse disposal facilities.

Section 4.3-3 Where Required

Screening specified by this section shall be required of all open storage areas not devoted to retail sales visible from any public street, including open storage areas for shipping containers, building materials, appliances, trash containers of 4 or more cubic yards, salvage materials and similar un-enclosed uses.

Section 4.3-4 Type Screening Required

Screening shall be accomplished by an opaque divide not less than six (6) feet high or the height of the object to be screened, whichever is greater. Screening may be accomplished by the use of sight obscuring plant materials (generally evergreens), earth berms, walls, fences, proper siting of disruptive elements, building placement or other design techniques approved by the Zoning Administrator.
Section 4.4 Landscaping

Section 4.4-1 Definition

Landscaping is a type of open space permanently devoted and maintained for the growing of shrubbery, grass, other plants and decorative features to the land.

Section 4.4-2 Purpose

The purpose of landscaping is to improve the appearance of buildings and structures and vehicular use areas; to enhance environmental and visual characteristics; to promote the greening of development, the reduction of noise pollution, storm water run off, air pollution, and artificial light glare; and to safeguard property values, protect public and private investments and promote high-quality development.

Section 4.4-3 Where Required

No proposed residential, commercial, institutional, industrial or other non-residential use, or multi-family project shall hereafter be established or re-established in an existing building or structure and subsequently used, unless landscaping is provided in accord with the provisions of this section. No existing building, structure, or vehicular use area shall be enlarged by 50 percent of more unless the minimum landscaping required by the provisions of this section is provided throughout the building site.

Section 4.4-4 Landscaping Plan

A landscaping plan shall be submitted as part of the application for a building permit. The plan shall:

1. Designate areas to be reserved for landscaping. The specific design of landscaping shall be sensitive to the physical and design characteristics of the site. The design shall minimize the use of grass in favor of more native and drought-tolerant landscaping, with ground cover or low landscaping to reduce the need for fertilizer and pesticide applications that can be washed into waterways.

2. Direct storm water drainage from driveways, sidewalks and gutters
into well vegetated areas rather than to pavement.

3. Indicate the location and dimensions of landscaped areas, plant materials, decorative features, etc.

Section 4.4-5 Landscaping Requirements

Required landscaping shall be provided as follows:

1. Along the outer perimeter of a lot or parcel, where required by the bufferyard provisions of this Article. The amount specified shall be as prescribed by Section 4.2, Bufferyards.

2. Within the interior, peninsula or island type landscaped areas shall be provided for any open vehicular use area containing 10 or more parking spaces. Landscaped areas shall contain one broad leaf canopy tree per 10 parking spaces. Landscaped areas shall be located in such a manner as to divide and break up the expanse of paving and at strategic points to guide travel flow and direction.

3. Elsewhere, landscaped areas shall be designed to soften and complement the building site, and where a retention pond is included in the site design, said pond shall be properly landscaped.

At a minimum, interior lot landscaping shall be provided as follows.

<table>
<thead>
<tr>
<th>Use</th>
<th>% of Lot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional</td>
<td>20%</td>
</tr>
<tr>
<td>Industrial/wholesale/storage</td>
<td>10%</td>
</tr>
<tr>
<td>Office</td>
<td>10%</td>
</tr>
<tr>
<td>Commercial-retail-service (not in CC District)</td>
<td>8%</td>
</tr>
<tr>
<td>Multi-family Projects</td>
<td>20%</td>
</tr>
</tbody>
</table>

Landscaping along exterior building walls and structures is suggested to separate with greenery the building from the vehicular surface area.
Section 4.4-6 Landscaped Areas

All landscaped areas in or adjacent to parking areas shall be protected from vehicular damage by a raised concrete curb or an equivalent barrier of six (6) inches in height. The barrier need not be continuous. Landscaped areas must be at least 36 square feet in size.
Section 4.4-7 Required Maintenance

The maintenance of required landscaped areas shall be the responsibility of the property owner. All such areas shall be properly maintained so as to assure their survival and aesthetic value, and shall be provided with an irrigation system or a readily available water supply. Where feasible, the water supply shall consist of improved irrigation systems, such as drip and microspray that prevent street and sidewalk overspray. Failure to monitor such areas is a violation of this Ordinance, and may be remedied in the manner prescribed for other violations.

Section 4.5 Common Open Space

Section 4.5-1 Definition

Common open space is land and/or water bodies used for recreation, amenity or buffer; it shall be freely accessible to all residents and property owners of a development, where required by this Ordinance. Open space shall not be occupied by buildings or structures other than those in conjunction with the use of open space, roads, or parking nor shall it include the yards of residential dwelling units required to meet minimum lot area or parking area requirements.

Section 4.5-2 Purpose

The purpose of this section is to ensure adequate open space for high density residential development; to integrate recreation, landscaping, greenery, and/or natural areas into such projects; to promote the health and safety of residents of such projects; and to compensate for the loss of open space inherent in single-family residential projects.

Section 4.5-3 Common Open Space Plan

Proposed uses/projects set forth in 4.5-4 shall submit an open space or landscaping plan as part of the application for a building permit. The plan shall:

1. Designate areas to be reserved as open space. The specific design of open space shall be sensitive to the physical and design characteristics of the site.

2. Designate the type of open space which will be provided, and indicate
the location of plant materials, decorative features, recreational facilities, etc.

3. Specify the manner in which common open space shall be perpetuated, maintained and administered.

Section 4.5-4 Where Required

The following uses/projects consisting of eight (8) or more units shall provide common open space in the amounts prescribed:

<table>
<thead>
<tr>
<th>Proposed Uses/Projects</th>
<th>Ratio (% Lot)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cluster Developments</td>
<td>20%</td>
</tr>
<tr>
<td>Townhouse Projects</td>
<td>15%</td>
</tr>
<tr>
<td>Multi-family Projects</td>
<td>20%</td>
</tr>
</tbody>
</table>

Note: Landscaped buffer areas provided to meet the requirements of Section 4.1 for multi-family projects may be applied toward meeting the above requirements if held in common ownership.

New Sites: No proposed development, building or structure in connection with the above shall hereafter be erected or used unless common open space is provided in accord with the provisions of this section.

Existing Sites: No existing development, building or structure in connection with the above shall be expanded or enlarged unless the minimum common open space required by the provisions of this section are provided to the extent of the alteration or expansion.

Section 4.5-5 Types of Common Open Space and Required Maintenance

The types of common open space, which may be provided to satisfy the requirements of this Ordinance together with the maintenance required for each, are as follows:

Natural areas are areas of undisturbed vegetation or areas replanted with vegetation after construction. Woodlands and wetlands are specific types of natural areas. Maintenance is limited to removal of litter, dead trees, plant materials, and brush. Natural watercourses are to be maintained as free flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.
Recreational areas are designed for specific active recreational uses such as tot lots, tennis courts, swimming pools, ball fields, and similar uses. Recreational areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.

Greenways are linear green belts linking residential areas with other open space areas. These greenways may contain bicycle paths, footpaths, and bridle paths. Connecting greenways between residences and recreational areas are encouraged. Maintenance is limited to a minimum or removal and avoidance of hazards, nuisances, or unhealthy conditions.

Landscaped areas shall consist of lawns and required buffer areas, including creative landscaped areas with gravel and tile, so long as the tile does not occupy more than two percent of the required open space. Lawns, with or without trees and shrubs, shall be watered regularly to ensure survival and mowed regularly to ensure neatness. Landscaped areas shall be trimmed and cleaned regularly.

Section 4.5-6  Preservation of Open Space

Land designated as common open space may not be separately sold, subdivided or developed. Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved and maintained as required by this section by any of the following mechanisms or combinations thereof:

1. Dedication of and acceptance by the City.

2. Common ownership of the open space by a homeowner’s association that assumes full responsibility for its maintenance. The homeowners association shall be registered with the SC Secretary of the State.

3. Deed restricted, private ownership, which shall prevent development and/or subsequent subdivision of the open space land and provide the maintenance.

In the event that any private owner of open space fails to maintain same, the
City may in accordance with the Open Space Plan and following reasonable notice, demand that deficiency of maintenance be corrected, and enter the open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space.

Section 4.6 Tree Protection

Section 4.6-1 Purpose

The purpose of this section is to protect and sustain the intrinsic value of trees and their ability to promote the public safety, health, and welfare through the benefits such vegetation provides, including, but not limited to:

1. Absorbing carbon dioxide and returning oxygen,
2. Reducing air pollution,
3. Providing shade and making outdoor areas more habitable,
4. Reducing soil erosion and increasing infiltration, and
5. Providing wildlife habitat, thus helping control insects.

Section 4.6-2 Protected Trees and Protected Tree Areas

Any tree measuring 12” DBH or larger (Diameter Breast High is measured at 54” above grade) shall constitute a “significant tree” for purposes of this section and shall be protected to the extent practical and feasible. Any tree measuring 24” DBH or larger shall constitute a Grand Tree, the removal of which shall be prohibited, except as provided by this section. To this end, no person, firm, organization, society, association or corporation, or any agent of representative thereof shall directly or indirectly destroy or remove any tree in violation of the terms of this section.

Protected tree areas shall consist of required setback areas and yards, bufferyards and required open space. Trees located outside of these designated areas shall not be subject to the requirements of this section.

Section 4.6-3 Exceptions

The following uses are exempt from the requirements of this Section:

(1) Farming and agricultural operations,
Section 4.6-4 Tree Survey

Prior to grading or clearing a lot or parcel for development and the issuance of a grading or building permit, the developer/owner applicant shall have conducted a tree survey identifying the location of all protected trees. Said trees shall be shown on a survey plat and physically marked with brightly colored tape or other markings.

Section 4.6-5 Site Design

The design of any land development project or subdivision shall take into consideration the location of all protected trees identified on the tree survey. Lot and site design shall minimize the need to fell protected trees, of which no more than 25 percent may be removed from required setback areas and yards, buffer areas and/or open space. All practical configurations of a site design shall be considered before the approval of a permit to fell a Grand Tree shall be issued, irrespective of the location of said tree(s), in or out of the buildable area. The Zoning Administrator shall have the authority to adjust and mitigate all applicable setback and development regulations and require within reason a developer to redesign a project to save a Grand Tree.

The site design shall be presented on a site plan showing:

(1) Existing location and size of all significant trees
(2) Trees to be removed
(3) Trees to be preserved

Site plan approval by the Zoning Administrator shall be prerequisite to the issuance of a grading and/or building permit.

Section 4.6-5 Tree Protection and Replacement

Prior to Development. Where a grading permit or building permit has not been issued, the destruction of any protected tree, as defined by this Ordinance, without prior approval of the Zoning Administrator which approval shall not be unreasonably withheld, shall be prohibited.
During Development. During grading and construction, a protected area equal to one foot for every inch of DBH of each tree shall be provided within which paving, grading, or the storage of dirt, building materials, debris, or any other materials or any other equipment shall not be allowed. Each protected area shall be enclosed by a barrier constructed in a manner required and approved by the Zoning Administrator prior to issuance of a grading permit. Failure to maintain barriers may result in revocation of the building and/or grading permit. For projects not requiring a grading permit, the required barriers shall be constructed by the property owner and approved by the Zoning Administrator prior to issuance of a building permit. Protective barriers shall be maintained until issuance of a Certificate of Occupancy. The protected area shall be permanent and maintained by the property owner. No pavement shall be installed in the protected area. The Zoning Administrator may reduce the protected area or allow intrusions into it if such actions would not adversely affect the survival and health of the tree.

After Development. No person shall break, damage, remove, cut, kill or cause to be killed any significant tree (12" or greater DBH), except for the following:

In the event that any tree shall be determined to endanger the public health, safety or welfare and require removal, written authorization may be given by the Zoning Administrator and the tree or parts thereof (i.e. dead limbs) removed.

During the period of an emergency, such as a hurricane, tornado, ice storm, flood or any other act of nature, the Zoning Administrator may waive the requirements of this section.

Where due to unusual site conditions or circumstances, the requirements of this section pose a constraint to development and/or the use of a site or parcel, the Zoning Administrator may adjust the requirements as necessary to moderate the constraint.

Trees involved in wetland mitigation.

Pine trees may be cut and removed from any site without regard to size.

Diseased (unhealthy) or nuisance trees, with approval of the Zoning Administrator.
Nothing in this section shall be construed to prevent an individual home owner from cutting down a protected tree on his or her residential property without review and approval of the Zoning Administrator.

**Section 4.6-6 Protected Trees Removed Without Permits**

Where protected trees have been removed or where removal is necessitated at any time due to acts of negligence, or where sites were cleared of protected trees in violation of this section, replacement trees shall be planted in accord with a replacement schedule approved by the Zoning Administrator, who shall specify the number, species, DBH, and location of replacement trees, using the following criteria: Combined DBH of replacement trees is equal to or greater than three (3) times the DBH of the tree removed or; Individual replacement trees are of the largest transplantable DBH available.

**Section 4.7 Outdoor Lighting**

**Section 4.7-1 Purpose**

The purpose of these regulations is to minimize light pollution; reduce glare, light trespass and prevent unnecessary up-light; to discourage energy waste; and to maintain or improve nighttime public safety, security and productivity.

**Section 4.7-2 Exterior Illumination**


All outdoor lighting fixtures rated 1800-lumens or more shall be full cutoff or fully shielded fixtures. Except for streetlights, all lighting fixtures shall be designed, installed, and maintained to avoid casting direct light onto adjacent properties and streets or creating glare in the eyes of motorists and pedestrians. Lighting for streets and parking areas shall be full cut off fixtures.

For all lighting applications the “maintained horizontal luminance recommendations” set by the Illuminating Engineering Society of North America (IES) shall not be exceeded.

Floodlighting is discouraged, and if used, must be shielded to prevent (1) disability glare for drivers or pedestrians, (2) light trespass beyond the property
line, and (3) light above a 90 degree horizontal plane. (Unshielded wall pack type fixtures are not acceptable).

Section 4.7-3 Gas Station/Convenience Store Canopies

Light fixtures for canopies shall be recessed and have a flat lens mounted flush with the surface (ceiling) or the canopy so as to minimize off-site glare and light trespass. Surface mounted fixtures are acceptable so long as they incorporate a flat lens and provide a full cut-off or fully shielded light distribution. The average maintained luminance level shall not exceed IES recommendations. All area lighting shall be full cut off fixtures.

Section 4.7-4 Sports/Recreational Lighting

Fixtures used for sports and recreational lighting shall be fully shielded or designed with full cut off capability so as to prevent direct glare, light trespass and up light. The hours of operation shall not exceed one hour after the end of the event or 12:00 midnight, whichever is sooner unless authorized in writing by the City.

Section 4.7-5 Outdoor Displays/ Sales Areas

All lighting fixtures shall be full cut off and designed, installed and maintained to prevent direct flare, light trespass, and up light. Lighting for all areas shall not exceed IES recommendations for maintained horizontal luminance levels.

Section 4.7-6 Signs

Top mounted and fully shielded fixtures that direct light downward are required where feasible. When top mounted fixtures are not feasible, up lighting is permissible as long as the fixtures are fully shielded, carefully located and aimed so that the light is directed only onto the sign so as to prevent direct glare, light trespass and up light.

Section 4.7-7 Architectural Lighting

The maximum illumination on any vertical surface or angular roof surface shall not exceed 5.0 average maintained foot-candles. Light fixtures shall be carefully selected, located, aimed and shielded so that light is directed only onto the building facade. Fixtures shall not be directed toward adjacent streets or
properties. To the extent practicable, fixtures shall be mounted on the building, shielded and directed downward to wash the facade or roof with light.

**Section 4.7-8 Exceptions**

1. Temporary lighting used by the police, fire department or emergency services.
2. Federal hazard warning lights.
3. Illuminating federal flags.
4. Cut-off fixtures are acceptable for historical lighting where deemed appropriate by the Planning Commission.

**Section 4.7-9 Grandfathering**

Any fixture lawfully in place prior to this ordinance shall be exempt until the fixture is replaced, moved, modified or upgraded.

**Section 4.7-10 Site Plan Submission Required**

Any individual, business or other entity applying for a permit which includes the installation, renovation, replacement or addition of outdoor lighting fixtures shall submit to the Zoning Administrator for approval a site plan showing the locations and types of any outdoor fixtures including supports and poles. The Zoning Administrator must issue a certificate of approval/denial within 30 days from its receipt of the plan. The plan should include the manufacturer’s catalog cuts. The applicant may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals.

**Section 4.8 Architectural Compatibility**

In any zoning district or subdivision which has a majority of the zoning lots built upon, all subsequently permitted buildings must substantially conform to the architectural standards established by the majority of existing structures. By determination of the Zoning Administrator, subsequent structures must conform as to architectural style, general design, square footage of living area (exclusive of garages and porches), external siding materials and overall treatments.

However, compatibility does not equate to conformity. Exterior variations are encouraged as a means of making a subdivision or zoning district more interesting and appealing.
ARTICLE 5

SIGN REGULATIONS

The purpose of this Article is to protect the dual interest of the public and the advertiser. The regulations herein are designed to protect public safety and welfare and to ensure the maintenance of an attractive physical environment while satisfying the needs of sign users for adequate identification, communication, and advertising.

Section 5.1 Applicability and Conformance

This Article regulates the number, size, placement, and physical characteristics of signs; allows certain signs without permits; prohibits certain signs; and requires permits for certain signs.

From and after the adoption of this Ordinance, no sign may be erected or enlarged within the jurisdiction of this Ordinance unless it conforms to the requirements of this Article.

Section 5.2 Signs on Private Property

Signs shall be allowed on private property in accord with Table 4. If the letter “A” appears for a sign type in a column, such sign is allowed without prior permit approval in the zoning district represented by that column. If the letter “P” appears for a sign type in a column, such sign is allowed only with prior permit approval in the zoning district represented by that column. If the letter “N” appears for a sign type in a column, such a sign is not allowed in the zoning district represented by that column under any circumstances.

All signs permitted by Table 4, including those designated by an "A", shall meet the conditional requirements of Table 5, as well as all other applicable requirements of this Section.
### Table 4
**REGULATION OF SIGNS**
By Type, Characteristics, and Zoning Districts

<table>
<thead>
<tr>
<th>District</th>
<th>R-20 R-12 R-4</th>
<th>RG RM</th>
<th>CC</th>
<th>GC</th>
<th>NC</th>
<th>CE</th>
<th>ID</th>
<th>INS (3)</th>
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<tbody>
<tr>
<td>Permanent Signs</td>
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<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td><strong>Freestanding</strong></td>
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<td>N</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>N</td>
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<td>Principal</td>
<td>(1)</td>
<td>(1)</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Incidental</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
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<td><strong>Building</strong></td>
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<td></td>
<td></td>
<td></td>
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<td></td>
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<td>Canopy</td>
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<td>N</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td>A</td>
<td>A</td>
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<td>A</td>
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<td>P</td>
<td>P</td>
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<td>Murals (see Sec. 5.6)</td>
<td>N</td>
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<td>P</td>
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<td>P</td>
<td>P</td>
<td>N</td>
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<td>P</td>
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<td>Roof, Integral</td>
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<td>P</td>
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<td>P</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>N</td>
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</tr>
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<td>Flags – governmental, institutional</td>
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<td>Flags, Feather</td>
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<td>P</td>
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</table>

NA = Not Applicable
(1) Signs identifying or announcing land subdivisions, or residential projects.
(2) See Section 5.5
(3) This column does not represent a zoning district. It applies to institutional and other non-residential uses permitted in residential zoning districts i.e. churches, school, parks, etc. and includes historical markers.
<table>
<thead>
<tr>
<th></th>
<th>R-20</th>
<th>R-12</th>
<th>RG</th>
<th>RM</th>
<th>CC</th>
<th>GC</th>
<th>NC</th>
<th>CE</th>
<th>ID</th>
<th>INS (B)</th>
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<td><strong>Freestanding Signs: Number Permitted</strong></td>
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<tr>
<td>Per Lot</td>
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<tr>
<td>Billboards (Off-premise)</td>
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<td>NA</td>
<td>NA</td>
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<td>NA</td>
<td>NA</td>
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<td>1(A)</td>
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<td>(C)</td>
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<td>(C)</td>
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<td><strong>Maximum Sign Area (s.f.)</strong></td>
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<td>4(A)</td>
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<td>(F)</td>
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<td><strong>Minimum Setback from Property Line</strong></td>
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</tr>
<tr>
<td>Billboards (Off-Premise)</td>
<td>300’</td>
<td>300’</td>
<td>300’</td>
<td>20’</td>
<td>20’</td>
<td>300’</td>
<td>20’</td>
<td>300’</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (On-Premise)</td>
<td>5’</td>
<td>5’</td>
<td>NA</td>
<td>5’</td>
<td>5’</td>
<td>5’</td>
<td>5’</td>
<td>5’</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Maximum Height</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Billboards (Off-Premise)</td>
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<td>NA</td>
<td>NA</td>
<td>100</td>
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<td></td>
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<tr>
<td>Other (On-Premise)</td>
<td>6’</td>
<td>6’</td>
<td>NA</td>
<td>(H)</td>
<td>12’</td>
<td>6’</td>
<td>(H)</td>
<td>12’</td>
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<td></td>
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<td></td>
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</tr>
<tr>
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<td>NA</td>
<td>NA</td>
<td>NA</td>
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<td>NA</td>
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<td>Maximum Sign Area (s.f.)</td>
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<td>NA</td>
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<tr>
<td>Maximum Wall Area</td>
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<td>NA</td>
<td>(D)</td>
<td>25%</td>
<td>10%</td>
<td>NA</td>
<td>25%</td>
<td>NA</td>
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<td></td>
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<td>Maximum Window Area</td>
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<td>NA</td>
<td>20%</td>
<td>20%</td>
<td>10%</td>
<td>NA</td>
<td>25%</td>
<td>NA</td>
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<tr>
<td><strong>Temporary Signs (E)</strong></td>
<td>See Section 5.5</td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table Notes: NA= Not Applicable  
s.f.= square feet

(A) - One identification sign, not to exceed 24 Square feet, is permitted for each entrance of a multi-family residential complex or subdivision.

(B) - This column does not represent a zoning district. It applies to institutional and other non-residential uses permitted in Residential Zoning districts, i.e. churches, schools, parks,

(C) - One per developed lot only, except where street frontage exceeds 300 feet, then additional signage is permitted on the basis on one (1) per 300 feet of street frontage. Also, one additional sign is permitted if property is located within 3,500 feet of I-85.

(D) - Maximum wall area coverage for a business sign shall be 25%. Maximum wall area coverage for a mural, where permitted by Table 4 shall be determined by the proposed mural image and approval by Architectural Review Board.

(E) - Maximum number at any one time shall be two.

(F) - 150 square feet, except where located within 3,500 feet of I-85 ROW, where the maximum may be 200 square feet.

(G) - Billboards may be erected only on vacant lots with frontage on I-85. Minimum distance shall be 500’ between billboards measured on either side of the Interstate along the centerline of the Interstate.

(H) - 30 feet, except where property is located within 3,500 feet of I-85 where the maximum height is increased to 75’ and a second on-premise sign not to exceed 30 feet is permitted.
Section 5.3 Common Signage Plan Required

A Common Signage Plan shall be prerequisite to the issuance of any sign permit involving:

1. Two or more contiguous lots or parcels under the same ownership,
2. A single lot or parcel with more than one principal use or building (not including accessory uses or buildings) or qualifying on the basis of street frontage for more than one free-standing sign, and
3. A PDD (Planned Development District) project.

The Plan shall contain all information required for sign permits generally (Section 9.7-4) and shall specify standards for consistency among all signs on the lot affected by the Plan with regard to:

Lettering or graphic style;
Lighting;
Location of each sign on the buildings;
Material; and
Sign proportions.

A Common Signage Plan shall limit the number of free-standing signs to a total of one for each street on which there is frontage and shall provide for shared or common usage of such signs; however the maximum sign area may be increased by 50%.

Once approved by the Zoning Administrator, the Common Signage Plan shall become binding on all businesses and uses occupying the affected lots, but may be amended by filing a new or revised Plan in conformance with the requirements of this Ordinance.

If any new or amended Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within three years, all signs not conforming to the proposed amended Plan or to the requirements of this Ordinance.

Section 5.4 Signs in the Public right-of-way

No sign shall be allowed in the public right-of-way, except for the following:
1. Public signs erected by a governmental body;
2. Informational signs of a public agency or utility;
3. Church signs, in accord with state law;
4. Historical signs and markers;
5. Emergency signs;
6. Directional signs of a temporary nature not to exceed three sq. feet and 24 hours duration for such events as yard sales, auctions, public gatherings, etc.; provided they are located no closer than 500 feet apart.
7. Transit stop signs erected by a public agency and bench and bus shelter signs in association therewith.
8. Temporary A-Frame Signs meeting requirements of Section 5.5.

**Section 5.5 Temporary Signs**

Where permitted by Table 4, the placement and use of temporary signs shall be governed by Table 6, as follows:

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Maximum Display Period (H)</th>
<th>Min. Display Intervals</th>
<th>Maximum Dimensions</th>
<th>Conditions</th>
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</thead>
<tbody>
<tr>
<td>A-Frame</td>
<td>Daylight hours only</td>
<td>Off-hours</td>
<td>12 sq. ft.</td>
<td>A</td>
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<tr>
<td>Banner</td>
<td>30 days</td>
<td>6 months</td>
<td>40 sq. ft.</td>
<td>B</td>
</tr>
<tr>
<td>Posters</td>
<td>30 days</td>
<td>None</td>
<td>6 sq. ft.</td>
<td>C</td>
</tr>
<tr>
<td>Portable</td>
<td>30 days</td>
<td>11 months</td>
<td>32 sq. ft.</td>
<td>D</td>
</tr>
<tr>
<td>Inflatable</td>
<td>30 days</td>
<td>1 year</td>
<td>None</td>
<td>E</td>
</tr>
<tr>
<td>Pennants</td>
<td>30 days</td>
<td>6 months</td>
<td>None</td>
<td>B</td>
</tr>
<tr>
<td>Identification</td>
<td>90 days, or project completion</td>
<td>None</td>
<td>100 sq. ft.</td>
<td>F</td>
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<tr>
<td>Political</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>32 sq. ft.</td>
<td>C/G</td>
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<td>Feather flags</td>
<td>30 days</td>
<td>6 months</td>
<td>None</td>
<td>B</td>
</tr>
<tr>
<td>Flags, gov. &amp; institutional</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not applicable</td>
<td>B</td>
</tr>
</tbody>
</table>
### Table 6 Notes:

A. A-Frame or sandwich signs, where located on sidewalks, shall be located in such a manner as not to obstruct pedestrian movement.

B. Banners, pennants and flags shall be properly secured, not allowed to discolor, and be properly maintained at all times, and shall not interfere with pedestrian or vehicular movement.

C. Posters shall not be allowed on any telephone or power poles or any public right-of-way, and shall be placed no closer than five (5) feet from a street or curb.

D. Portable signs shall be limited to one per establishment, shall have no colored or flashing lights, shall not be wired so as to obstruct or hinder pedestrian or vehicular traffic or pose any potential for such hindrance (i.e. exposed drop cord), shall not exceed six (6) feet in height, shall be anchored in accord with the Building Code, and shall not be converted to a permanent sign.

E. Inflatable signs shall be properly anchored and shall not interfere with power lines.

F. Temporary subdivision and work under construction identification signs shall adhere to the Development Standards of Section 5.8.

G. Political signs shall be removed within 15 days after an election.

H. Any display period extensions granted for temporary signage must be approved by the City Zoning Administrator, must be applied for prior to the end date of the current permit, and must be limited to a maximum of two extensions.

### Section 5.6 Murals

Murals permitted in the CC District by Table 4 and further regulated by the requirements of Table 5, also shall adhere to the following:

1. The owner of record of the building on which a proposed mural is to be placed shall, in writing, consent to the placement of the mural on the property, agree to maintain the mural and consent to restore the wall or façade upon which the mural is placed to its prior existing condition if the mural is not properly maintained.

2. Murals which tastefully depict the history, heritage, culture, or events of the local area are to be encouraged. The colors and themes of murals must be compatible with nearby historical buildings and sites and should compliment the prevailing architectural style and ambience of the surrounding area. Loud colors, controversial themes and modern or abstract designs are prohibited. Commercial, pornographic or religious themes are prohibited.

### Section 5.7 Prohibited Signs

All signs not expressly permitted by this ordinance are prohibited. Such signs include, but are not limited to:
1. Signs painted on or attached to trees, fence posts, telephone or other utility poles, stationary vehicles, or natural features.

2. Signs displaying intermittent lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, rescue vehicles or other warning signals, and signs using the words “stop”, “danger”, or any other word, phrase, symbol, or character in a manner that might mislead or confuse motorist.

3. Signs that have been abandoned and no longer correctly direct or exhort any person, advertises a bona fide business, lessor, owner, product, or activity conducted or product available.

4. Signs that have fallen into disrepair, are not properly maintained, are insecure or otherwise structurally unsound, have defective parts in the support, guys and/or anchors, or which are unable to meet minimum safety requirements of the Standard Building Code.

Section 5.8 Development Standards

Section 5.8-1 Visual Area Clearance

No sign shall be located within a vision clearance area as defined in Section 7.6.

Section 5.8-2 Vehicle Area Clearance

When a sign extends over an area where vehicles travel or park, the bottom of the sign structure shall be at least 14 feet above the ground. Vehicle areas include driveways, alleys, parking lots, and loading and maneuvering areas. (See Area Clearance Illustration, 4).

Section 5.8-3 Pedestrian Area Clearance

When a sign extends over a sidewalk, walkway, or other space accessible to pedestrians, the bottom of the sign structure shall be at least 8 feet above the ground. (See Area Clearance Illustration, 4).
Section 5.8-4 Sign Materials; Code Compliance

Permanent and temporary identification signs must be constructed in accord with all applicable provisions of the Building Code and National Electrical Code, and consist of durable all-weather materials.

Images, logos, graphics, etc. painted on permanent signs or buildings must be performed in a professional and workmanlike manner. Permits for painted signs will only be issued to companies who are engaged as sign painters.

Section 5.8-5 Sign Illumination

Illuminated signs shall not directly shine on abutting properties. No illumination simulating traffic control devices or emergency vehicles shall be used, nor shall lights which are intermittently switched on and off, changed in intensity or color, or otherwise displayed to create the illusion of flashing or movement be permitted.

Section 5.9 Sign Measurement

Section 5.9-1 Sign Face Area

The area of a sign enclosed in frames or cabinets is determined by measuring the outer dimensions of the frame or cabinet surrounding the sign face (Illustration 1). Sign area does not include foundations or supports. Only one side of a double-faced or V-shaped, free-standing sign is counted.

For signs on a base material and attached without a frame, such as a wood board or Plexiglas panel, the dimensions of the base material are to be used in the measurement, unless it is clear that part of the base contains no sign related display or decoration.

For signs constructed of individual pieces attached to a building wall, sign area is determined by a perimeter drawn around all pieces (Illustration 2).

For sign structures containing multiple modules oriented in the same direction, the modules are counted as one sign face (Illustration 3).

The maximum surface area visible at one time of a round or three-dimensional sign is counted to determine sign area.
For signs incorporated into awnings, the entire panel containing the sign is
counted as the sign faces unless it is clear that part of the panel contains no
sign related display or decoration.

Section 5.9-2  Clearances

Clearances are measured from the grade directly below the sign to the bottom
of the sign structure enclosing the sign face (Illustration 4).

Section 5.10  Removal of Signs

1. The lawful use of any permanently mounted sign existing at the time of the
enactment of this Ordinance may be continued although such sign does
not conform with the regulations herein, except those declared abandoned
or dilapidated, which shall be removed or remedied upon notification by
the Zoning Administrator.

2. Non-conforming permanent signs shall be removed or brought into
conformity whenever the following occurs:
   a. Property changes ownership and name is changed, or
   b. The occupancy classification of the building is changed.

3. Any existing sign that is subsequently abandoned shall be removed, and
any existing sign exceeding the allowable face area by 25 percent, and
which is subsequently destroyed or damaged to the extent of 60 percent
or more of its replacement cost, shall be removed or brought into
conformity with these regulations.

4. Any non-conforming temporary sign shall be removed or brought into
conformity within sixty (60) of the effective date of this Ordinance.

5. An order under this Section shall be issued, in writing, to the responsible
party of any such sign, or of the building or premises on which such sign is
located to comply within thirty (30) days time. Upon failure to comply, the
Zoning Administrator may cause the sign to be removed and any costs
incurred in the process may be collected in a manner prescribed by law.
Sign Measurement Illustrations

1. Sign Face Area = (A) (B)

2. Sign Face Area = (A) (B)

3. Sign Face Area = (A) (B) + (C) (D) + (E) (F)

4. A = Area Clearance
ARTICLE 6
SUPPLEMENTAL OFF-STREET PARKING AND LOADING REGULATIONS

The provisions of this Article shall supplement the off-street parking requirements contained in Table 1 of this Ordinance.

Section 6.1 General Requirements

1. Where application of the requirements of Table I result in a fractional space requirement, the next larger requirement shall apply.

2. Wherever a building or use, constructed or established after the effective date of these regulations is changed or enlarged in floor area, number of dwelling units, seating capacity or otherwise to create a need for an increase of ten percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

3. Off-street parking areas provided to comply with the provisions of this Ordinance shall not be reduced below the requirements of this Ordinance.

4. Off-street parking areas shall be designed, developed and maintained in accordance with the requirements of this Article.

5. The Zoning Administrator is authorized to reduce the amount of required parking by up to 50 percent, where street parking or other alternative off-site parking is available.

Section 6.2 Land to Provide Parking

If the required number of parking spaces cannot reasonably be provided on the same lot as the principal use, such spaces may be provided on other off-street property provided such property lies within four hundred (400) feet of an entrance to such principal use. A legal instrument of written agreement between the property owner(s) of the lot of principle use and the property owner(s) of the lot for parking must show that the parking spaces shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner. A copy of the legal instrument must be provided to the City.
Section 6.3 Design Standards

1. Parking Dimensions

Parking spaces shall be not less than nine (9) feet by twenty (20) feet, except that a maximum of ten percent (10%) of the total number of spaces may be eight and one-half (8.5) feet by eighteen (18) feet. However, the dimensions of all parallel parking spaces shall be not less than nine (9) feet by twenty-three (23) feet.

Travel lanes within parking lots must be a minimum of twelve (12) feet in width for one-way traffic and a minimum of twenty-four (24) feet in width for two-way traffic.

See Section 6.4 for uses that provide drive-thru services.

2. Paving and Drainage

Parking lots shall be designed to incorporate green infrastructure that allows stormwater to infiltrate the soil rather than sheet flow across the parking lot.

Where the gross floor area (GFA) of the principal use is 20,000 square feet or greater, all ingress and egress drives shall be surfaced with a permeable surface material to reduce runoff, approved by the Zoning Administrator. Expansive surface parking lots shall be avoided. Instead parking lots shall be broken down into sections as appropriate for the type and size of development, and shall be separated by landscaped divider strips, berms, and similar devices.

Parking lots shall be designed so as not to drain into or across public sidewalks or on to adjacent property, except into a natural watercourse or a drainage easement. In developed areas where this condition may be impossible to meet, the Zoning Administrator may exempt the developer from this requirement, provided that adequate alternative provision is made for drainage.


Except for single-family homes, required off-street parking spaces shall be separated from public rights-or-way by a wall, fence, curbing, or other protective device approved by the Zoning Administrator.
4. **Entrances and Exits**

Landscaping, curbing, or other approved barriers shall be provided along boundaries to control entrance and exit of vehicles or pedestrians. All off-street parking areas shall be designed so that all movement onto a public street is in a forward motion. Entrance and exit driveways to public streets in the vicinity of street intersections must be located at least fifty (50) feet, measured along the curb line, from the intersection of the nearest curb line.

Entrance drives to parking lots for non-residential uses and for residential uses with two-way traffic must be a minimum of twenty-four (24) feet in width.

Sight triangles shall be maintained where drives or streets intersect streets. The sight triangle for a drive shall be defined according to Section 7.6 with one of the side legs of the triangle defined by the edge of the drive.

5. **Marking**

Parking lots shall be marked by painted lines, curbs, or other means to indicate individual spaces. Signs or markers may be used as necessary to ensure efficient traffic operation of the lot.

6. **Lighting**

Adequate lighting shall be provided if off-street parking spaces are to be used at night. Such lighting shall be installed in accord with the Outdoor Lighting provisions of Section 4.7.

7. **Landscaping**

Off-street parking areas shall be landscaped in accord with the provisions of Section 4.4.

**Section 6.4 Stacking of Vehicles for Drive-Thru Services**

In addition to the number of spaces required, uses which provide drive-thru services shall provide queuing lanes to accommodate the stacking of vehicles. An area of eight and one-half (8.5) feet by eighteen (18) feet shall be provided for each car length required as listed:
TYPE OF USE:                      MINIMUM NUMBER OF CAR LENGTHS:
Restaurants                      8 per lane
Car washes                       6 per bay
Financial Institutions            3 per lane or automated teller machine
Retail and Other Uses            3 per lane

Section 6.5 Maintenance

All off-street parking areas shall be maintained in a clean, orderly, dust-free, and weed-free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles or equipment, except for service and auto repair stations/garages.

Section 6.6 Mixed Uses

Where more than one principal use, whether with the same or different parking requirements occupy the same building or premises or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately. However, up to 50 percent of the parking spaces required for (1) theaters, public auditoriums, bowling alleys, dance halls, clubs, churches and religious institutions may be provided and used jointly by (2) financial institutions, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during the same hours as those listed in (1); provided however, that written agreement thereto is properly executed and filed with the City.

Section 6.7 Off-Street Loading

All uses shall provide off-street loading space sufficient for their requirements. Such space shall be arranged so that no vehicle being loaded or unloaded in connection with normal operations shall stand in or project into a public street or sidewalk.

Off-street loading and unloading space shall in all cases be located on the same lot or parcel of land as the structures they are intended to serve, except in the CC District.
Section 6.8 Storage and Use of Campers or Recreational Vehicles in Residential Zones

No recreational vehicle or boat shall be parked or stored in any required front or side yard setback area or within five (5) feet of the property line; however, such use may be parked anywhere on a residential lot for a period not to exceed twenty-four (24) hours during loading or unloading. No more than one recreational vehicle or boat may be parked or stored in public view from a street.

A recreational vehicle may be used for temporary lodging in a residential district for no more than thirty (30) days in any one calendar year. Where a valid building permit for construction of a new home or repair/reconstruction of an existing home has been issued by the Building Department, a recreational vehicle may be used as temporary lodging during construction or reconstruction for a period not to exceed the duration of the permit.

Section 6.9 Parking, Storage, and Use of Non-Residential Vehicles and Equipment in Residential Zones

No automobile, truck, or trailer of any kind or type, without current license plates, shall be parked and construction equipment shall not be stored on any lot in a residential zone, other than in completely enclosed buildings, or physically removed from vision from the public street serving the property.

Parking of vehicles, implements and/or equipment used for commercial, industrial, or construction purposes in residential zones shall be limited to one vehicle per residence, with a capacity no greater than two (2) tons.

Vehicles with capacity greater than two (2) tons and used for commercial, industrial, or construction purposes are prohibited from parking in residential zones, including the street/highway right-of-way, when not actively involved in commerce.
ARTICLE 7

GENERAL AND ANCILLARY REGULATIONS

The regulations set forth in this Article are intended to clarify, supplement, or modify the regulations set forth elsewhere in this Ordinance.

Section 7.1 Application of Regulations

The various zoning district regulations established herein are declared to be the minimum requirements necessary to carry out the purpose of this Ordinance. These regulations apply to each class or kind of structure or land, and are the minimum standards for all site clearing, development, buildings, structures, or alterations to land or structures within the jurisdiction of this Ordinance.

No part of a yard, open space, or off-street parking required in connection with any building for the purpose of complying with the regulations of this Ordinance shall be included as part or all of the required yard, open space, or off-street parking for another building or structure, except as hereinafter provided.

Section 7.2 Exceptions and Modifications

1. Setbacks - Corner Lots

The setback from the street upon which the principal building will face shall be the minimum required front yard. The setback from the street upon which the side of the building will face shall be the minimum required front yard setback for the street upon which it is contiguous.

2. Setbacks - Through or Double Frontage Lots

Front yard setbacks for double frontage lots shall be provided for both streets upon which the lot has frontage, and any accessory use(s) shall be prohibited from the required front yard setback of the street upon which the principal building fronts.

3. Setbacks - Partially Developed Areas

Where the majority of lots in a block fronting on the same side of a street between two intersecting streets are lawfully occupied with buildings having
greater or lesser front yard depth than required by these regulations, no building hereafter erected or altered shall vary in the front yard setback by more than ten feet from the average depth of said existing front yard setbacks without a variance from the Board of Zoning Appeals.

4. Setbacks – Multiple Buildings on Lot

Whenever more than one main building is to be located on a lot, the required yards shall be maintained around the group of buildings and a horizontal distance that is at least equal to the height of the highest adjacent building shall separate buildings.

5. Setbacks – Accessory Uses – See Section 8.5

6. Height

The height limitations of this Ordinance shall not apply to the following:
Belfries
Flag Poles
Chimneys
Ornamental towers and spires
Church spires
Public Monuments
Cupolas
Public utility poles
Domes
Smoke stacks
Fire towers
Silos
Water tanks
Antennas and Antenna Towers

Such features shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve and no height extension shall serve as a place for human habitation.

Such features shall require an applicant to provide evidence from appropriate authorities to the effect that such features will not interfere with any airport approach zones or flight patterns or impose a danger to adjacent properties.

7. Projections

The space in any required yard shall be open and unobstructed except for the ordinary projections of windowsills, cornices, eaves, window air conditioning units, and other architectural features, provided that such features shall project no more than two feet into any required yard.

Steps and heating and cooling units may project into a required yard a distance not to exceed 5 feet but no closer than three feet of a property line.

Section 7.3 Measurements

1. Yards, Setbacks, Buildable Area

The required front, side, and rear yards for individual lots, as set forth for by Table 2, shall be measured inward toward the center of said lot from all points along the respective front, side, and rear property lines of the lot. Once the yard areas of a given lot have been established, the remaining area of the lot which is not included in any required front, side, or rear lot shall be known as the “buildable” area within which the approved structure(s) shall be placed.
2. **Height**

The height of a building or structure shall be measured from the average grade of the front building line to the highest point of the building or structure.

**Section 7.4 Number of Principal Buildings/Uses on a Lot**

Not more than one single-family dwelling, manufactured or modular home may occupy a lot or parcel.

There is no limit to the number of other principal uses and buildings; provided such buildings and uses shall meet all lot area, setback, density and other applicable requirements of this ordinance.
Section 7.5 Accessory Buildings and Uses

(1) The number of accessory buildings shall not exceed two (2) in any Residential zoning district.

(2) Accessory buildings in residential districts shall not be used for storage in connection with a trade.

(3) Accessory buildings shall not exceed 50 percent of the gross floor area of the principal building or use.

(4) When located within the buildable area of the primary structure, accessory buildings may be constructed to a height of 20 feet. If located outside the buildable area of the primary structure, said buildings shall not exceed 12 feet in height.

(5) No accessory use shall occupy any part of a bufferyard.

(6) Micro-Farms may consist of no more than a combination of 8 of the following animals – six ducks or chickens (no roosters allowed), one pot belly pig, two pygmy goats; provided such animals are kept and housed in the rear yard only, and there is at least 100 square feet of permeable land per animal in the rear yard area.

(7) No more than four (4) domestic animals (dogs) may be housed or kept on a lot. Where micro-farm animals are also maintained on the same lot, the total combined number of domestic and micro-farm animals shall not exceed eight (8); provided the animals shall be housed in the rear yard and there is at least 100 square feet of permeable land per animal in the rear yard area.

(8) No manufactured home may be used as an accessory use.
### TABLE 7
**SETBACKS FOR ACCESSORY USES**

<table>
<thead>
<tr>
<th>Accessory Uses</th>
<th>Required Setback Area</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To Residential Uses</strong></td>
<td>Front</td>
</tr>
<tr>
<td>Bathhouses, Cabanas, Decks</td>
<td>BL</td>
</tr>
<tr>
<td>Domestic Animal Shelters</td>
<td>BL</td>
</tr>
<tr>
<td>Micro-Farm Animal Shelters/Pens</td>
<td>BL</td>
</tr>
<tr>
<td>Non-commercial greenhouses</td>
<td>BL</td>
</tr>
<tr>
<td>Detached garage &amp; carport</td>
<td>BL</td>
</tr>
<tr>
<td>Storage Building</td>
<td>BL</td>
</tr>
<tr>
<td>Fences &amp; walls</td>
<td>(B)</td>
</tr>
<tr>
<td>Swimming pool, tennis courts</td>
<td>BL</td>
</tr>
<tr>
<td>Auxilliary shed, workshop, storage building, etc.</td>
<td>BL</td>
</tr>
<tr>
<td>Off-street parking</td>
<td>10’</td>
</tr>
<tr>
<td>Horticulture, gardening</td>
<td>0’</td>
</tr>
<tr>
<td>Satellite dishes, etc.</td>
<td>BL</td>
</tr>
<tr>
<td><strong>To Non-Residential Uses</strong></td>
<td></td>
</tr>
<tr>
<td>Buildings, structures</td>
<td>BL</td>
</tr>
<tr>
<td>Open Storage</td>
<td>BL</td>
</tr>
<tr>
<td>Off-street parking/loading area</td>
<td>0’</td>
</tr>
<tr>
<td>Shipping Containers</td>
<td>BL</td>
</tr>
<tr>
<td>Free standing signs</td>
<td>5’</td>
</tr>
<tr>
<td>Antennas</td>
<td>BL</td>
</tr>
</tbody>
</table>

**Note:** Minimum setback shall be not less than the requirements of Table 2, if buffer yard is required.

(A) Minimum Setbacks:
- **Side Yard**
  - From Residential Zoned Property Line: 20’
  - From all other Property Lines: 0’
- **Rear Yard**
  - 20’

(B) Fences and walls may be located in all required yards along any property line provided the structure shall meet the visibility requirements of Section 7.6; further provided that the structure shall not exceed 6 feet in height and opaque fences shall not be constructed in the front yard setback area unless approved by the Zoning Administrator.

BL = Required Building Line for principal use.

### Section 7.6 Visibility at Intersections

On any corner lot in any district, no vehicle, object, or planting shall be placed or maintained and no fence, building, wall, or other structure shall be constructed at any point between a height of two and a half (2 ½) feet and ten (10) feet above the upper face of the nearest curb (or street center line if no curb exists)
and within the triangular area bounded on two sides by the street right-of-way lines extending 15’ in each direction of a corner and on the third side by a straight line connecting points on the two street right-of-way lines as required by the site triangular and vertical vision clearance illustration. However, poles and support structures less than 12” in diameter may be permitted in such areas.

**Vision Clearance Illustration**

Sight Triangles

| Sight Triangle Easement (Typical) | Right of Way (R.O.W.) |

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**Section 7.7 Non-conformities**

**Section 7.7-1 Continuation**

Non-conforming uses, buildings, or structures are declared by this Ordinance to be incompatible with permitted construction in the districts in which they are located.

However, to avoid undue hardship, the lawful use of any such use, building, or structure at the time of the enactment, amendment, or revision of this Ordinance may be continued (Grandfathered) even though such use, building, or structure does not conform to the provisions herein.

**Section 7.7-2 Modification**

A proposed change or modification to a non-conforming use shall be governed by the following:
1. Change of Non-conforming Use

If a change from one non-conforming use to another is proposed and no structural alterations are involved, the change may be permitted, provided:

   a. Non-conformity of dimensional requirements such as height, density, setbacks, or other requirements such as off-street parking shall not be increased; and

   b. The proposed change will have little discernable impact over the existing non-conforming use.

If a change to a permitted use is proposed which is non-conforming only as to dimensional requirements such as height, density, setbacks, or other requirements such as off-street parking, the change may be permitted, provided that all applicable requirements that can be reasonably complied with are met.

Compliance with a requirement is not reasonably possible if it cannot be achieved without adding land to the lot of the non-conforming use or moving the use if it is on a permanent foundation.

Whenever a non-conforming use of land or building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted or non-conforming use.

2. Enlargement or Expansion of Non-conforming Use

Enlargement or expansion of a non-conforming building, use, or structure shall be permitted; provided such enlargement shall meet all applicable setbacks, bufferyard, and off-street parking requirements for the district within which it is located.

3. Repair or alteration of Non-conforming Use, Building, or Structure

The repair or alteration of a non-conforming use shall in no way increase the non-conformity of said use, except as otherwise permitted by Subsection 2 above.

4. Replacement of Non-conforming Use
A building permit for the replacement of a non-conforming building or structure where damaged or destroyed must be initiated within six months of the time of the damage or destruction or forfeit the right of replacement. Damaged or destroyed structures not replaced within this period shall be cleared and the property and grounds properly restored.

Replacement if initiated within six months of the time of damage or destruction shall adhere to all applicable requirements of Table 2.

Replacement of a non-conforming mobile or manufactured home once removed from a lot or parcel shall be accomplished within 30 days of removal or forfeit non-conforming status, and if replaced shall not infringe on established setbacks, and shall meet in full the requirements of Section 3.8.

**Section 7.7-3 Discontinuance**

No building or portion thereof used in whole or in part for a non-conforming use which remains idle or vacated for a continuous period of 12 months, shall again be used except in conformity with the regulations of the district in which such building or land is located. Discontinuance of use shall be determined by removal of equipment, structures, or disconnect of electric power.

When seeking relief under this section it shall be the responsibility of the owner, manager or tenant of a nonconforming use to establish continuous existence of such use.

Listing or posting of a property for sale or lease shall not be deemed a discontinuance.

**Section 7.7-4 Lot of Record**

Where the owner of a lot at the time of the adoption of this Ordinance does not own sufficient land to meet the setback requirements of this Ordinance, such lot may nonetheless be used as a building site provided applicable setback requirements are not reduced by more than 40%. Setback reductions greater than 40% shall be referred to the Board of Zoning Appeals for consideration.
Section 7.8 Orientation of Principal Building on Lot

The front wall of the principal structure shall be parallel to the street upon which it fronts. If the street is curved the front wall shall be parallel to the chord of the arc of the curve. If the curve consists of multiple arcs, the front wall shall be parallel to a line formed by the weighted average of the chords.

If the lot is a corner lot, the front wall may be located parallel to either street or perpendicular to the angle which bisects the corner of the intersection.

If the principal structure is within two degrees of parallel or perpendicular, as the case may be, it shall be deemed parallel or perpendicular.
ARTICLE 8

ESTABLISHMENT, POWERS AND DUTIES OF OFFICIALS, COMMISSIONS AND BOARDS RESPONSIBLE FOR ADMINISTRATION OF THIS ORDINANCE

Section 8.1 Educational Requirements

Unless expressly exempt, as provided for in §6-29-1350 of the SC Code of Laws, each appointed official and professional employee must meet the educational requirements of §6-29-1350 through §6-29-1380 of said Code.

Section 8.2 Zoning Administrator

The Zoning Administrator is hereby designated and duly charged with the authority to administer and enforce the provisions of this Ordinance.

The Zoning Administrator shall accept and examine all applications for construction, land use or reuse, and shall issue permits where such applications are in accord with the provisions of this Ordinance and applicable building codes. He/she shall direct parties in conflict with this Ordinance, and cause to be kept records and files of any and all matters referred to him.

If the Zoning Administrator finds that any one of the provisions of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

Section 8.3 Planning Commission

Section 8.3-1 Establishment

The Gaffney Planning Commission is hereby re-established under the provisions of the SC Code, §6-29-320.
Section 8.3-2 Powers and Duties of the Planning Commission

The Planning Commission shall have the powers and duties provided in S.C. Code Section 6-29-310, et seq.

Section 8.3-3 Composition of the Commission

The Planning Commission shall consist of five (5) members, who shall be citizens of the City of Gaffney and shall be appointed by the City Council for overlapping terms of three (3) years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the original appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Commission.

To the extent possible, membership shall be representative of the racial and gender composition of the City, and represent a broad cross section of the interests and concerns of the City. No member shall be the holder of an elected public office in Gaffney. Members shall serve until their successors are appointed and qualified.

Section 8.3-4 Removal of Members

Members of the Planning Commission may be removed at any time by City Council for cause. The existence of cause shall be discussed by the Council in executive session as permitted by the Freedom of Information Act, SC Code, §30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact that, in the discretion of Council, is deemed to adversely affect the public interest, including lack of attendance at meetings or maintenance of educational requirements, may constitute cause.

Section 8.3-5 Organization and Rules of Procedure

(1) Organization

   a. Rules.

These rules of procedure are adopted pursuant to S.C. Code S 6-29-360 for the City of Gaffney Planning Commission which consists of 5 members appointed by City Council.
b. Officers.

The officers of the Planning Commission shall be a Chairman and Vice-Chairman elected for one year terms at the first meeting of the Planning Commission in each calendar year. A staff member of the Community Development Department shall serve as Secretary of the Planning Commission.

c. Chairman.

The Chairman shall be a voting member of Planning Commission and shall:
1. Call meetings of the Planning Commission;
2. Preside at meetings and hearings;
3. Act as spokesperson for the Planning Commission;
4. Sign documents for the Planning Commission;
5. Transmit reports and recommendations to City Council; and
6. Perform other duties as approved by the Planning Commission and City Council.

d. Vice-Chairman.

The Vice-Chairman shall exercise the duties of the Chairman in the absence, disability, or disqualification of the Chairman. In the absence of the Chairman and Vice-Chairman, an acting Chairman shall be elected by the members present.

e. Secretary.

The Secretary shall:
1. Provide notice of meetings;
2. Assist the Chairman in preparation of agenda;
3. Keep minutes of meetings and hearings.
4. Maintain Planning Commission records as public records;
5. Attend to Planning Commission correspondence; and
6. Perform other duties normally carried out by a secretary.

(2) Meetings

a. Time and Place.

An annual schedule of tentative meetings shall be adopted, published and posted at the designated office in December of each year. The Planning
Commission will normally meet on the second Tuesday of each month at 5:30pm as necessary. The meeting schedule can be changed by a simple majority vote of the Planning Commission.

Special meetings may be called by the Chairman upon a notice of 24 hours. The meeting agenda shall be posted and delivered to all Planning Commission members and local news media.

Meetings shall be held at the place stated in the notices and shall be open to the public.

b. Agenda.

A written agenda shall be furnished by the Secretary to each member of the Planning Commission and shall be posted at least five (5) days prior to each regular meeting, and at least twenty four (24) hours prior to a special meeting.

c. Quorum.

A majority of the members of the Planning Commission shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting.

d. Rules of Order.

Robert's Rules of Order shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

e. Voting.

A member must be present to vote. Each member shall vote on every question unless disqualified by law or by conflict of interest. The question of disqualification shall be decided by the member affected, who shall announce the reason for disqualification, give it to the Chairman in writing, have it placed in the minutes, and refrain from deliberating or voting on the questions.

f. Conduct.

Except for public hearings, no person shall speak at a Planning Commission meeting unless invited to do so by the Planning Commission Chairman.
(3) Public Hearings

   a. Notice.

   The Secretary shall give the notice required by statute or ordinance for all public hearings conducted by the Planning Commission. Members of the public desiring to be heard at the meeting will be required to state their name prior to addressing the Planning Commission.

   b. Procedure.

   In matters brought before the Planning Commission for public hearing which were initiated by an applicant, the applicant, his agent, or attorney shall be heard first, members of the public next, and staff next, or in such order as the Chair shall determine. In matters not initiated by an applicant, members of the public shall speak in such order as the Chair shall determine.

   In all matters, no person may speak for more than five (5) minutes without consent of the Chairman, and a total time limit of 30 minutes shall be allowed to hear the request and hold a public hearing on that request, unless additional time is permitted by the Chairman. No person speaking at a meeting of the Planning Commission shall be subject to cross examination or being placed under oath. All questions shall be posed by members of the Planning Commission. Matters in which additional time is granted may be moved to the end of the agenda. Speakers may prepare copies of their remarks for attachment to meeting minutes.

(4) Records

   a. Minutes.

   The Secretary will make an audio recording of all meetings and hearings of the Planning. The Secretary shall prepare minutes of each meeting for approval by the Planning Commission at the next regular meeting. Minutes shall be maintained as public records.

   b. Reports.

   The Secretary shall assist in the preparation and forwarding of all reports and recommendations of the Planning Commission in appropriate form. Copies of all
notices, correspondence, reports and forms shall be maintained as public records.

c. Attendance.

The minutes shall show the members in attendance at each meeting and the reason for absence submitted by any member. The Planning Commission Chair or his designee shall contact any member who is absent from three (3) consecutive meetings to determine if they wish to continue serving on the Planning Commission. The Chair shall notify City Council of any circumstances that will cause continuing attendance problems.

(5) Adoption and Amendment

a. Adoption.

These rules were recommended to City Council for adoption by vote of a majority of the members of the Planning Commission at a regular public meeting on the 25th day of June, 2019.

b. Amendment.

A recommendation to amend these rules may be considered at any regular meeting of the Planning Commission by majority vote of the members of the Planning Commission at least seven (7) days after the written amendment is delivered to all members. The recommendation will be carried to the City Council for approval.

Section 8.4 Board of Zoning Appeals (BZA)

Section 8.4-1 Establishment

The Board of Zoning Appeals is hereby re-established under the provisions of S. C. Code §6-29-780.

Section 8.4-2 Composition of the Commission

The Board of Zoning Appeals shall consist of five (5) members, who shall be citizens of the City of Gaffney and shall be appointed by the City Council for overlapping terms of three (3) years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the original appointment.
Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board.

To the extent possible, membership shall be representative of the racial and gender composition of the City, and represent a broad cross section of the interests and concerns of the City. No member shall be the holder of an elected public office in Gaffney. Members shall serve until their successors are appointed and qualified.

Section 8.4-3 Removal of Members

Members of the Board of Zoning Appeals may be removed at any time by City Council for cause. The existence of cause shall be discussed by the Council in executive session as permitted by the Freedom of Information Act, SC Code, §30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact that, in the discretion of Council, is deemed to adversely affect the public interest, including lack of attendance at meetings or maintenance of educational requirements, may constitute cause.

Section 8.4-4 Organization and Rules of Procedure

The Board of Zoning Appeals shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected and appoint a secretary, who may be a City Officer, an employee of the City, or a member of the Board of Zoning Appeals. The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and of the General Statutes of South Carolina, Title 6, Chapter 29, Article 5, Code of Laws of S.C., 1976 as amended. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public.

Section 8.4-5 Decisions

A majority vote of an established quorum of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation of this Ordinance. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official
actions, all of which shall be immediately filed in the office of the Board and shall be public record. On all appeals, applications and matters brought before the Board of Zoning Appeals, the Board shall inform in writing all the parties involved in its decisions and reasons thereof.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the City at least fifteen (15) days in advance of the scheduled hearing date. At the hearing, any party may appear in person or by agent or attorney. Notice shall also be posted on the affected property, with at least one such notice being visible from each public thoroughfare that abuts the property.

All questions arising in connection with the enforcement of the Ordinance shall be presented first to the Zoning Administrator. Questions shall be presented to the Board of Zoning Appeals only on appeal from a decision of the Zoning Administrator.

**Section 8.4-6 Powers and Duties**

The Board of Zoning Appeals shall have the following powers and duties:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination by the Zoning Administrator in the enforcement of this Ordinance.

2. To hear and decide appeals for variance from the requirements of the Zoning Ordinance when strict application of the provision of the Ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:
a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
b. These conditions do not generally apply to other property in the vicinity;
c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The Board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

(3) To remand a matter to the Zoning Administrator, upon motion by a party or the Board’s own motion, if the Board determines the record is insufficient for review. A party’s motion for remand may be denied if the Board determines that the record is sufficient for review. The Board must set a rehearing on the remanded matter without further public notice for a time certain within 60 days unless otherwise agreed to by the parties. The Board must maintain a list of persons who express an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

(4) All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board, which must be delivered, to parties of interest by certified mail.

(5) In exercising the above powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken and may issue or direct the issuance of a permit. The Board, in execution of the duties for which appointed, may subpoena witnesses and, in case of contempt, may certify such fact to the Circuit Court having jurisdiction.
ARTICLE 9
ADMINISTRATION, APPLICATIONS AND REQUIRED PERMITS

Section 9.1 Intent

This Article sets forth the procedures required for obtaining certificates of zoning compliance, building permits, grading permits, sign permits, and certificates of occupancy. It also defines the duties, powers, and limitations of officials, departments, commissions, boards, and other groups, which are or may be involved in the administration and enforcement of this Ordinance.

Section 9.2 Responsibility

All requests for permits and licenses required by this Ordinance, and legislative change or relief from the terms of this Ordinance shall be in the form of an application. The provisions of this Article shall govern the basic requirements for processing different types of applications from initiation to final action and issuance of a permit or certificate.

It shall be the responsibility of the Zoning Administrator or his/her designee to administer the requirements for processing applications and issuing permits in accord with the provisions of this Ordinance.

It shall be the responsibility of an applicant to provide the required information to process a permit application, secure or renew a license, and present facts about circumstances which would justify a proposed change or modification to the terms and/or application of this Ordinance.

Section 9.3 Types of Applications

Types of applications for processing matters subject to the requirements of this Ordinance include:

Applications to Develop or Alter the Use of Land

This includes all land use and development activity covered by this Ordinance.
Applications for Change or Relief

This includes applications for changes to and/or relief from any part or provision of this Ordinance, of which there are three types of applications:

1. **Amendment** - is a change to the text of the Ordinance or the Zoning Map.

2. **Variance** - is an adjustment or modification of any regulation alleged to impose an unnecessary hardship on the use or development of land.

3. **Appeal** - is a petition by an applicant to reverse or modify a decision of an administrative officer, board, commission or council.

Section 9.4 Eligible Applicants

Parties and individuals required and/or eligible to initiate an application to alter, develop, or utilize land for purposes and activities regulated by this Ordinance, or to seek relief from or change requirements of this Ordinance are identified on Table 8.

Parties not listed may petition the Planning Commission and/or Council to initiate a change, but the petitioned party is not bound to act on behalf of the petitioner.

<table>
<thead>
<tr>
<th>Eligible Applicants</th>
<th>Applicants to Use or Develop Land</th>
<th>Applicants for Change and/or Relief From Ordinance Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amendment Map</td>
<td>Text</td>
</tr>
<tr>
<td>Property Owners</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Agent of Property Owner</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Option Holder</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>Aggrieved Person or Party</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Officials Administering this Ordinance</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>Planning Commission</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>Governing Council</td>
<td>YES</td>
<td>YES</td>
</tr>
</tbody>
</table>
Section 9.5 Application Procedures

Step 1. Administrative Examination

Upon receipt of an application, the Zoning Administrator shall examine it for completeness and compliance with all applicable requirements of the Zoning Ordinance, and shall, within ten (10) days, either approve the application and issue the requested permits, return the application for additional information or forward it to the responsible governmental authority for additional review and action.

Procedures for processing applications forwarded for additional review and action are as follows.

Step 2. Public Notice

All Applications

Public notice shall include announcing the application for change or relief in a newspaper of general circulation in the City of Gaffney at least 15 days prior to the time the application is scheduled for a public hearing. The notice shall state the nature of the change and the time, date, and place of the hearing.

Application for Zoning Map Change

In addition to the above, notice of an application for a map change (amendment) shall include posting the affected property. Such notice shall be posted at least 5 days prior to the hearing and shall indicate the nature of the change proposed, identification of the property affected, and time, date, and place of the hearing.

In addition to posting, a written notice of the hearing may be mailed by the Zoning Administrator at least fifteen (15) days before the date of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned to the address of such owners appearing on the latest published tax list, neighborhood associations, and to such other list or lists that may be available. The failure to deliver the notice, as provided in this Section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers.
Application for a Variance

In addition to public notice in a newspaper of general circulation, notice of an application for a variance shall be given to all parties of interest.

Step 3. **Public Hearing**

The Planning Commission shall conduct a public hearing on all applications for change involving the text of the Zoning Ordinance and the Zoning Map.

The Board of Zoning Appeals (BZA) shall conduct a public hearing on all applications for relief involving variances and appeals.

Step 4. **Review and Action**

By The Planning Commission

1. The Planning Commission shall act on a completed application within forty-five (45) days after receipt thereof (1) to defer not more than 30 days or (2) to recommend either denial or approval. The decision shall be determined by a majority of those voting. Failure to act within said time frame shall constitute a recommendation of approval.

2. The Commission shall evaluate the proposed amendment and prepare a report relative to the following:
   a. How it relates to and affects the Comprehensive Plan.
   b. Changes in conditions since the adoption of the Plan or Ordinance.
   c. The need to correct an error or deficiency in the Ordinance or the Plan.
   d. Any benefits which would be derived from the amendment.
   e. Any cost to the government generated by the amendment in terms of expenditures for public improvements, facilities, and services.
f. The potential for setting a precedent inconsistent with good zoning practice, i.e. spot zoning.

g. The potential impact on traffic conditions and the carrying capacity of existing streets, and other public facilities including water and sewer, schools and the environment.

The Commission shall forward its report, together with a recommendation, to City Council for final action.

By the City Council

The Gaffney City Council shall consider the recommendation of the Planning Commission and vote to approve, deny, or modify the proposed amendment, refer it back to the Planning Commission for further study, or take other action as it may deem necessary.

By the Board of Zoning Appeals

Applications for a variance shall be evaluated by the Board of Zoning Appeals in accord with the conditions prescribed by Section 8.4-5 of this ordinance.

Step 5. Notification

All applicants for change or relief from the provisions of this Ordinance shall be notified in writing of final action.

An approved amendment by City Council shall become effective immediately after such adoption and any such amendment to the zoning map shall be made by the Zoning Administrator within seven days thereafter.

An approved variance or appeal shall be accompanied by an order of the Zoning Board of Appeals to direct the issuance of a permit.

Step 6. Appeals

Any person who may have a substantial interest in any decision of the Board of Zoning Appeals or City Council may appeal the decision to Circuit Court in and for the County of Cherokee by filing with the Clerk of said Court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary
to law, or where land is the subject of a decision, by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-825 of the Code of Laws of South Carolina. Such appeal shall be filed within thirty (30) days after a decision of the respective body has been rendered.

**Step 7. Consideration of Denied Applications**

Neither the Planning Commission, City Council, nor the Board of Zoning Appeals shall reconsider an application for change or relief to the same lot, parcel or portion thereof, within a period of one year from the date of final determination and notification.

**Section 9.6 Application Requirements and Fees**

All applications shall be filed on forms provided by the City and contain or be accompanied by the information required by Table 9. PDD plans shall be submitted not less than fifteen (15) days prior to the Planning Commission meeting, and shall show the date of submittal.

Fees to help cover the cost of processing applications shall be as established by City Council. A schedule of all required fees is available at City Hall.

No building, structure or sign requiring a permit or any part thereof shall be erected, added to or structurally altered, nor shall any excavation or grading be commenced until an application has been filed with the Zoning Administrator and required permits have been issued.

No building, structure or land shall be used; nor shall any building, structure or land be converted, wholly or in part to any other use, until all applicable and appropriate certificates and permits have been issued certifying compliance with the requirements of this Ordinance. No permits inconsistent with the provisions of this Ordinance shall be issued unless accompanied by an approved variance.

The provisions of this Section shall not apply to the necessary construction, replacement or maintenance by a public utility of its outside plant facilities, including such items as poles, crossarms, guys, wire, cable and drops.
### Table 9
Information Required To Support Application

<table>
<thead>
<tr>
<th>Type of Application</th>
<th>Information Required (Requirements are Cumulative)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PDD</strong></td>
<td>Three (3) copies of plat and PDF in GIS format at scale not less than 1&quot; = 200', showing or specifying:</td>
</tr>
<tr>
<td></td>
<td>1. All information required of General Property and Closing Surveys, in accord with the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, promulgated under authority of the Code of Laws of South Carolina 1976, 40-21-110;</td>
</tr>
<tr>
<td></td>
<td>2. Land acreage; proposed land use and number of lots;</td>
</tr>
<tr>
<td>Preliminary Plan</td>
<td>3. Drainage, erosion and sediment control plan by qualified professional showing all structures and easements;</td>
</tr>
<tr>
<td></td>
<td>4. Proposed layout and dimension of all streets, rights-of-way, pavement widths, lot lines, and easements, specifying purpose of easements;</td>
</tr>
<tr>
<td></td>
<td>5. Proposed bufferyards, open space, landscaping &amp; tree protection plan;</td>
</tr>
<tr>
<td></td>
<td>6. Utilities on and adjacent to tract, and proposed connections;</td>
</tr>
<tr>
<td></td>
<td>7. Land within flood plain;</td>
</tr>
<tr>
<td></td>
<td>8. Location and identification of off-site streets, public facilities, major physical features, names of owners and subdivisions contiguous or in proximity to the subdivision;</td>
</tr>
<tr>
<td><strong>Final Plat</strong></td>
<td>9. Revised plat amendments as required by the Planning Commission;</td>
</tr>
<tr>
<td></td>
<td>10. Exact locations, bearings and distances of all political lines, tract boundary lines, pavement widths, right-of-way widths, road centerlines, easements, lot lines, monuments and markers;</td>
</tr>
<tr>
<td></td>
<td>11. Type of water supply and sewerage connection;</td>
</tr>
<tr>
<td></td>
<td>12. Certificates of survey accuracy, ownership and dedication of all streets, parks, sidewalks, and other sites and facilities to public use, and final approval by the Planning Commission;</td>
</tr>
<tr>
<td></td>
<td>13. Supporting documents, to include the following:</td>
</tr>
<tr>
<td></td>
<td>a. Final detailed as built plans for all improvements,</td>
</tr>
<tr>
<td></td>
<td>b. A copy of all restrictions (covenants) to run with land,</td>
</tr>
<tr>
<td></td>
<td>c. A resolution by Town Council accepting dedicated improvements or a performance guarantee in accord with Section 10.13-2,</td>
</tr>
<tr>
<td></td>
<td>d. DHEC approval of water and sewer systems,</td>
</tr>
<tr>
<td></td>
<td>e. City engineer approval of installation and construction work, or City Council acceptance of performance guarantee,</td>
</tr>
<tr>
<td></td>
<td>f. Financial Guarantee in accord with Section 10.13-2, if applicable</td>
</tr>
<tr>
<td><strong>AMENDMENT</strong></td>
<td>1. Draft new text to be added and existing text to be deleted;</td>
</tr>
<tr>
<td></td>
<td>2. State reasons for change;</td>
</tr>
<tr>
<td></td>
<td>3. Advertise and post property to be rezoned, if map amendment.</td>
</tr>
<tr>
<td><strong>VARIANCE</strong></td>
<td>1. State nature of variance;</td>
</tr>
<tr>
<td></td>
<td>2. Provide evidence of unnecessary hardship;</td>
</tr>
<tr>
<td><strong>APPEAL</strong></td>
<td>State reasons for appeal, with specific reference to action being appealed.</td>
</tr>
</tbody>
</table>
Section 9.7 Types of Required Permits/Certificates

Section 9.7-1 Certificate of Zoning Compliance

A certificate of Zoning Compliance shall be required in advance of:

1. The issuance of a Building Permit.
2. Grading or filling a lot or parcel.
3. Changing the use of any part of a structure or lot, including any increase in the number of families or dwelling units occupying a building or lot.
4. The installation of a manufacturing or other industrial process whose operation may generate effects of the types and magnitudes limited by performance standards as set forth in Section 3.1.
5. Installation of any sign for which a permit is required.
6. The establishment of a temporary use.

When the Zoning Administrator receives an application for a building, grading or sign permit whose proposed improvement and use described and illustrated conforms to all requirements of this Ordinance, he/she shall issue a Certificate of Zoning Compliance and return a signed copy to the applicant within ten (10) days of receipt of the application.

When the Zoning Administrator receives an application for a building, grading or sign permit whose proposed improvement and use described and illustrated does not conform to this Ordinance, he shall deny the issuance of a Certificate of Zoning Compliance, and so advise the applicant within ten (10) days, citing the particular sections of this Ordinance with which the application does not comply.

Section 9.7-2 Grading Permits

A grading permit shall be required prior to any land disturbing activity not exempt by Section 4.6-3. No grading permit shall be issued unless and until a Certificate of Zoning Compliance has first been issued.


Section 9.7-3 Building Permits

A building permit shall be required of all proposed building and/or development activity unless expressly exempt by the City Building Code.

Section 9.7-4 Sign Permits

Where a sign permit is required by Article 5 of this Ordinance, the permit application shall be accompanied by the following:

1. A common signage plan, where applicable, in accord with the requirements of Section 5.3.

2. Identification of landowner and/or leaseholder of property on which the sign is to be erected, including street address.

3. Name and address of owner of the sign.

4. Site plan sketch with dimensions (non-professionally drafted plan is acceptable) showing the location of the sign with respect to the property and right-of-way lines, building and setback lines, and buildings, parking areas, existing free-standing signs, and bufferyards.

5. Correct size, shape, configuration, face area, height, nature, number, and type of sign to be erected, including the size of letters and graphics.

6. The value of the sign and sign structure.

The Zoning Administrator may waive any of the informational requirements listed above deemed unnecessary to process an application.

Section 9.7-5 Certificate of Occupancy

It shall be unlawful to use or occupy or permit the use of occupancy of any building or premises, or both, or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use of structure until a Certificate of Occupancy has been issued stating that the proposed use of the building or land conforms to the requirements of this Ordinance.

Such certificate may be combined with or made a part of the Certificate of
Occupancy required under the Building Code. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance, and punishable under Section 9.11.

Section 9.8 Inspections for Compliance

The Zoning Administrator may make or require inspections of any land disturbing activity, construction or maintenance requirement to ascertain compliance with the provisions of this Ordinance and to ascertain compliance with approved permit applications, plats, plans, and/or certificates.

Section 9.9 Expiration of Sign or Building Permit

If the work described in any permit for a sign, structure or building has not begun within six months from the date of issuance, said permit(s) shall expire; it shall be canceled and written notice thereof shall be given to the owner/developer, unless extended by the Zoning Administrator upon application by the owner/developer.

Section 9.10 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, the Zoning Administrator shall record and investigate such complaint, and take such action as provided by this Ordinance. Complaints may be filed in writing or verbally, stating fully the cause and basis thereof.

Section 9.11 Penalties for Violations

Where any building, structure, or sign is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure, sign, or land is or is proposed to be used in violation of this Ordinance, the Zoning Administrator may in accord with the provisions of Section 56-7-80 of the South Carolina Code of Laws 1976, as amended, issue an ordinance summons, or institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; to correct or abate the violation or to prevent the occupancy of the building, structure, or land. Each day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed a separate offense deemed necessary.
Any person violating any provisions of this Ordinance, in addition to other remedies prescribed by this Ordinance, shall upon conviction be guilty of a misdemeanor and shall be fined as determined by the court for each offense.

Section 9.12 Consideration of Denied Applications/Appeals

Neither the Planning Commission, City Council, nor the Board of Zoning Appeals shall reconsider an application for change or relief to the same lot, parcel or portion thereof, within a period of one year from the date of final determination and notification.

All appeals from decisions of these bodies shall be filed within 10 days of a decision.

Section 9.13 Vested Right

1. Definition

'Vested right' means the right to undertake and complete the development of property under the terms and conditions provided in this section.

2. Duration

A vested right is established for two years upon preliminary approval of a PDD plan, including a phased development plan, a Conservation Subdivision or Major Subdivision Plan, as provided herein.

A vested right may be extended at the end of the vesting period for an additional 12 months, or 36 months for a phased development plan, upon request by the applicant and a determination by the Planning Commission that there is just cause for extension and that the public interest is not adversely affected.

A validly issued building permit does not expire or is not revoked upon expiration of a vested right, except for public safety reasons or as prescribed by the applicable building code.

3. Amendment

A vested site-specific development plan or vested phased development plan may be amended if approved by the Planning Commission or City Council, as applicable, pursuant to the provisions of this ordinance.
4. Revocation

A vested right to a site-specific development plan or phased development plan is subject to revocation by the Planning Commission or City Council, as applicable, upon determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval.

5. Applicability of Other Regulations

A vested site specific development plan or vested phased development plan is subject to later enacted federal, state, or local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. The issuance of a building permit vests the specific construction project authorized by the building permit to the building, fire, plumbing, electrical, and mechanical codes in force at the time of the issuance of the building permit;

A vested site specific development plan or vested phased development plan is subject to subsequent local governmental overlay zoning that imposes site plan-related requirements but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses;

A change in the zoning district designation or land use regulations made subsequent to vesting that affect real property does not operate to affect, prevent, or delay development of the real property under a vested site specific development plan or vested phased development plan without consent of the landowner;

The Planning Commission or City Council, as applicable, must not require a landowner to waive his vested rights as a condition of approval of a site specific development plan or a phased development plan.

6. Vested Right to Run with Property

A vested right pursuant to this section is not a personal right, but attaches to and runs with the applicable real property. The landowner and all successors to the landowner who secure a vested right pursuant to this Section may rely upon and exercise the vested right for its duration subject to applicable federal, state, and local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and non-conforming structure and use regulations which do not provide for the
grandfathering of the vested right. This Section does not preclude judicial determination that a vested right exists pursuant to other statutory provisions. This Section does not affect the provisions of a development agreement executed pursuant to the South Carolina Local Government Development Agreement Act in Chapter 31 of Title 6.
ARTICLE 10

DEFINITIONS

Words not defined herein shall have the meanings stated in the International Building Code, International Residential Code, International Gas Code, International Mechanical Code, International Plumbing Code, and the National Electric Code, as currently adopted Code. Words not defined in the Standard Codes shall have the meanings in Webster’s Tenth Edition Collegiate Dictionary, as revised.

Words in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

The word “shall” is always mandatory.

The word “may” is permissive.

The word “lot” includes the word “plot” or “parcel.”

The word “person” includes a firm, association, organization, partnership, trust company, or corporation, as well as an individual.

The word “used” or “occupied” as applied to any land or building shall be construed to imply that said land or building is in actual use or occupancy.

The word “map” or “zoning map” shall mean the Official Zoning Map of the City of Gaffney, South Carolina.

The term “Planning Commission” refers to the Gaffney Planning Commission.

The term “Council” refers to the Gaffney City Council.

The term “Board of Zoning Appeals or BZA” refers to the Gaffney Zoning Board of Appeals.

Other words and terms defined herein are as follows:

**Access** - A legal means of vehicular or pedestrian approach or entry to or exit from property.
**Adult Use** – An adult use is one which, as one of its principal purposes, sells, displays or exhibits materials, including books, magazines, movies, tapes, photographs, etc. which appeal to prurient interests, contain patently offensive depictions of sexual conduct, and have no serious literary, artistic, political or scientific value.

**Bed and Breakfast Inn** - Any dwelling or portion thereof offering rooms and meals at breakfast to transient lodgers in return for compensation.

**Berm** - Any hill or slope which represents a change of elevation of at least two feet at a slope of between twenty-five and fifty percent and which is covered with an appropriate stabilizing vegetation

**Bufferyard** - A strip of land, improved by landscaping or fences, or both, designed to mitigate the extent of high intensity land uses on neighboring lower intensity uses.

**Buildable Area** - That portion of any lot which may be used or built upon in accordance with the regulations governing the zoning district within which the lot is located when the front, side and rear yard, open space, and applicable bufferyard requirements have been met.

**Building, Accessory** - A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use. Included in this definition are private garages, storage sheds, workshops, animal shelters, pool houses, etc., when detached from the principal buildings, and carports attached to the principal building when at least 75 percent open or un-enclosed.

**Building, Alteration** - Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.

**Building, Principal** - A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

**Canopy Tree** - A deciduous tree that forms the top layer of vegetation in a forest. Examples of such trees include oaks, hickories, maples, poplars, and others.
Certificate of Occupancy - A document allowing the occupancy or use of a building or certifying that the structure or use has been constructed or will be used in compliance with all applicable provisions of this Ordinance and the Building Code.

Certificate of Zoning Compliance - A document certifying that a proposed use meets all requirements of this Ordinance.

Certify - Whenever this ordinance requires that some agency certify the existence of some fact or circumstance to the City, the City may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the City may accept certification by telephone from some agency when the circumstances warrant it, or the City may require that the certification be in the form of a letter or other document.

Conformity or Conformance - Any land, structure or use that is in fully meets 1) all of the regulations specified for the district in which it is located and 2) all of the general requirements of the Zoning Ordinance.

Cluster Home Development - A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

Conditional Use - A use of land or structure, which is permitted in a district under conditions specified in the Zoning Ordinance.

Condominium - A unit in a multi-unit structure owned by an individual who has use of all common areas associated with that structure.

Convenience Store - A retail store containing less than 3,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a supermarket). It is designed to attract and depends upon a large volume of stop and go traffic.

Day Care Services - Day care services shall mean and include any home, center, agency, or place, however styled, where children, elderly, and other persons not related to the operator are received for custodial care, apart from
their parents, whether for compensation, reward, or otherwise during part or all of the day or any number of successive days.

**Density** - The number of dwelling units per acre of land developed or used for residential purposes. Density requirements in this Ordinance are expressed in dwelling units per gross acre; that is, per acre of land devoted to residential use is based on the total land area within a development tract or subdivision, excluding nothing.

**Dedication** - The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of a less than fee interest, including an easement.

**Design Criteria** - Standards that set forth specific improvement requirements.

**Developer** - The owner or owners (or their representative) of a lot or of any land included in a proposed development. Also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

**DHEC** - South Carolina Department of Health and Environmental Control.

**Display Area** - Any unenclosed area or lot used for the display of merchandise.

**Development** - Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**Domestic Animal Shelter** - A pen, shelter, or structure where dogs or small domestic animals, not to include horses, cows, goats, swine including potbellied pigs, sheep, ponies, grazing animals, and fowl of any kind, are boarded and kept.

**Dwelling** - A building or portion of a building arranged or designed exclusively for human habitation.

**Dwelling, Apartment** - (See dwelling, multi-unit)

**Dwelling, Detached** - A single dwelling unit, surrounded by open space or yards and which is not attached to any other dwelling by any means.
Dwelling, Duplex - A building containing two dwelling units.

Dwelling, Group Occupied - A dwelling unit occupied by six (6) or more individuals unrelated by blood, marriage, adoption, or guardianship living together as a single housekeeping unit.

Dwelling, Multi-Family - A building containing five or more dwelling units.

Dwelling, Patio House - A single-family detached or semi-detached dwelling unit. It is built on a small lot generally enclosed by walls, which provide privacy. The term is synonymous with zero lot line dwellings.

Dwelling, Quadraplex - A building containing four dwelling units.

Dwelling, Residential Designed Manufactured Home - A single-family dwelling unit built according to the Federal Manufactured Housing Construction and Safety Standards (245 CFR 3280) HUD Code, 6-15-76, and bearing a HUD manufactured home label, which:

1. Has a minimum width over 20 feet (multiple-section);
2. Has a minimum of 1,300 square feet of enclosed living area;
3. Has a minimum roof pitch of 2.2 to 12, and roof finish commonly used in standard residential construction;
4. Has a type of shingle commonly used in standard residential construction;
5. Is covered with an exterior material customarily used on site built homes, including vinyl or aluminum lap siding, wood, masonite, or other materials similar to the exterior siding commonly used in standard residential construction; and
6. Has a roof overhang of not less than eight (8) inches.

Dwelling, Single-Family - A building containing one dwelling unit.

Dwelling, Standard Designed Manufactured Home - A single family dwelling unit built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code, 6-15-76, and which does not meet the definition of a Residential Designed Manufactured Home.

Dwelling, Townhouse - A series of attached single-family dwelling units on separate lots, which may or may not have a common roof and are separated from each other by common vertical walls.
Dwelling, Triplex - A single building containing three dwelling units.

Dwelling Unit - A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, Zero Lot Line - A zero lot line dwelling is a single family detached unit which instead of being centered on a lot, is placed against at least one of the side lot lines. The term is synonymous with patio homes.

Family - One or more persons related by blood, marriage, adoption, or guardianship, and not more than five (5) persons not so related, except that mentally and physically handicapped persons for whom care is provided on a 24-hour basis shall be construed to be a family, in accord with the provisions of 6-7-830 of the South Carolina Code of Laws.

The definition of Family does not include:
   a) Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;
   b) Any group of individuals whose association is temporary or seasonal in nature;
   c) Any group of individuals in a living arrangement as a result of criminal offenses.

Family Day Care Home - Where permitted as an accessory use, family day care home shall mean a home in which care is given by a family member and no others during the day only for one and not more than six children, including the day care parents’ own children.

Federal Manufactured Home Construction and Safety Standards - Regulations promulgated by the Department of Housing and Urban Development (HUD) governing the design and construction, strength and durability, transportability, fire resistance, energy efficiency, and quality of manufactured housing. These standards also set performance requirements for heating, plumbing, air conditioners, thermal, and electrical systems.

Flood - A general and temporary condition of partial or complete water coverage of normally dry land area because of the accumulation or runoff of surface waters from any source.
**Floodplain** - Land areas adjoining a river, stream or water course which are subject to a one percent or greater chance of flooding in any given year, which areas are more specifically established by the Federal Emergency Management Agency.

**Floodway** - The channel or river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

**Floor** - The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include floor of a garage used solely for parking vehicles.

**Ground Cover** - Any plant material which serves to prevent soil erosion by covering large areas of ground, and which does not grow beyond twelve inches in height.

**Home Occupation** - Any occupation within a dwelling, including a hobby and clearly incidental thereto, carried on by a member or members of the family residing on the premises.

**Impervious Surface** - Impervious surfaces are those that do not absorb water. All buildings, paved parking areas, driveways, roads, sidewalks, and any areas in concrete or asphalt shall be considered impervious surfaces within this definition. In addition, other areas determined by the Building Official to be impervious within the meaning of this definition also will be classed as impervious surfaces.

**Impervious Surface Ratio** - The impervious surface ratio is a measure of the intensity of land use. It is determined by dividing the total area of all impervious surfaces within the site by the total site area.

**Improvement** - Any man-made immovable item that becomes part of, placed upon, or is affixed to real estate.

**Lot** - A parcel of land considered as a unit. The terms "lot", "lot of record", "property", or "tract", whenever used in this Ordinance are interchangeable. Lot, Corner - A lot located at the intersection of two or more streets.
Lot, Developed – A developed lot or parcel is one which contains fifty thousand dollars ($50,000) in commercial, industrial or business improvements, according to records in the City Tax Assessor’s office or receipt of a valid Building Permit in such amount.

Lot of Record - A lot, the boundaries of which are filed as legal record.

Lot Width - The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Lot Area - The area contained within the boundary line of a lot.

Lot Line - A line bounding a lot that divides one lot from another or from a street or any other public or private space.

Manufactured Home Park - A lot or parcel with space, improvements and utilities for the long-term parking of three (3) or more manufactured homes, which may include services, and facilities for the residents.

Mini-warehouse - A building or group of buildings in a controlled-access and fenced compound that contains individual, compartmentalized and controlled-access stalls or lockers for the dead storage of customer's goods or wares.

Mixed Occupancy - Any building that is used for two or more occupancies classified by different occupancy use groups.

Modular Building Unit or Modular Structure - Any building of closed construction, regardless of type of construction or occupancy classification, other than a mobile or manufactured home, constructed off-site in accordance with the applicable codes, and transported to the point of use for installation or erection. When meeting the requirements of the Modular Building's Construction Act (23-43-10 of the S. C. Code of Laws), said building unit or structure may be located in any zoning district in which a single-family site-built dwelling is permitted.

Non-conformity - A non-conformity is any lot of record, use, building, structure or vegetation in existence prior to the effective date of this Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the
present requirements of the Ordinance.

**North American Industry Classification System (NAICS)** - The classification of industrial, commercial, institutional, agricultural, construction, manufacturing, educational, utilities, services type activities as defined in the North American Industry Classification System Manual, 2012 as put out by the Executive Office Of The President Office Of Management and Budget.

**Office Trailer** - See Modular Building Unit or Modular Structure

**Open Space** - Open space refers to an area that is not encumbered with any substantial structure; is not devoted to use as a roadway, parking area or sidewalk; is not part of any privately owned lot; and is legally accessible to the general public or to the residents of the development where the open space is located. Narrow strips of common area that separate lots within a development from each other, from streets, or from adjoining tracts shall generally not be regarded as open space unless the Planning Commission determines that the overall configuration of open space is acceptable as being conducive to the intent of requiring open space.

**Open Space Ratio** - The open space ratio is a measure of the intensity of land use. It is arrived at by dividing the total amount of open space within the site by the Total Site Area.

**Parcel** - A land area bounded by property lines that is recognized as such by the County Assessor's Office.

**Parking, Off-Street** - An area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street arranged so that no maneuvering incidental to parking shall be on any public street and so that an automobile may be parked or un-parked therein without moving any other automobiles.

**Permitted Use** - A use permitted outright by district regulations.

**Planned Development District** - A special purpose district established for specified use(s) only and with specified development standards in order to allow and encourage flexibility in the development of the land.

**Plat** – A map or drawing upon which the developer’s plan of a subdivision or land development is presented for approval.
Premises - A lot, plot, or parcel of land including the buildings or structures thereon, under control by the same owner or operator together with all adjacent land.

Shipping Container – A rectangular, prefabricated metal structure, designed for stacking, storage and transfer of goods and commodities by ship and/or container chassis trucks.

Sign - Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

Sign, Abandoned - A sign structure not containing a sign for 120 continuous days or a sign not in use for 120 continuous days, or a sign advertising a business no longer occupying the site on which the sign exists or to which it refers.

Sign, Animated - Any sign that uses movement or change of lighting to depict action or creates a special effect or scene.

Sign, Awning, Canopy or Marquee - A sign that is mounted or painted on or attached to an awning, canopy or marquee.

Sign, Banner, Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution shall not be considered banners.

Sign, Bench - A sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

Sign, Billboard - See Sign, Off-premise

Sign, Building - Any sign attached to any part of a building.

Sign, Changeable Copy - A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the
surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this Ordinance.

**Sign, Face** - The area or display surface used for the message.

**Sign, Feather** – (See Banner Sign)

**Sign, Free-Standing** - Any non-movable sign not affixed to a building.

**Sign, Identification** - A sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.

**Sign, Incidental** - A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

**Sign, Mural** - A mural is hereby defined as a non-verbal, graphic, artistic expression which covers a portion or all of a wall or building façade which is not intended for advertisement purposes, accompanied only by the artist’s nameplate no larger than two square feet.

**Sign, Off-Premise** - A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**Sign, Other** – Any free-standing sign including residential and business identification, informational signs and other signs with on-premise messages.

**Sign, Pennant** - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
Sign, Permanent - A sign attached to a building, structure or the ground in some manner and made of materials intended for more than short term use.

Sign, Political - A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.
Sign, Portable - A sign designed to be transported, but not limited by means of wheels.

Sign, Projecting - A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

Sign, Roof - A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the ridge line of a building with a gambrel, gable, or hip roof or the deck line of a building with a mansard roof. Signs mounted on the sloping section of a roof or the gable end of a roof shall be classified as a wall sign.

Sign, Roof Integral - A sign whose structure is integrated into the structure of the roof, and is an integral part thereof.

Sign, Temporary - A sign that is used only for a short period of time and is not permanently mounted.

Sign, Wall - Any sign attached to and within six inches of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Sign, Window - A sign that is applied or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window.

South Carolina Manufactured Housing Board - Is authorized by State Statute to regulate the construction, repair, modification, installation, tie-down, hook-up, and sale of manufactured homes in South Carolina, which Board has adopted for regulation of manufactured homes the Federal Manufactured Housing Construction and Safety Standards, promulgated by HUD, and contained in the Board's Manufactured Housing Regulations, May 26, 1990.
Street - Any thoroughfare or space more than 30 feet in right-of-way width, which has been dedicated, deeded or designated for vehicular traffic, public or private.

Street, Arterial - A street with signals at important intersections and stop signs on side streets, and which collects and distributes traffic.

Street, Collector – A street that penetrates neighborhoods and collects and distributes traffic between lower local streets and higher arterial streets.

Street, Local - A street designed principally to provide vehicular access to abutting residential property.

Structure - (As defined by the Standard Building Code.)

Structural Alteration - Any change in the supporting members of a building, such as the bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior walls.

Travel Trailer or Recreational Vehicle - A structure that (1) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and (2) is designed for temporary use as sleeping quarters, but that does not satisfy one or more of the definitional criteria of a mobile or manufactured home or modular unit.

Understory Tree - A small deciduous tree that forms the layer of vegetation under the canopy trees in a forest. Examples of such trees include dogwoods, sourwoods, fruit trees and others.

Unit – One; a single dwelling or unit.

Use, Accessory - See Building, Accessory.

Use - The purpose or activity, for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use, Principal - The primary purpose for which land is used.

Variance - A modification of the area regulations of this Ordinance, granted by the Board of Zoning Appeals, where such modification will not be contrary to the
public interest, and where, owing to conditions peculiar to the property, a literal enforcement of the Ordinance would result in unnecessary and undue hardship, and where such modification will not authorize a principal or accessory use of the property which is not permitted within the zoning district in which the property is located.

**Vendor** - Any person who offers for sale, goods or merchandise from a vacant lot or parking lot of an established business.

**Yard** - An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided by this Ordinance.

**Yard, Front** - A yard extending the full width of the front of a lot between the front (street) right-of-way line or property line and the front building line.

**Yard, Rear** - A yard extending the full width of the lot in the area between the rear lot line and the rear building line.

**Yard, Required** - That part of a yard between a lot line and the minimum required building setback line, within which no structure shall be located except as provided by this Ordinance.

**Yard, Side** - A yard extending the full length of the lot in the area between the side lot line and a side building line.

**Zoning District** - An area or district within which regulations and requirements govern the use, placement, spacing and size of land and buildings.
ARTICLE 11

LEGAL STATUS PROVISIONS

Section 11.1 Conflict with Other Laws

Whenever the Regulations of this Ordinance require a greater width or size of yards, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other Statutes, the requirements of this Ordinance shall govern. Whenever the provisions of any other Statute require more restrictive standards than are required by this Ordinance, the provisions of such Statute shall govern.

Section 11.2 Validity

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 11.3 Repeal of Conflicting Ordinances

All Ordinances and parts of Ordinances in conflict herewith are repealed to the extent necessary to give this Ordinance full force and effect.

Section 11.4 Effective Date

This Ordinance shall take effect and be in force from and after the date of its adoption.
ARTICLE 12

STANDARDS FOR PLACEMENT OF SMALL WIRELESS FACILITIES IN COVERED AREAS

Section 12.1 Definitions

**Antenna** – Communication equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services.

**Applicable Codes** – Uniform building, energy, electrical, plumbing, mechanical, gas, and fire codes in Title 6, Chapter 9 of the South Carolina Code of Laws, local amendments to those codes authorized by state law, and local codes or ordinances which impose requirements defined in Section 5 of this Ordinance including objective design and concealment standards to regulate location, context, material, color, stealth and concealment standards on a uniform and nondiscriminatory basis.

**Applicant** – Any person who submits an Application to a City and is a Wireless Services Provider or a Wireless Infrastructure Provider.

**Application** – A request submitted by an Applicant for a permit to (i) Collocate Small Wireless Facilities; or, (ii) construct, install, maintain, operate, replace or modify a Utility Pole or Wireless Support Structure.

**Cable, Communications, Fiber or Electric Easement** – An easement, granted to a cable or video service provider, a communications service provider (including without limitation a telephone utility), a fiber optics cable services provider, or an electric services provider created or authorized by state law to provide such services, that runs parallel to and abuts or within a Rights-of-Way and is occupied by existing Utility Poles or Wireless Support Structures carrying electric distribution lines, wires, cable, conduit, fiber optic cable for telecommunications, cable or electric service or supporting municipal street lights, or security lights. The term Cable, Communications, Fiber or Electric Easement excludes easements for service drops or lines connecting the customer’s premises to the cable, communications, fiber or electrical provider.

**City-Owned Pole** – (i) A Utility Pole owned or operated by the City in Covered Areas, including a Utility Pole that provides lighting or traffic control functions, or other law enforcement functions, including light poles, traffic signals, and structures for signage, and (ii) a pole or similar structure owned or operated by the City in a Covered Area that supports only Wireless Facilities. The term does not include a Utility Pole owned or operated by and accounted for as an asset of a municipal electric utility.
Collocate – To install, mount, maintain, modify, operate, or replace one or more Wireless Facilities on, under, within, or adjacent to an existing Wireless Support Structure or Utility Pole located in Covered Areas within the jurisdiction of the City. “Collocation” has a corresponding meaning.

Covered Areas – The surface of, and the space above and below, any public “Rights-of-Way,” “ROW,” “City Rights-of-Way,” “Public Rights-of-Way,” and/or “Cable, Communications, Fiber or Electric Easement” as those terms are defined herein.

Day – Calendar day unless the last day for the City or an Applicant to take action under this Ordinance ends on a weekend, holiday, or time when all but City emergency services are closed due to weather or some unforeseen situation.

Decorative Pole – A Utility Pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or a temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal practices.

Design District – An area that is zoned, or otherwise designated by municipal ordinance, and for which the City maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Fee – A one-time charge.

Historic District – An area that is zoned or otherwise designated as a Historic District under municipal, state or federal law and for which the City maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Micro Wireless Facility – A Small Wireless Facility that meets the following qualifications: (i) is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and, (ii) any exterior antenna is no longer than 11 inches.

Person – An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

Rate – A recurring charge.

Rights-of-Way or ROW or City Rights-of-Way or Public Rights-of-Way – That area on, below, or above a public roadway, highway, street, sidewalk,
alley dedicated to, managed or controlled by the City, County or the State of South Carolina, but not including a federal interstate highway, in the City.

**Small Wireless Facility** – A Wireless Facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of not more than six (6) cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

**Transmission Pole** – A pole or similar structure that is used in whole or in part to carry electric transmission (as opposed to distribution) lines.

**Underground District** – An area that is designated by ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing above ground structures in a Covered Area and for which the City maintains and enforces standards on a uniform and nondiscriminatory basis.

**Utility Pole** – A pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control devices, traffic control or directional signage, or a similar function regardless of ownership, including City-Owned Poles. Such term shall not include structures supporting only Wireless Facilities, nor shall it include Wireless Support Structures.

**Wireless Facility** - Equipment at a fixed location that enables Wireless Services between user equipment and a communications network, including: (1) equipment associated with wireless communications; (2) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes Small Wireless Facilities. The term does not include the structure or improvements on, under, or within which the equipment is Collocated, wireline backhaul facilities, coaxial or fiber optic cable that is between Wireless Support Structures or Utility Poles or coaxial or fiber optic cable that is otherwise not immediately adjacent to, or directly associated with, an Antenna.

**Wireless Infrastructure Provider** – Any Person including a Person authorized to provide telecommunications service in the State, that builds,
installs or maintains Utility Poles, wireless communication transmission equipment, Wireless Facilities or Wireless Support Structures.

**Wireless Services** – Any services provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, delivered to the public using Wireless Facilities.

**Wireless Services Provider** – A Person who provides Wireless Services.

**Wireless Support Structure** – A freestanding structure, such as a monopole or, other existing or proposed structure designed to support or capable of supporting Wireless Facilities. Such term shall not include a Utility Pole.

**Section 12.2 Purpose and Scope**

1. The purpose of this Ordinance is to provide policies and procedures for the placement of Small Wireless Facilities in Covered Areas within the jurisdiction of the City.

2. It is the intent of this Ordinance to establish uniform standards including, but not limited to:

   a. Prevention of interference with the use of streets, sidewalks, alleys, parkways, traffic light poles or other light poles, and other public ways and places;

   b. Prevention of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

   c. Prevention of interference with other facilities and operations of facilities lawfully located in Covered Areas or public property;

   d. Preservation of the character of neighborhoods where facilities are installed;

   e. Preservation of the character of historic structures, or historic neighborhoods, including but not limited to such structures or neighborhoods listed on the National Register of Historic Places or locally designated Historic Districts; and,

   f. Facilitation of the rapid deployment of Small Wireless Facilities to provide the citizens with the benefits of advanced Wireless Services.
Section 12.3 Permitted Use; Application Process and Fees

1. **Permitted Use and Consent.** Collocation of a Small Wireless Facility on an existing Utility Pole or Wireless Support Structure, or a new or modified Utility Pole or Wireless Support Structure installed in a Covered Area shall be a permitted use, except in supplemental review districts where such facilities are a conditional use, subject to administrative review, conditions and other requirements in Section 5. In accord with Article VIII, Section 15 of the State Constitution and related municipal code and ordinance provisions, the City consents to the use of Public Rights-of-Way by permit holders acting in compliance with this Ordinance.

2. **Permit Required.** No person shall place a Small Wireless Facility in a Covered Area without first filing a Small Wireless Facility Application and obtaining a permit, except as otherwise provided in this Ordinance.

3. **Permit Applications.** All Small Wireless Facility Applications filed pursuant to this Ordinance shall be on a form, paper or electronic, as required by the City. The Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page of such materials accordingly, and the City shall endeavor to protect materials so designated from public disclosure to the fullest extent permitted by state law.

4. **Application Requirements.** The Small Wireless Facility permit Application shall be made by the Applicant, or its duly authorized representative as noted in a notarized statement from a Person with the Applicant with authority to make such an authorization, and shall contain the following:

   a. The Applicant’s name, address, telephone number and e-mail address;

   b. Facility owner’s name, address, telephone number and email address, if different from Applicant;

   c. Intended facility use: owner operated or owner leased capacity;

   d. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;

   e. A general description of the proposed scope of work for the Collocation of the Small Wireless Facility. The scope and detail
of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters, including but not limited to sub-surface utilities, likely to be affected or impacted by the work proposed;

f. Identification of any consultant that is acting on behalf of the Applicant and that is authorized to speak with the City, or a designee of the City, on the area of consultation for the Applicant even if the Applicant cannot be available;

g. Verification from an appropriate representative of the Applicant that the Small Wireless Facility shall comply with all Applicable Codes;

h. Verification of payment of the annual municipal consent or administrative fee for telecommunications companies to use Public Rights-of-Ways pursuant to Section 58-9-2230;

i. Verification of local business license, if applicable;

j. Evidence the Applicant is duly authorized to do business in South Carolina;

k. Evidence the Applicant has received any necessary certificate of public convenience and necessity or other required authority from the South Carolina Public Service Commission or the Federal Communications Commission or evidence that it is not required;

l. A copy of an approved South Carolina Department of Transportation encroachment permit and all documents required by SCDOT as part of the encroachment permit application, if the proposed location is within a SCDOT Right-of-Way; and,

m. If the proposed location is outside of a SCDOT Right-of-Way, a statement that the Applicant has a lease, attachment agreement or other authorization from the owner of the Utility Pole or structure proposed for Collocation.
5. **Routine Maintenance and Replacement.** An Application shall not be required for:

   a. Routine maintenance;

   b. The replacement of a Small Wireless Facility with another Small Wireless Facility that is substantially similar or smaller in size, weight, and height; or

   c. The installation, placement, maintenance, operation, or replacement of Micro Wireless Facilities that are strung on cables between existing Utility Poles and/or Wireless Support Structures in compliance with the National Electrical Safety Code by a Wireless Services Provider or a Wireless Infrastructure Provider that is authorized to occupy the Public Rights-of-Way and that is remitting a consent, franchise, or administrative fee pursuant to S.C. Code Ann § 58-9-2230.

6. **Information Updates.** Any amendment to information contained in a permit application shall be submitted in writing to the City within ten (10) business days after the change necessitating the amendment.

7. **Consolidated Application.** An Applicant seeking to collocate multiple Small Wireless Facilities may, at the Applicant’s discretion, file a consolidated application and receive a single permit for up to twenty (20) Small Wireless Facilities. Provided, however, the City’s denial of any site or sites within a single Application shall not affect other sites submitted in the same Application. The City shall grant a permit for any and all sites in a single Application that it does not deny subject to the requirements of this Section.

8. **Application Fees.** Unless otherwise provided by law, and except as to telecommunication companies exempted pursuant to S.C. Code § 58-9-2230, all Applications for permits pursuant to this Ordinance shall be accompanied by a Fee of $100.00 for each Small Wireless Facility, except that the Fee for Small Wireless Facilities addressed in a consolidated Application shall be $100.00 each for the first five Small Wireless Facilities and $50.00 for each additional Small Wireless Facility up to a maximum of twenty (20) Small Wireless Facilities. For clarity, any Applicant that pays either a franchise, consent Fee, or administrative Fee pursuant to the requirements of S.C. Code § 58-9-2230 shall not be required to pay any building permit Fee, zoning permit Fee, encroachment Fee, degradation Fee, or any other Fee assessed on a telecommunications provider for its occupation of or work within the ROW.
9. **Interference with Public Safety Equipment.** A Small Wireless Facility shall be operated and maintained in a manner that does not interfere with public safety (police, traffic control, fire and emergency services) equipment.

Section 12.4 Action on Permit Application

1. **Review of Small Wireless Facility Applications.** The City shall review the Application for a Small Wireless Facility permit for conformity with applicable requirements of this Ordinance, and shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:

   a. Within ten (10) days of receiving an Application, the City must determine and notify the Applicant whether the Application is complete; or if an Application is incomplete, the City must specifically identify the missing information.

   b. Make its final decision to approve or deny the Application within sixty (60) days of submission of a completed Application.

   c. Notify the Applicant in writing of its final decision, and if the Application is denied, specify the basis for a denial, including citations to federal, state or local code provisions and/or statutes on which the denial was based.

   d. Notwithstanding an initial denial, the Applicant may cure the deficiencies identified by the City and resubmit the Application within thirty (30) days of the denial, and the City shall approve or deny the revised Application within thirty (30) days of receipt of it. The subsequent review by the City shall be limited to the deficiencies cited in the original denial.

2. **Review Deadline.** If the City fails to act on an Application within the sixty (60) day review period (or within the thirty (30) day review period for an amended Application), the Applicant may provide notice that the time period for acting has lapsed and the Application is then deemed approved.

3. **Review of Eligible Facilities Requests.** Notwithstanding any other provisions of this Ordinance, the City shall approve and may not deny Applications that constitute eligible facilities requests for modification of an eligible support structure that does not substantially change the physical dimensions of such structure as provided in 47 CFR 1.40001, within sixty
(60) days according to the procedures established under 47 CFR 1.40001(c).

4. **Compensation.** Subject to the limitations set forth in Section 3(h) herein, every permit shall include as a condition the Applicant’s agreement to pay such lawful franchise Fees, business license taxes, administrative Fees and consent Fees as are permitted under applicable South Carolina and federal law. The Applicant shall also pay all applicable ad valorem taxes, service Fees, sales taxes, or other taxes and Fees as may now or hereafter be lawfully imposed on other businesses within the City.

**Section 12.5 Requirements for Small Wireless Facilities in Covered Areas**

1. **Administrative Review.** The City shall perform an administrative review of permit Applications including the location or installation of new, modified, or replacement Utility Poles and/or Wireless Support Structures and the attachment of Wireless Facilities and equipment on Utility Poles or Wireless Support Structures. Review factors, in addition to location, shall include the size, shape, color, texture, and materials of the structures and attachments.

   a. The City may require a proposed Wireless Facility be designed to not be significantly more readily apparent or plainly visible (to a reasonable person of ordinary sensibilities) from Covered Areas than existing utility structures, poles and equipment located within five hundred (500) linear feet on the same Covered Area as the subject Utility Pole or Wireless Support Structure.

   b. Where Small Wireless Facilities are determined to be appropriate, the use of reasonable stealth and concealment treatments, low profile equipment and control boxes, and screening may be required to avoid significant negative impacts on the character and visual aesthetics of the area. However, such requirements may be waived by the City upon a showing that the particular location of a Small Wireless Facility does not warrant stealth or concealment treatments or imposes an excessive expense. The waiver shall be granted or denied within forty-five (45) days after the date of the request.

   c. Supplemental review districts identified in Section 5(c) and listed in Appendix A may be subject to a higher level of review.
2. **Maximum Size of Permitted Use.**

   a. The height of an Antenna of a Collocated Small Wireless Facility shall be limited to the greater of ten (10) feet above (a) the height of an existing or modified Utility Pole or Wireless Support Structure; or (b) the height of a new Utility Pole or Wireless Support Structure as provided in (ii) below.

   b. The height of a new or modified Utility Pole, or Wireless Support Structure is limited to the greater of (a) the tallest Utility Pole, excluding Transmission Poles, or Wireless Support Structure located in the same Covered Area, measured from grade, in place within five hundred (500) linear feet on the same Covered Area as the subject Utility Pole or Wireless Support Structure as of the effective date of this Ordinance; or (b) in the absence of any such Utility Pole or Wireless Support Structure, either (i) forty (40) feet in any area zoned exclusively for single family residential use, unless a waiver is granted for good cause shown, or (ii) fifty (50) feet in any other area.

   c. Collocation is not allowed on a Decorative Pole less than twenty (20) feet in height.

3. **Supplemental Review Districts.** Collocated Small Wireless Facilities and new or modified Utility Poles or Wireless Support Structures located in supplemental review districts shall be a conditional use and subject to the design and aesthetic requirements and review processes for structures specified in this Ordinance establishing the supplemental review district(s) in addition to the requirement of this Ordinance, provided that the City will work in good faith with the Applicant to accommodate the installation of Collocated Small Wireless Facilities and new or modified Utility Poles or Wireless Support Structures in supplemental review districts to the fullest extent practicable. The City reserves its right to maintain and implement the following types of supplemental review districts.

   a. **Underground Districts.** A Wireless Services Provider or a Wireless Infrastructure Provider shall comply with nondiscriminatory requirements that prohibit electric utilities, telecommunications or cable providers from installing above-ground structures in the Covered Area in these districts. Nothing in this section shall prohibit the use or replacement of existing Utility Poles or Wireless Support Structures in Underground Districts for the Collocation of Small Wireless Facilities subject to administrative review by the zoning administrator, appropriate design and concealment and a
finding that such use does not increase the height by more than three (3) feet.

b. **Historic and Design Districts.** As a condition for approval of new Small Wireless Facilities or new Wireless Support Structure in a Historic District or a Design District, the City may require that a Wireless Services Provider or a Wireless Infrastructure Provider comply with the design and aesthetic standards of the Historic District or Design District to minimize the impact to the aesthetics in a Historic District or on a Design District’s Decorative Poles. If design and concealment treatments are determined on review by the City to be insufficient to mitigate harm to the Historic District or Design District, the Application may be denied.

This section may not be construed to limit a municipality’s authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), or the National Historic Preservation Act of 1966 (54 U.S.C. Section 300101 et seq.), and the regulations adopted to implement those laws.

4. **Appeals, Special Exceptions and Variance Requirements.** Appeals of administrative decisions and requests for special exceptions and variances from the provisions of this Ordinance, when strict application would result in an unnecessary hardship or in the inability to deploy needed Small Wireless Facilities, shall be heard and decided by the Board of Zoning Appeals or equivalent board for architectural, design or historical district reviews. An applicant seeking a Special Exception to construct a new Decorative Pole, Utility Pole or other Wireless Support Structure to Collocate a Small Wireless Facility in an Underground District shall demonstrate, including certification through an engineer, that it has diligently attempted to locate the proposed Decorative Pole, Utility Pole, Wireless Support Structure, or Small Wireless Facility outside of the Underground District and that placement of the Decorative Pole, Utility Pole, Wireless Support Structure, or Small Wireless Facility within the Underground District is necessary to provide the needed wireless coverage or capacity, and one or more of the following conditions exist supporting a Special Exception:

   a. No existing Utility Pole or Wireless Support Structure is located within the location search radius or to the extent a Utility Pole or Wireless Support Structure is located within the search radius, such Utility Pole or Wireless Support Structure:
i. Is not available for Collocation under commercially reasonable rates, terms, and conditions;

ii. Cannot accommodate the Collocation of the Small Wireless Facility and meet the technical requirements necessary to deliver adequate wireless service coverage or capacity; or

iii. Would require modifications exceeding the three (3) feet height limitation imposed in section 12-5(3)(a).

b. The only available option to deliver adequate wireless service coverage or capacity in the search radius requires modifications to an existing Utility Pole or Wireless Support Structure exceeding the three (3) feet height limitation imposed in section 12-5(3)(a) or the installation of a new Utility Pole or Wireless Support Structure for Collocation of a Small Wireless Facility, or

  c. The applicant has demonstrated other circumstances that, in the reasonable discretion of the [board, etc.], warrant a special exception or variance.

The Applicant shall abide by the design, stealth and concealment treatments imposed as conditions of the special exception.

5. **Existing Supplemental Review Districts.** Supplemental review districts approved by the City as of the effective date of this Ordinance are listed in Appendix A. The Code provisions authorizing the district, applicable design guidelines or manual, review authority and appeal jurisdiction are specified in Article 2, Section 2.6 of the Zoning Ordinance of the City of Gaffney. Nothing in this Ordinance shall prohibit or otherwise limit the City from establishing additional supplemental review districts, provided however, that facilities and structures for which a permit was approved or deemed approved pursuant to this Ordinance prior to the establishment of the additional supplemental review district remain subject to the provisions of this Ordinance, including routine maintenance and replacement of those facilities and structures as set out in Section 12-3(5)(a) and b) of this Ordinance, and not to any provisions otherwise applicable to the additional supplemental review district. If a Wireless Services Provider or a Wireless Infrastructure Provider voluntarily replaces such facilities in a manner that does not comply with Section 12-3(5)(b) of this Ordinance, or if a Wireless Services Provider or a Wireless Infrastructure Provider voluntarily relocates such facilities, such replacement or relocation is subject to the then-existing provisions and requirements of the additional supplemental review district.
6. **Repair of Damage.** A Wireless Services Provider or a Wireless Infrastructure Provider shall repair all damage to a City Right-of-Way directly caused by the activities of the Wireless Services Provider or the Wireless Infrastructure Provider, while occupying, installing, repairing, or maintaining Wireless Facilities, Wireless Support Structures, City Utility Poles, or Utility Poles and to return the Right-of-Way to its functional equivalence before the damage. If the Wireless Services Provider or the Wireless Infrastructure Provider fails to make the repairs required by the City within forty-five (45) days after written notice, unless the City and the Wireless Services Provider or the Wireless Infrastructure Provider agree in writing to a longer time period, the City may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The City may maintain an action to recover the costs of the repairs.

**Section 12.6 Effect of Permit**

1. **Authority Granted: No Property Right or Other Interest Created.** A permit from the City authorizes an Applicant to undertake only certain activities in accordance with the Ordinance, and does not create a property right or grant any authority whatsoever to the Applicant to impinge upon the rights of others who may already have an interest in the Covered Area.

2. **Duration.** Unless construction has actually begun and is diligently pursued to completion at that point, no permit for construction issued under this Ordinance shall be valid for a period longer than twelve (12) months unless both City and Applicant agree to a reasonable extension and all required Fees are paid for the term regardless of construction. The inability of the Applicant to obtain electrical power or backhaul transport services to serve the Wireless Facility such that it is operational within the twelve (12) months due to the action or inaction of third-party utility providers shall not result in the invalidity of the permit.

**Section 12.7 Removal, Relocation or Modification of a Small Wireless Facility in the ROW**

1. **Notice.** Within ninety (90) days following written notice from the City, a Wireless Services Provider or a Wireless Infrastructure Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Wireless Facilities or Wireless Support Structures within the Rights-of-Way whenever the City, in its reasonable discretion, has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair,
maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the Rights-of-Way.

2. **Emergency Removal or Relocation of Facilities.** The City retains the right to cut or move any Wireless Facility or Wireless Support Structure located within its Rights-of-Way as the City, in its reasonable discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the Wireless Services Provider or the Wireless Infrastructure Provider and provide opportunity to move its own Wireless Facilities or Wireless Support Structure prior to the City cutting or removing a Wireless Facility or Wireless Support Structure and the City shall notify the Wireless Services Provider or the Wireless Infrastructure Provider after cutting or removing a Wireless Facility.

3. **Abandonment of Facilities.** Upon abandonment of a Wireless Facility or Wireless Support Structure within the City Rights-of-Way, the Wireless Services Provider or the Wireless Infrastructure Provider shall notify the City within ninety (90) days of such abandonment. Following receipt of such notice the City may direct the Wireless Services Provider or the Wireless Infrastructure Provider to remove all or any portion of the Wireless Facility or Wireless Support Structure if the City, in its sole discretion, determines that such removal will be in the best interests of the public health, safety, and welfare.

4. **Abandonment by Inaction.** At any point when a Wireless Services Provider or a Wireless Infrastructure Provider fails to pay any required Fee, or annual payment to the City, and fails to respond within sixty (60) days to a written inquiry from the City as to whether the Wireless Services Provider or the Wireless Infrastructure Provider intends to continue to operate a Wireless Facility or Wireless Support Structure, for whatever reason, the Wireless Facility shall be deemed abandoned and the City may, at its sole option, remove all or any portion of the Wireless Facility or Wireless Support Structure, or take other action as authorized by law, including recovery of actual costs incurred in removing the Wireless Facility or Wireless Support Structure.

**Section 12.8 Attachment to City-Owned Utility Poles in the Covered Areas**

1. **Annual Rate.** The rate to place a Small Wireless Facility on a City-Owned Pole in Covered Areas shall be fifty ($50.00) dollars per year per wooden pole or two hundred ($200.00) dollars per year for all other City-Owned Poles. This rate is in addition to reimbursement to the City for any
expenses for make-ready work. The City reserves the right to require a pole attachment agreement to further define the terms and conditions of attachments to City-Owned Poles. The rates specified in this section shall not apply to poles owned, or operated and accounted for as an asset of, a municipal electric utility.

2. **Cease Payment.** A Wireless Services Provider or a Wireless Infrastructure Provider is authorized to remove its facilities at any time from a City-Owned Pole in Covered Areas and cease paying the annual rate to the City as of the next due date for payment following the removal.

3. **Make-Ready.** For City-owned Utility Poles in Covered Areas, the Applicant shall reimburse the City for expenses for any reasonable make-ready work. The City shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested Small Wireless Facility, including pole replacement if necessary, within sixty (60) days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within sixty (60) days of written acceptance of the good faith estimate by the Wireless Services Provider or the Wireless Infrastructure Provider.

4. **Municipal Utilities Excluded.** Nothing in this section shall be construed to affect the authority of a municipal electric utility to deny, limit, restrict, or determine the rates, Fees, terms, and conditions for the use of or attachment to a Utility Pole owned, or operated and accounted for as an asset of, a municipal electric utility.

**Section 12.9 Severability**

In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the Ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

**Section 12.10 Effective Date**

This Ordinance shall take effect immediately after adoption.
Appendix A: Supplemental Review Districts

1) HPOD  Historic Preservation Overlay District