

**ZONING ORDINANCE
TOWN OF FORT LAWN, SOUTH CAROLINA
1999**

**CHAPTER 1
ADOPTION AND INTERPRETATION**

**Article I
Authority**

§ 1-100 Zoning ordinance published separately.

The zoning ordinance shall be published in a separate volume, a copy of which shall be filed with the town clerk.

§ 1-101 Authority and title.

This zoning ordinance is adopted pursuant to authority granted in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, S.C. Code §§ 6-29-310, et seq. (1994 Supp.). This ordinance may be cited as “Town of Fort Lawn Zoning Ordinance.”

§ 1-102 Jurisdiction and purposes.

The provisions of this ordinance shall apply to all land and improvements within the corporate limits of the Town of Fort Lawn, South Carolina. The purposes of the zoning ordinance are to implement the land use element of the comprehensive plan and for those purposes set forth in S.C. Code § 6-29-710.

Article II
Definitions

§ 1-200 Interpretation.

(a) Words used in this ordinance shall have their customary and ordinary meanings as defined in a standard dictionary, except for specific words and phrases defined in this ordinance.

(b) The present tense includes the past and future tenses. Singular words shall include the plural, and plural words shall include the singular.

(c) The word “person” includes an individual, a firm, association, partnership, trust, company, corporation or any other legal entity.

(d) The word “shall” is mandatory; the word “may” is permissive.

(e) References to NAICS codes shall mean those codes assigned to businesses in the 1997 North American Industry Classification System (NAICS) manual published by the United States Office of Management and Budget. NAICS codes are listed in the tables of uses for each district as an aid in interpretation and determination of those specific uses included in a general class of uses.

§ 1-201 Definitions.

1. Accessory. A building or use subordinate to and serving a principal building or use which is subordinate in area, extent or purpose to the principal building or use served; designed for the comfort, convenience or necessity of occupants of the principal use served; located on the same lot as the principal building or use served, except for permitted off-site accessory uses. Accessory uses shall include, but not be limited to: barns, sheds, home tennis courts, swimming pools, boat houses, docks, automobile garages, decks, patios, and private recreation areas.

2. Alley. A minor right-of-way used or intended to be used primarily for service access to the rear or side of properties otherwise abutting a street. An alley is not considered to be a street for purposes of this ordinance.

3. Alteration of building. Any change in the supporting members of a building, such as bearing walls, columns, or girders; any addition or reduction to a building.

4. Antenna. Any device for radiating or receiving electromagnetic waves, including, but not limited to, radio, television, telephone, communication, microwave, and satellite dish antennas.

5. Apartment. A portion of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or family.

6. Automobile service station. [See NAICS Code 447.] Use involving the sale of gasoline, lubricating oils, merchandise such as tires, batteries, auto parts, minor repairs, and may

include limited sale of groceries or carwashes, but may not include storage of dismantled or wrecked vehicles or parts.

7. Bed and breakfast. An owner occupied dwelling or portion thereof offering five or fewer guest rooms to transient lodgers in return for compensation, with or without meals. If meals are served, they shall be restricted to breakfast only. The use of a dwelling as a Bed and Breakfast Inn shall not be considered as an accessory use or a customary home occupation.

8. Boarding house. [See NAICS Code 7213 - rooming and boarding houses.] A dwelling other than a motel or hotel in which rooms are rented, with or without meals, on a fee basis. A structure in which five (5) or more rooms are rented shall be classified as a hotel or motel.

9. Buildable area. That portion of a lot which may be used or built upon in accordance with zoning district regulations.

10. Building. Any structure having a roof supported by columns or walls and which is designed for shelter, support or enclosure of persons, animals or property of any kind.

11. Camper. A mobile home, tent, trailer, or other self-contained vehicle, designed for recreational purposes, mounted on two or more wheels, self-propelled or towed, and not used for residential purposes in the Town.

12. Community residential care facility. An institution providing for a period exceeding 24 consecutive hours room, board, some personal assistance in feeding, dressing or other living activities to two or more individuals not related to the operator, including chemical abuse residential treatment facility or half-way house providing inpatient or detoxification services.

13. Conditional use. A use permitted by the district regulations upon compliance with specified conditions without review by the Board of Zoning Appeals.

14. Day care. The care, supervision or guidance of an unrelated person, unaccompanied by the parent, guardian or custodian, on a regular basis for periods of less than 24 hours per day in a place other than the operator's own home.

15. Day care facility. A state licensed facility providing day care, for profit or nonprofit. This definition includes, but is not limited to, day nurseries, nursery schools, kindergartens, day care centers, group day care homes and family day care homes. It does not include education facilities for grades one or above, shopping center or office building temporary care facilities, summer or day camps, or vacation Bible schools.

16. Density. The number of dwelling units per net acre of developed land, excluding land devoted to streets, alleys, parks, playgrounds, schools or other public uses.

17. District. A geographical area assigned a zoning district designation pursuant to the provisions of this ordinance.

18. Drinking place. [See NAICS Code 7224.] Establishment primarily engaged in retail sale of alcoholic drinks for consumption on premises. Sale of food may account for a portion of receipts.

19. Dwelling. A building or portion thereof designed, occupied, or intended for human residential occupancy, not including a hotel, motel, rooming or boarding house.

20. Dwelling, group. A dwelling occupied by several unrelated persons or families, but in which separate cooking facilities are not provided for each group. Group dwellings include rooming houses, apartment hotels, and similar facilities. Hotels, motels and tourist homes are not group dwellings.

21. Dwelling, multi-family. A dwelling containing three or more separate dwelling units in one building. Apartments, tenements, condominiums, cooperatives and similar structures are multi-family dwellings.

22. Dwelling, one-family. A detached dwelling, other than a mobile or manufactured home, designed, occupied or intended for occupancy by a single family unit.

23. Dwelling, two-family. A detached dwelling, other than a mobile or manufactured home, containing two (2) separate dwelling units in one building, commonly known as a duplex.

24. Dwelling unit. A dwelling for occupancy by a single family unit.

25. Family. One or more persons related by blood or marriage, or not more than five unrelated persons, occupying a single dwelling unit. Domestic employees may be housed on the premises.

26. Gross floor area. The total horizontal area of all floors of a building, including exterior balconies and mezzanines, measured from the faces of the exterior walls.

27. Home occupation. A customary occupation, profession, or trade carried on by an occupant of a one-family dwelling unit as a secondary use which is clearly incidental and subordinate to the residential character of the unit, and which does not involve more than 25% of the total floor area of the unit.

28. Hotel. [See NAICS Code 72111.] A building in which lodging for pay is offered to the public, with or without meals, for transient or permanent guests, including motel or tourist court, containing five (5) or more guest rooms.

29. Junk, salvage, scrap, or wrecking yards. [See NAICS Code 42193.] Any use involving storage or processing of inoperable, unused, dismantled, or wrecked vehicles, equipment, or machinery or the storage or processing of scrap metal, waste paper, rags, food processing wastes, construction wastes, industrial wastes, secondhand building materials, or

other scrap, salvage, waste, or junk materials.

30. Lane. A narrow public way for vehicular and pedestrian travel which provides the principal means of access to abutting property, but not including an alley.

31. Lot. An area, plot, parcel or tract of land defined by metes and bounds in a deed or plat recorded in the land records of Chester County.

32. Lot, corner. A lot located at the intersection of two or more streets.

33. Lot depth. The mean horizontal distance between front and rear lot lines.

34. Lot, double frontage. A lot which has frontage on more than one street, other than an alley. A corner lot is not a double frontage lot unless it has frontage on three or more streets.

35. Lot, interior. A lot other than a corner lot, with only one street frontage.

36. Lot width. The distance between side lot lines measured at the front building line.

37. Manufactured home. A structure manufactured after June 15, 1976, bearing certification of compliance with HUD standards pursuant to S.C. Code § 40-29-70, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, airconditioning, and electrical systems contained in it.

38. Manufactured home park. A lot providing rented parking space for five or more manufactured homes used for dwelling units, including service buildings and facilities. Manufactured home sales or storage lots for unoccupied units are not manufactured home parks.

39. Miniwarehouse. [See NAICS Code 53113.] A building or group of buildings on a fenced controlled access lot which contain individual locked compartments for storage of personal property.

40. Mobile home. A structure manufactured prior to June 15, 1976, or manufactured after June 15, 1976 without certification of compliance with HUD standards pursuant to S.C. Code § 40-29-70, which is a movable or portable dwelling unit over thirty (30) feet in length constructed to be towed on its own chassis, without permanent foundation, consisting of a single or two or more connected components. The term does not include prefabricated, modular or unitized dwelling on a permanent foundation, or travel trailer, camper, or similar recreational unit.

41. Modular building. A structure consisting of two or more prefabricated components designed to be transported to a lot and placed on a permanent foundation, and which is certified by the South Carolina Building Codes Council as conforming to Southern Building Code standards for site built units. A mobile home, house trailer, or manufactured home is not

modular building.

42. Motel. [See NAICS Code 72111.] A building or buildings in which lodging, with or without meals, is offered to the public for compensation, including a hotel, tourist court, or inn.

43. Nonconforming. A term applied to lots, structures, uses of land or structures, and characteristics of use of land or structures which were lawful before the passage or amendment of this zoning ordinance, but which are prohibited by this ordinance or are not in compliance with the requirements of this ordinance.

44. Park. A public or private lot or facility for active or passive recreation, exercise, sports or similar activities, enhancement of natural features or beauty, but not including a commercially operated amusement park.

45. Parking lot. A public or private open lot for parking motor vehicles as a principal use or as an accessory to a commercial or industrial use.

46. Parking space. An area on a lot designated for parking a motor vehicle.

47. Permanent building. A structure on a separately constructed permanent foundation intended to remain in one location and last indefinitely.

48. Permitted use. A use permitted outright by district regulations.

49. Principal structure or use. A structure or use which is significant or primary rather than accessory.

50. Residence. A dwelling.

51. Setback. The depth or width of any required yard; the minimum distance between a structure and an adjacent lot or street; the area required to be unobstructed except for fences, flagpoles, clothes lines, bird houses or yard accessories. Setback from a street is measured from the right-of-way line of the street.

52. Sign. Any device designed to inform, advertise or attract attention such as a billboard, poster, painted surface, announcement, display, ribbon, pennant, flag, banner, illustration, or insignia, lighted or unlighted, stationary or moving.

53. Special exception. A use specifically permitted after review and approval by the Board of Zoning Appeals, subject to ordinance standards and additional conditions set by the Board of Zoning Appeals.

54. Street. A public or private thoroughfare for vehicular and pedestrian travel which provides the principal means of access to abutting property, but not including an alley. The term street means the entire right-of-way, whether or not it is paved or improved.

55. Structure. Anything constructed or erected, the use of which requires location of the ground, or attachment to something located on the ground, including buildings, mobile homes, travel trailers, signs, swimming pools, fences, and antennae, but excluding minor landscaping features such as ornamental pools, planters, bird baths, paved surfaces, walkways, driveways, recreational equipment, flagpoles, and mailboxes.

56. Tourist (guest) home. A dwelling in which lodging is provided in not more than three (3) rooms for paid guests, with or without meals. A tourist home shall not be considered an accessory use or customary home occupation.

57. Variance. Relief granted by the Board of Zoning Appeals from the strict application of zoning regulations in an individual case of unnecessary hardship based on factual findings required by law.

58. Yard. A required open space unoccupied and unobstructed by structures except those specifically permitted.

59. Yard, front. A yard situated between the front building line and the front lot line extending the full width of the lot.

60. Yard, rear. A yard situated between the rear building line and the rear lot line and extending the full width of the lot.

61. Yard, side. A yard situated between the side building line and a side lot line and extending from the front yard to the rear yard.

**CHAPTER 2
DISTRICTS AND MAP**

§ 2-100 Establishment of districts.

The following zoning districts are hereby established in the Town of Fort Lawn:

DISTRICT	USES	MINIMUM LOT - Sq. Ft.
R-1	Single Family Residential	15,000
R-2	Single Family and Two-Family Residential	Single Family - 10,000 Two-Family - 15,000
R-3	General Residential	Single Family - 10,000 Two-Family - 15,000 Multi-Family - 10,000 + 3,000 + 2,500 Mfg. Home Park - 3 acres
CC	Core Commercial	None
HC	Highway Commercial	None
I	Industrial	None
PD	Planned Development	2 acres

No amendment shall be initiated which would create a new zoning district with an area of less than two (2) acres. The minimum requirement does not apply to extension of an existing district, or addition of a residential district adjacent to an existing residential district, or addition of a commercial district to an existing commercial or industrial district.

§ 2-101 District purposes.

The zoning districts established in this ordinance are for the purposes of guiding development in accordance with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare, and all of the purposes set forth in S. C. Code § 6-29-710. The following statements of intent shall be used in interpretation and application of the district regulations.

The residential district regulations are designed to encourage a stable and healthy environment for residential purposes, and to discourage encroachment by commercial, industrial, or other uses adversely affecting the residential character of the district.

R-1 -- Single Family Residential Districts. R-1 districts are intended to be single family residential areas with detached units and low population densities. Use regulations allow limited recreational uses and public uses which are compatible with the character of the district.

R-2 -- Single Family and Two Family Residential District. R-2 districts are intended primarily for one and two family detached units and low to medium population density. Special exceptions which may be permitted after review by the Board of Zoning Appeals include kindergartens, day care, clustered dwellings, and multi-section manufactured homes as conditional uses on individual lots.

R-3 -- General Residential District. R-3 districts are intended to accommodate a wide range of high density dwelling units on small parcels of land, multi-family units, and manufactured home parks and group housing by special exception.

CC -- Core Commercial District. This district is intended to accommodate a variety of general commercial and nonresidential uses characterized primarily by retail, office and service establishments in the central business area, including shopping centers. Residential uses are permitted on upper levels of commercial structures.

HC -- Highway Commercial District. This district is intended for uses compatible with areas along major highways. Permitted uses include many found in the CC and uses serving the traveling public. Aesthetic concerns have a bearing on permitted uses.

I -- Industrial District. This district is intended for a wide variety of light and heavy industrial and commercial uses which do not create nuisances.

PD -- Planned Development District. This district designates an area for which an approved development plan constitutes the district regulations. It is intended to utilize the factors of efficiency, economy, flexibility, creative site design, improved appearance, compatibility of mixed uses, maximum benefits from open space, safe and efficient vehicular and pedestrian access for a development characterized by a unified site design for mixed uses. A planned development district may be predominately residential or predominately commercial, and may be proposed for any area.

§ 2-102 District boundaries on map.

The boundaries of the zoning districts established by this ordinance shall be as shown on the Town of Fort Lawn Zoning Map.

§ 2-103 Official Zoning Map.

The official copy of the Town of Fort Lawn Zoning Map shall be maintained in the office of the Town Clerk. All zoning district boundaries shall be clearly shown on the Zoning Map, and amendments shall be recorded immediately after adoption. The official copies of the Zoning Map shall be dated and attested by the Town Clerk, and shall be available for public inspection. The official Zoning Map and any amendments adopted by Town Council shall constitute the final authority for determination of zoning district boundaries. It shall be unlawful for any person to make unauthorized changes to the Zoning Map.

§ 2-104 Interpretation of district boundaries.

The Zoning Administrator shall interpret the Zoning Map and determine the location of zoning district boundaries, using the following rules of interpretation:

1. District boundaries indicated as approximately following the center lines of streets, alleys, railroads, or bodies of water shall be construed to follow those center lines.
2. District boundaries indicated as approximately following platted lot lines or tax map lot lines shall be construed as following those lot lines.
3. District boundaries indicated as approximately following town limits shall be construed as following town limits.
4. District boundaries indicated as approximately parallel to or extensions of features indicated in subsections above shall be so construed for the distances indicated on the Zoning Map. Distances not specifically indicated shall be determined by scale of the map.

§ 2-105 Lot divided by district boundaries.

No structure or accessory use may be placed, structurally altered, or have a change in use where the structure or use is or would be included within two or more zoning districts unless such structure or use conforms to the requirements of all applicable district regulations.

**CHAPTER 3
GENERAL REGULATIONS**

§ 3-100 Application of regulations.

a. No structure or land shall hereafter be erected, constructed, reconstructed, moved, structurally altered, used or occupied unless in conformity with the regulations in this ordinance applicable to the district in which it is located, except permitted nonconforming uses.

b. District regulations shall apply uniformly to each class of structure or land, and shall be interpreted as minimum requirements adopted for the purposes of zoning. When requirements of this ordinance are at variance with requirements of any other applicable rule, regulation, ordinance or statute, the most restrictive requirements, or those imposing the higher standards shall apply.

§ 3-101 Prohibited uses.

A use which is not listed in district regulations as a permitted use, conditional use, or permitted special exception, is prohibited.

§ 3-102 Street access required.

Except as otherwise specifically provided, no building shall be located, used or occupied on a lot without direct vehicular and pedestrian access to a public street.

§ 3-103 Right-of-way not included in lot area, yard or setback.

Public rights-of-way or private easements for access shall not be included for purposes of meeting minimum lot area, yard or setback requirements.

§ 3-104 Reduction of lot or yard area prohibited.

No lot or yard existing on the effective date of this ordinance shall be reduced in dimension or area below the applicable district minimum requirements. New lots or yards shall meet the applicable district minimum requirements.

§ 3-105 Annexation.

The zoning district shall be designated for property annexed by ordinance as follows:

The annexation ordinance shall specify the zoning district designation applied for by the property owner(s). The zoning application shall be forwarded to the Planning Commission for review and recommendation on the zoning application. A public hearing shall be conducted by City Council on the zoning application prior to second reading of the ordinance. Notice of the public hearing shall be given in the same manner required for a rezoning. Second reading of the ordinance shall be given after receipt of the recommendation of the Planning Commission; provided, failure of the Planning Commission to make a recommendation within thirty (30) days after receipt of the application shall be deemed a recommendation for approval of the requested zoning.

§ 3-106 Nonconforming structures or uses.

Nonconforming structures or land uses are declared to be incompatible with permitted uses in the districts established by this ordinance. It is the intent of this ordinance to allow nonconformities to continue until they are removed, but not to encourage their survival. The lawful use of any structure or land on the effective date of this ordinance may be continued subject to the following regulations:

1. A nonconforming structure or use shall not be changed to any other nonconforming structure or use.
2. A permitted use in a structure which is on a nonconforming lot or which does not meet minimum yard requirements may be converted to another permitted use without enlargement.
3. A nonconforming structure shall not be repaired, altered or rebuilt except in conformity with this ordinance after sustaining damage or deterioration exceeding fifty (50%) percent of the appraised market value of the structure for tax purposes at the time of application for a permit.
4. A nonconforming structure shall not be removed or demolished and replaced with a nonconforming structure.
5. A nonconforming structure or use shall not be extended, enlarged, or intensified except in conformity with this ordinance; provided, however, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but the use shall not be extended outside the building.
6. A nonconforming use shall not be reestablished after vacancy, abandonment, or discontinuance for a period of twelve (12) consecutive months.
7. Nothing in this section shall prevent work on a structure which is necessary to protect public safety upon the order of the Zoning Administrator.
8. Ordinary repairs to a nonconforming structure, such as repairs to interior non-bearing walls, fixtures, wiring or plumbing to meet building codes may be permitted, provided the cubic content of the structure is not increased.

§ 3-107 Mobile home declared nonconforming structure; removal required.

A mobile home, as defined in § 1-201, manufactured prior to June 15, 1976, or manufactured after June 15, 1976 without certification of compliance with HUD standards, is declared a nonconforming structure unsuitable for a dwelling in the Town. All mobile homes shall be removed from the Town limits when they become vacant or within two (2) years from the effective date of this ordinance, whichever occurs first. The Board of Zoning Appeals may grant an extension of not more than six (6) months in an individual case upon appeal for a variance and findings of fact that the occupant of the mobile home will suffer an unnecessary hardship by reason of strict application of this section.

§ 3-108 Temporary nonconforming uses.

A temporary use permit may be issued by the Zoning Administrator for appropriate periods of time not to exceed 12 month increments for a nonconforming structure or use incidental to building construction or land development upon the condition that the structure or use be removed upon expiration of the permit.

§ 3-109 Dwellings on nonconforming lots of record.

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of this ordinance, provided setback requirements of the district are met.

**CHAPTER 4
DISTRICT REGULATIONS**

§ 4-100 District use classifications.

General Regulations in Chapter 3, District Regulations in Chapter 4, and Supplemental Regulations in Chapter 5 are applicable to all following classes of uses:

(a) Permitted uses. Permitted uses listed in the district use tables in this Division are permitted outright.

(b) Conditional uses. Conditional uses in the district use tables are permitted by the Zoning Administrator without further review upon compliance with conditions specified in the tables.

(c) Special exceptions. Special exceptions are permitted after review and approval by the Board of Zoning Appeals upon compliance with general conditions in the regulations.

(d) Tables of uses. References to NAICS codes in the following tables of uses shall mean those codes assigned to businesses in the 1997 North American Industry Classification manual published by the United States Office of Management and Budget. NAICS codes are listed in the tables of uses for each district as an aid in interpretation and determination of those specific uses included in a general class of uses.

§ 4-101 R-1 Single family residential district uses.

R-1 PERMITTED USES	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
1. Single-family dwelling *roof pitch requirement (other than manufactured or mobile home) Rev. 10/01/02	814	Private households	2 for each dwelling unit
2. Public School, elementary or secondary, general government facility [except jails]	6111 921, 922 except 92214	Public elementary & secondary schools; General government, justice, public order & safety, except jails.	<u>School:</u> 2 per classroom or office, plus 1 for each 4 seats in senior high auditorium. <u>Other:</u> 1 per 200 sq. ft. gross area
3. Public park or playground, and recreational facilities limited to tennis court, swimming pool or golf course	71219, 71391, 71394	Nature park; Golf course; Tennis & swimming only	1 per 200 sq. ft. of building area plus 4 for each golf hole
4. Church, synagogue, temple, or place of worship, including religious education building, parsonage or parish house, off-street parking for members and visitors without pay, recreation facilities, kindergarten or pre-school nursery, in permanent structures	8131	Religious organizations, churches, etc.	1 for each 4 seats in main assembly room
<p>5. Accessory use on same lot with principal use, as follows:</p> <ul style="list-style-type: none"> (1) private garage for motor vehicles; (2) open parking area for two motor vehicles per dwelling unit, may be used for one (1) commercial vehicle up to one (1) ton in capacity per dwelling unit; (3) shed for storage of building or lot maintenance equipment; (4) private kennel for not more than four (4) dogs or three (3) cats, four (4) months of age or older, with minimum 6 foot fence for exterior kennel; (5) private swimming pool, including deck, bath house or cabana; boat dock; (6) private garden; greenhouse up to eight (8) feet high; (7) private tennis, outdoor recreation and picnic facilities 			

<p>R-1 CONDITIONAL USES [approved by Zoning Administrator if all conditions are met]</p>	<p>NAICS CODE</p>	<p>NAICS DESCRIPTION</p>	<p>PARKING SPACES REQUIRED</p>
<p>1. Public utility substation, water tower, [see Chapter 5 for communication tower], provided all following conditions are met:</p> <ul style="list-style-type: none"> a. structures enclosed by six (6) foot fence; b. no office, commercial operation, or storage of vehicles or equipment is permitted; c. a landscaped strip at least five (5) feet wide is planted and maintained along all exterior lot lines. 	<p>22112, 2212, 22131</p>	<p>Electric, gas, water, sanitary utilities</p>	<p>1 space</p>
<p>2. Cemetery, provided all following conditions are met:</p> <ul style="list-style-type: none"> a. minimum two (2) acre lot; b. no crematorium or dwelling; c. front yard setback ten (10) feet from street right of way line; d. non-illuminated sign not over thirty (30) square feet in area or ten (10) feet in height. 	<p>81222</p>	<p>Cemetery only</p>	<p>None</p>
<p>3. Temporary contractor office and equipment shed, residential construction, provided all following conditions are met:</p> <ul style="list-style-type: none"> a. used in connection with construction on premises; b. must not cause traffic congestion or nuisance; c. for term up to one (1) year; may be renewed once. 	<p>2332</p>	<p>Residential building construction</p>	<p>1 for each 300 square feet of office area.</p>
<p>4. Customary home occupation in single-family dwelling, provided all following conditions are met:</p> <ul style="list-style-type: none"> a. conducted inside dwelling by resident family members; b. utilizes not more than 25% of total dwelling floor area, or 50% of an accessory building; c. no change in exterior appearance of dwelling; d. no outside display of products; e. no sale of products except those made on premises or consumables incidental to a service; f. creates no health or safety hazard, noise, offensive emission, traffic hazard, unsightly condition or nuisance; g. activity is not visibly evident outside dwelling, except for a wall-mounted nonilluminated nameplate not over two (2) square feet in area. 			

<p>R-1 SPECIAL EXCEPTIONS [approved by Board of Zoning Appeals after hearing]</p>	<p>NAICS CODE</p>	<p>NAICS DESCRIPTION</p>	<p>PARKING SPACES REQUIRED</p>
<p>1. Tourist (guest) home, as defined in §1-201</p>	<p>72119</p>	<p>Tourist home only</p>	<p>1 per guest room</p>
<p>2. Private kindergarten, pre-school nursery, day care, provided the Board of Zoning Appeals determines: a. applicable State regulations are met; b. minimum 20,000 square foot lot; c. minimum 200 square feet of open space per child enclosed by fence at least 5 feet in height; d. structures minimum of 25 feet from residential property; e. conditions imposed for safety, traffic, impact on district; f. the use is compatible with the district.</p>	<p>6111 62441</p>	<p>Kindergarten only (with academic program); Child day care services</p>	<p>1 per employee, plus one off-street drop off & pick up space</p>
<p>3. Clustered single-family development, provided the Board of Zoning Appeals determines: a. detached single-family units on minimum of 2 acre development parcel; b. maximum density of three (3) dwellings per acre; c. lot requirements per house may be waived; d. zero interior lot line setback may be allowed; e. Subdivision Regulations are met; f. adequate provisions for access and traffic safety; g. the use is compatible with the district.</p>	<p>N/A</p>	<p>Private households</p>	<p>2 for each dwelling unit</p>

§ 4-102 R-1 Single family residential district regulations.

The following regulations apply to all uses in R-1 districts:

Minimum residential lot area:	Fifteen thousand (15,000) square feet
Minimum lot width at building line:	One hundred (100) feet
Minimum front yard depth:	Thirty-five (35) feet, or average of existing setbacks from same street in same block in district, but not less than twenty (20) feet
Minimum setback from second street frontage:	Side street on corner lot - 12 feet. Rear street on double frontage lot - 50 feet.
Minimum side yard:	<u>Principal structure</u> - 10 feet from interior side lot line. <u>Accessory structure</u> - 3 feet from interior side lot line.
Minimum rear yard:	<u>Principal structure</u> - 30 feet from interior rear lot line. <u>Accessory structure</u> - 3 feet from interior rear lot line.
Maximum structure height:	Thirty-five (35) feet to the roof line [not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, antennae]
Roof Pitch Requirement:	Not less than a 6:12 roof pitch Rev. 10/01/02
Visibility requirements:	<u>Corner lot</u> : no obstruction between heights of 3 and 10 feet above finished street level within 15 feet of intersection of street right-of-way lines. <u>Private drive</u> : no obstruction over 30 inches high within 10 feet of street
Off street parking area requirements:	See supplemental regulations, Chapter 5
Signs:	See supplemental regulations, Chapter 5
Supplemental regulations:	See Chapter 5
Roof Pitch Requirement:	Not less than a 6:12 roof pitch

§ 4-103 R-2 Single family and two family residential district uses.

R-2 PERMITTED USES	NAICS CODE	DESCRIPTION	PARKING SPACES REQUIRED
1. All uses permitted in R-1 districts		See R-1	See R-1
2. Two family dwelling (duplex)	N/A	Private households	2 for each dwelling unit

R-2 CONDITIONAL USES [approved by Zoning Administrator if all conditions are met]	PARKING SPACES REQUIRED
1. All Conditional Uses permitted in R-1 districts	See R-1
2. Multi-section manufactured home used as residence on a single lot, provided all following conditions are met: a. minimum of 1,000 square feet of floor space; b. on permanent foundation; c. underpinning installed; d. tied down for wind resistance; e. all mobile features are removed; f. roof shall have minimum pitch of 3:12; g. owner shall certify in writing that unit meets HUD standards and will be maintained in compliance with HUD standards; h. failure to bring a unit into compliance with HUD standards within 60 days after notice of deficiencies shall be a violation of these conditions subject to penalties provided by the Town Code.	2 for each dwelling unit

R-2 SPECIAL EXCEPTIONS - All Special Exceptions permitted in R-1 districts

§ 4-104 R-2 Single family and two family residential district regulations.

The following regulations apply to all uses in R-2 districts.

Minimum residential lot area:	Single family -Ten thousand (10,000) square feet; Two-family -Fifteen thousand 15,000) square feet
Minimum lot width at building line:	Sixty (60) feet
Minimum front yard depth:	Thirty (30) feet, or average of existing setbacks from same street in same block in district, but not less than twenty (20) feet
Minimum setback from second street frontage:	Side street on corner lot - 8 feet. Rear street on double frontage lot - 25 feet.
Minimum side yard:	<u>Principal structure</u> - 10 feet from interior side lot line. <u>Accessory structure</u> - 3 feet from interior side lot line.
Minimum rear yard:	<u>Principal structure</u> - 20 feet from interior rear lot line. <u>Accessory structure</u> - 3 feet from interior rear lot line.
Maximum structure height:	Thirty-five (35) feet to the roof line [not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, antennae]
Visibility requirements:	<u>Corner lot</u> : no obstruction between heights of 3 and 10 feet above finished street level within 15 feet of intersection of street right-of-way lines. <u>Private drive</u> : no obstruction over 30 inches high within 10 feet of street
Off street parking area requirements:	See supplemental regulations, Chapter 5
Signs:	See supplemental regulations, Chapter 5
Supplemental regulations:	See Chapter 5

§ 4-105 R-3 General residential district.

R-3 PERMITTED USES	NAICS CODE	DESCRIPTION	PARKING SPACES REQUIRED
1. Single-family and two-family (duplex) dwelling (other than manufactured or mobile home)	814	Private households	2 for each dwelling unit
2. Multi-family dwelling	814	Private households	2 for each dwelling unit
3. Public School, elementary or secondary, postal and general government facility [except jails]	491 6111 921, 922 except 92214	Postal facility; Public elementary & secondary schools; General government, justice, public order & safety, except jails.	<u>School</u> : 2 per classroom or office, plus 1 for each 4 seats in senior high auditorium. <u>Other</u> : 1 per 200 sq. ft. gross area
4. Public park or playground, and recreational facilities limited to tennis court, swimming pool or golf course	71219, 71391, 71394	Nature park; Golf course; Tennis & swimming only	1 per 200 sq. ft. of building area plus 4 for each golf hole
5. Church, synagogue, temple, or place of worship, including religious education building, parsonage or parish house, off-street parking for members and visitors without pay, recreation facilities, kindergarten or pre-school nursery, in permanent structures	8131	Religious organizations, churches, etc.	1 for each 4 seats in main assembly room
6. Accessory use on same lot with principal use, as follows:			
<ul style="list-style-type: none"> a. private garage for motor vehicles; b. open parking area for two motor vehicles per dwelling unit, may be used for one (1) commercial vehicle up to one (1) ton in capacity per dwelling unit; c. shed for storage of building or lot maintenance equipment; d. private kennel for not more than three (3) dogs or three (3) cats, four (4) months of age or older, with minimum 6 foot fence for exterior kennel; e. private swimming pool, including deck, bath house or cabana; boat dock; f. private garden; greenhouse up to eight (8) feet high; g. private tennis, outdoor recreation and picnic facilities 			

R-3 CONDITIONAL USES - All conditional uses permitted in R-2 districts.
1. Singlewide mfg. home in Mobile Home Parks Only. (Rev. 7-3-2001)

<p>R-3 SPECIAL EXCEPTIONS [approved by Board of Zoning Appeals after hearing]</p>	<p>PARKING SPACES REQUIRED</p>
<p>1. All special exceptions permitted in R-1 districts.</p>	<p>See R-1 use.</p>
<p>2. Group housing development.</p>	<p>2 for each dwelling unit</p>
<p>3. Manufactured home park (see definitions in § 1-201), provided the Board of Zoning Appeals determines:</p> <ul style="list-style-type: none"> a. the use is compatible with the district; b. the park will be on a minimum four (4) acre lot with adequate drainage, and approved water and sewer service; c. the park will not contain more than five (5) manufactured units per acre; d. each home space will contain at least 8,000 square feet, have minimum width of 80 feet, and minimum length of 100 feet; e. setbacks for units are twelve (12) feet from other units; fifteen (15) feet from property lines, buildings and driveways; and fifty (50) feet from streets; f. there shall be 2,500 square feet of common open space for each acre or major fraction of an acre in the park; g. all home spaces will be accessible by an interior roadway at least thirty (30)feet wide, paved at least twenty (20) feet in width with unobstructed access to a public street, and by all-weather sidewalks at least three (3) feet wide; h. a greenbelt is required along all exterior lot lines, in width not less than side yard requirements for an adjoining residential district consisting of two or more rows of plants not more than six (6) feet apart which grow to a height of seven (7) feet after two (2) growing seasons; and not less than five (5) feet in width adjacent to non-residential districts with the same growth requirements; i. each manufactured home will be anchored as required by Southern Building Code, Appendix H; j. all applicable state and local regulations related to parking, signs, subdivisions, land development, traffic safety, health and environment are met; k. a site plan showing the details of development shall be submitted for approval upon compliance with additional conditions imposed by the Board to implement the intent of this ordinance; and <ul style="list-style-type: none"> l. each unit shall have underpinning of a material which meets State standards 	<p>2 for each dwelling unit</p>

§ 4-106 R-3 General residential district regulations.

The following regulations apply to all uses in R-3 districts:

Minimum lot area:	Ten thousand (10,000) square feet; Manufactured Home Park : 4 acres
Minimum land area per unit:	Single family - 10,000 square feet; Two-family - 15,000 square feet; Multi-family - 10,000 square feet for first dwelling unit, 3,000 square feet for second unit & 2,500 square feet for each additional unit; Manufactured home - 8,000 square feet
Maximum dwelling units per net acre:	Manufactured Homes: Five (5) units. Site built: Twelve (12) dwelling units.
Minimum lot width at building line:	Single family - Fifty (50) feet; Two-family - Seventy-five (75) feet; Multi-family - One hundred (100) feet.
Minimum front yard depth:	Twenty-five (25) feet from street right of way line
Minimum setback from second street frontage:	<u>Side street on corner lot</u> : ten (10) feet; <u>Rear street on double frontage lot</u> : ten (10) feet.
Minimum side yard:	<u>Principal structure</u> : six (6) feet from interior side lot line; <u>Accessory structure</u> : three (3) feet from interior side lot line.
Minimum rear yard:	<u>Principal structure</u> : twenty-five (25) feet from interior rear lot line. <u>Accessory structure</u> : three (3) feet from interior rear lot line.
Maximum structure height:	Thirty-five (35) feet to roof line [not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, antennae]
Visibility requirements:	<u>Corner lot</u> : no obstruction between heights of 3 and 10 feet above finished street level within 15 feet of intersection of street right-of-way lines. <u>Private drive</u> : no obstruction over height of 30 inches within 10 feet of street
Off street parking area requirements:	See supplemental regulations, Chapter 5.
Signs:	See supplemental regulations, Chapter 5.
Supplemental regulations:	See Chapter 5.

§ 4-107 CC - Core Commercial District Uses.

CC - PERMITTED USES	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
1. Public utility substation, water tower, [see Chapter 5 for communication tower],	22112, 2212, 22131	Electric, gas, water, sanitary utilities	1 space
2. Retail trade, limited to NAICS codes listed	441 442 443 444 445 446 448 451 452 453 454	Motor vehicles & parts; Furniture & home furnish; Electronics & appliances; Building material, garden; Food & beverage stores; Health & personal care; Clothing stores; Sporting goods; General merchandise; Miscellaneous retailers; Nonstore retailers	1 per 200 square feet of gross sales area
3. Information Services, publishing, motion picture theater [except drive-in], broadcasting and telecommunications [except towers - see conditional uses]	511 51213 1 513 514	Newspaper & software; Theater [except drive-in]; Broadcasting, program distribution, & telecommunications [except towers]; Information & data processing services.	<u>Theater:</u> 1 for each 4 seats. <u>All other:</u> 1 per 200 square feet of gross office or sales area
4. Finance and insurance, banks, credit unions, security brokers, insurance agencies	52	Finance and insurance	1 per 200 square feet of gross office or sales area
5. Real estate, sales and rental; auto and consumer goods rental and leasing services	53	Real estate; Rental & leasing services	1 per 200 square feet of gross office or sales area
6. Professional and technical services, legal, accounting, architectural, engineering [except off-premises advertising]	54	Professional, scientific & technical services [except 54185 display advertising]	1 per 200 square feet of gross office area

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CC - PERMITTED USES (CONT.)	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
7. Health care services , physicians, dentists, child care	621 624	Ambulatory health care; Social assistance	1 per 200 square feet of gross service area
8. Arts and entertainment , amusement arcades [except gambling, billiard or pool], bowling	711 712 71312 71395	Performing arts; Museums and parks Amusement arcades [not gambling, billiard or pool]; Bowling centers	1 per 200 square feet of gross service area
9. Hotels, motels, restaurants, bars	72111 722	Hotels and motels; Food service & drinking places	<u>Hotel, motel:</u> 1 for each room. <u>Eating & drinking places:</u> 1 for each 4 seats
10. Personal services , repairs, beauty shops, drycleaning, etc. [except auto repairs]	8112 8113 8114 8121 81221 8123 8129	Electronic repair services; Equipment repair; Household goods repair; Personal care services; Funeral homes; Drycleaning & laundry; Other personal services.	1 per 200 square feet of gross office, sales or service area
11. Government facility , including postal facility [correctional facility limited to pre-trial detention]	491 92	U.S. Postal Service; General government, justice, public order, safety [92214 limited to pre-trial detention facility]	1 for each 200 square feet of floor area
12. Accessory use on same lot with principal use, as follows: <ol style="list-style-type: none"> a. Off-street parking or storage area for vehicles owned by members, customers or employees of business; b. Completely enclosed building for storage of supplies or merchandise for use in the principal business. 			

CC - CONDITIONAL USES [approved by Zoning Administrator if all conditions are met]	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRE D
1. Communications tower, see Chapter 5, Supplemental Regulations	5133	Communications	1 space
2. Dwelling unit in a business structure, provided all following conditions are met: a. dwelling unit must be on a level above the grade level floor within a permitted principal use building; b. dwelling units must have access to a street as required by building and fire codes.	814	Private dwelling	1 for each dwelling unit in excess of 2 units per building
3. Temporary Christmas tree sales, on vacant lot for a period not to exceed 45 days	N/A		None
4. Contractor's office & equipment shed, provided all following conditions are met: a. used in connection with construction on premises; b. must not cause traffic congestion or nuisance; c. for term up to one (1) year; may be renewed once.	N/A		1 for each 300 square feet of office area.

CC - SPECIAL EXCEPTIONS [approved by Board of Zoning Appeals after hearing]	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
1. Car wash , either automatic or self-service, provided the Board of Appeals determines: <ul style="list-style-type: none"> a. the use is compatible with the district; b. adequate spaces for vehicles awaiting entry are required; more than minimum may be required; c. the area is required to be adequately screened from adjoining residential property; d. adequate provisions are made for access and traffic safety; e. hours of operation are limited to prevent late night noise. 	8119 2	Carwashes	<u>Self-service wash</u> : 3. <u>Automatic wash</u> : set by Board; minimum 6.

§ 4-108 CC - Commercial District Regulations.

The following regulations apply to all uses in CC districts:

Minimum lot area:	None
Minimum lot width at building line:	None
Minimum front setback:	(1) Shopping centers - 50 feet from a street right of way; (2) Other uses: none.
Minimum side setback:	None, except: (1) when use abuts a residential zone a setback equal to that required for the residential zone shall be provided; (2) when a setback not required is provided, it shall be not less than 3 feet.
Minimum rear setback:	Ten (10) feet, except when rear of property abuts a public alley no rear setback is required.
Maximum structure height:	Forty-five (45) feet when permitted by fire regulations [not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, antennae];
Off street parking area requirements:	See parking, supplemental regulations, Chapter 5.
Screening:	See landscaping, supplemental regulations, Chapter 5. <u>Open sales yards:</u> Yards used for sale, rental or storage of materials or equipment must be screened from adjoining residential property or other zoning districts by a planting screen, fence or wall at least 6 feet high.
Signs:	See signs, supplemental regulations, Chapter 5.
Subdivision regulations:	Applicable regulations must be met.
Supplemental regulations:	See Chapter 5.

§ 4-109 HC - Highway Commercial District Uses.

HC - PERMITTED USES	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
1. Public utility substation, water tower, [see Chapter 5 for communication tower],	22112, 2212, 22131	Electric, gas, water, sanitary utilities	1 space
2. Wholesale trade	42	Wholesale trade, durable and nondurable goods	1 per 300 square feet of gross sales area
3. Retail trade	441 442 443 444 445 446 447 448 451 452 453 454	Motor vehicles & parts; Furniture & home furnish; Electronics & appliances; Building material, garden; Food & beverage stores; Health & personal care; Auto service station; Clothing stores; Sporting goods; General merchandise; Miscellaneous retailers; Nonstore retailers	1 per 200 square feet of gross sales area
4. Information Services, publishing, motion picture theater, broadcasting and telecommunications [except towers - see conditional uses]	511 51213 1 513 514	Newspaper & software; Theater; Broadcasting, program distribution, & telecommunications [except towers]; Information & data processing services.	<u>Theater:</u> 1 for each 4 seats. <u>All other:</u> 1 per 200 square feet of gross office or sales area
5. Finance and insurance, banks, credit unions, security brokers, insurance agencies	52	Finance and insurance	1 per 200 square feet of gross office or sales area
6. Real estate, sales and rental; auto and consumer goods rental and leasing services	53	Real estate; Rental & leasing services	1 per 200 square feet of gross office or sales area
7. Professional and technical services, legal, accounting, architectural, engineering [except off-premises advertising]	54	Professional, scientific & technical services [except 54185 display advertising]	1 per 200 square feet of gross office area

HC - PERMITTED USES (CONT.)	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
8. Health care services , physicians, dentists, child care	621 624	Ambulatory health care; Social assistance	1 per 200 square feet of gross service area
9. Arts and entertainment , amusement arcades [except gambling], bowling	711 712 71312 71395	Performing arts; Museums and parks Amusement arcades [not gambling]; Bowling centers	1 per 200 square feet of gross service area
10. Hotels, motels, restaurants, bars	72111 722	Hotels and motels; Food service & drinking places	<u>Hotel, motel:</u> 1 for each room. <u>Eating & drinking places:</u> 1 for each 4 seats
11. Personal services , repairs, beauty shops, drycleaning, etc.	8111 8112 8113 8114 8121 81221 8123 8129	Automotive repairs, gen., carwashes; Electronic repair services; Equipment repair; Household goods repair; Personal care services; Funeral homes; Drycleaning & laundry; Other personal services.	1 per 200 square feet of gross office, sales or service area
12. Government facility , including postal facility [correctional facility limited to pre-trial detention]	491 92	U.S. Postal Service; General government, justice, public order, safety [92214 limited to pre-trial detention facility]	1 for each 200 square feet of floor area
13. Accessory use on same lot with principal use, as follows: a. Off-street parking or storage area for vehicles owned by members, customers or employees of business; b. Completely enclosed building for storage of supplies or merchandise for use in the principal business.	DNA	DNA	DNA

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<p>14. Church, synagogue, temple, or place of worship, including religious education building, parsonage or parish house, off street parking, recreation, kindergarten or pre-school nursery, in permanent structures <i>[Eff. Date 6-5-01]</i></p>	<p>8131</p>	<p>Religious organizations, churches etc.</p>	<p>1 for each 4 seats in main assembly room</p>
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HC CONDITIONAL USES [approved by Zoning Administrator if all conditions are met]	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
1. Communications tower , see Chapter 5, Supplemental Regulations	5133	Communications	1 space
2. Dwelling unit in a business structure , provided all following conditions are met: a. dwelling unit must be on a level above the grade level floor within a permitted principal use building; b. dwelling units must have access to a street as required by building and fire codes.	814	Private dwelling	1 for each dwelling unit in excess of 2 units per building
3. Temporary Christmas tree sales , on vacant lot for a period not to exceed 45 days	N/A		None
4. Contractor's office & equipment shed , provided all following conditions are met: a. used in connection with construction on premises; b. must not cause traffic congestion or nuisance; c. for term up to one (1) year; may be renewed once.	N/A		1 for each 300 square feet of office area.

HC SPECIAL EXCEPTIONS [approved by Board of Zoning Appeals after hearing]	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
1. Transportation terminals for bus and railroad service, provided the Board of Appeals determines: a. adequate maneuvering and parking spaces are set; b. adequate provisions are made for access and traffic safety; c. the area is adequately screened from residential areas; d. the use is compatible with the district.	482 48849	Railroad; Terminal for motor vehicle passenger transportation, bus terminal	Set by the Board; minimum: 1 for each 200 square feet of gross floor space
2. Tourist Home (as defined in §1-201)	N/A		1 for each guest room
3. Amusement machines, gambling, video poker , licensed pursuant to State law, provided the Board of Appeals determines: a. adequate provisions are made for access and traffic safety; b. the use is a minimum of 300 feet from a residential structure, church, school, or another gambling use; c. the use is compatible with the district.	71329	Gambling facilities	1 for each 200 square feet of gross floor area

§ 4-110 HC - Highway Commercial District Regulations.

The following regulations apply to all uses in HC districts:

Minimum lot area:	None
Minimum lot width at building line:	None
Minimum front setback:	(1) Shopping centers - 50 feet from a street right of way; (2) Other uses: none.
Minimum side setback:	None, except: (1) when use abuts a residential zone a setback equal to that required for the residential zone shall be provided; (2) when a setback not required is provided, it shall be not less than 3 feet.
Minimum rear setback:	Ten (10) feet, except when rear of property abuts a public alley no rear setback is required.
Maximum structure height:	Forty-five (45) feet when permitted by fire regulations [not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, antennae];
Off street parking area requirements:	See parking, supplemental regulations, Chapter 5.
Screening:	See landscaping, supplemental regulations, Chapter 5. <u>Open sales yards:</u> Yards used for sale, rental or storage of materials or equipment must be screened from adjoining residential property or other zoning districts by a planting screen, fence or wall at least 6 feet high.
Signs:	See signs, supplemental regulations, Chapter 5.
Subdivision regulations:	Applicable regulations must be met.
Supplemental regulations:	See Chapter 5.

§ 4-111 I - Industrial District Uses.

I - PERMITTED USES	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
1. Horticultural nursery, cotton gin	1114 11511 1	Greenhouse, nursery, floriculture; Cotton ginning.	1 per 200 sq. ft. of office area
2. Utilities, distribution and treatment only	22	Electric, gas, water, sewage, distribution & treatment only	1 per 200 sq. ft. of office area
3. Construction, contractors	23	Construction and special trade contractors	1 per 200 sq. ft. of office area
4. Manufacturing, processing and packing, limited to the NAICS classes listed: [See special exceptions for other manufacturing.]	311 31211 313 314 315 32191 323 327 334 335 337	Manufacturing: Food; Soft drink; Textile mills; Textile products mills; Apparel; Millwork; Printing; Mineral product mfg; Computer & electronic products; Electrical equipment; Furniture and cabinets;	1 per 300 square feet of inside work area
5. Wholesale trade [except scrap & waste material]	42	Wholesale trade, durable and nondurable goods [except 42193 recyclable material - scrap]	1 per 300 sq. ft. of sales area
6. Retail trade	44 45	Retail trade	1 per 200 square feet of gross sales area
7. Transportation and storage, including miniwarehouses	482 484 485 488 491 492 493	Rail transportation; Truck transportation; Passenger transportation; Transportation support; Postal service; Couriers and messengers; Warehouse and storage	1 per 200 square feet of gross floor space
8. Publishing, motion picture, telecommunications, radio, television services, [except communications towers - see conditional uses]	51	Information	1 per 300 sq. ft. of floor area
9. Finance, insurance, real estate, and leasing services	52 53	Finance and insurance; Real estate and rental and leasing.	1 per 200 square feet of gross floor area

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I - PERMITTED USES (CONT.)	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
10. Services to individuals, business and government establishments; hospitals, nursing care, amusement, recreation, and adult oriented businesses	54 55 561 61 62 7112 72 811 812	Professional, scientific and technical services; Management of companies; Administrative & support services; Educational services; Health care & social; Spectator sports; Accommodation & food services; Repair & maintenance; Personal care & laundry;	<u>Elementary School</u> : 3 spaces for each classroom. <u>High School</u> : 1 for each 4 seats in auditorium. <u>Hospital</u> : 1.5 for each patient bed <u>Eating & drinking places, & sports</u> : 1 for each 4 seats. <u>Service & repair</u> : 1 per 250 sq. feet of work area. <u>All Other</u> : 1 per 250 square feet of gross floor area.
11. Government building or facility, [correctional facility limited to pre-trial detention]	92	Public administration, justice, safety, etc.[92214 limited to pre-trial detention facility]	1 for each 200 square feet of floor area

I - CONDITIONAL USES [approved by Zoning Administrator if all conditions are met]	NAICS CODE	NAICS DESCRIPTION	PARKING SPACES REQUIRED
1. One-family dwelling for watchman or caretaker, provided all following conditions are met: a. dwelling is located on premises of permitted use; b. head of household is employed in a permitted use as watchman or caretaker.	N/A		1 space
2. Communications tower, see Chapter 5, Supplemental Regulations.	48	Communica- tions	1 space
3. Temporary Christmas tree sales, on vacant lot for a period not to exceed 45 days	N/A		None
4. Contractor's office & equipment shed, provided all following conditions are met: a. used in connection with construction on premises; b. must not cause traffic congestion or nuisance; c. for term up to one (1) year; may be renewed once.	N/A		1 for each 300 square feet of office area.
5. Religious meeting, in tent or temporary structure for a period not to exceed 60 days.			

I - SPECIAL EXCEPTIONS [approved by Board of Zoning Appeals after hearing]	NAICS CODE	DESCRIPTION	PARKING SPACES REQUIRED
1. Junk and scrap metals	42193	Recyclable, scrap, waste materials	Set by Board
2. Manufacturing, industry, processing, assembly and storage not listed as a permitted use, provided the Board of Appeals determines: a. the use is compatible with the district; b. adequate parking for employees & customers is provided; c. adequate provisions are made for access and traffic safety; d. no outside storage of junk or salvage is permitted; e. no nuisance will be created beyond the premises by noise, vibration, smoke, gas, fumes, odor, dust, etc.; f. conditions are imposed to protect adjacent property from adverse impact; and g. applicable environmental regulations are met.	31-33	Manufactur- ing	Set by Board

§ 4-112 I - Industrial District Regulations.

The following regulations apply to all uses in I districts:

Minimum lot area:	None
Minimum lot width at building line:	None
Minimum front yard depth:	Fifty (50) feet from street right of way line.
Minimum side yard:	Twenty (20) feet.
Minimum rear yard:	Twenty (20) feet.
Minimum setback from any commercial district	50 feet
Minimum setback from any residential district	150 feet, <u>or</u> 75 feet with a 50 foot wide densely planted buffer maintained at least 6 feet high along the residential district line, <u>or</u> as specified in conditions
Maximum structure height:	Forty-five (45) feet when permitted by fire regulations [not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, antennae].
Visibility requirements:	<u>Corner lot</u> : no obstruction between heights of three (3) and ten (10) feet above finished street level within fifteen (15) feet of intersection of street right-of-way lines. <u>Private drive</u> : no obstruction over height of thirty (30) inches within ten (10) feet of street.
Off street parking area and loading area requirements:	See parking, supplemental regulations, Chapter 5. <u>Truck terminal</u> : paved acceleration and deceleration lanes at least ten (10) feet wide and one hundred (100) feet long are required at entrance and exit of terminal site which must have access to and from a major street.
Screening:	See landscaping, supplemental regulations, Chapter 5. Planting screen, fence or wall at least six (6) feet high is required along all lot lines abutting any residential district and not separated by a street.
Signs:	See signs, supplemental regulations, Chapter 5.
Storage:	No open storage of junk or salvage materials is permitted with any use in the district, except in connection with a permitted special exception granted by the Board of Zoning Appeals.
Subdivision regulations:	Applicable regulations must be met.
Supplemental regulations:	See Chapter 5.

§ 4-113 PD Planned Development District Uses.

Planned Development districts may permit a mixture of different types of housing with compatible commercial uses, shopping centers, office parks and other mixed use developments. Flexibility in design, character and quality of development and preservation of natural and scenic features are made possible through the approval of a plan which describes the specific uses, densities, setbacks, and other requirements for a planned development. The approved plan constitutes the district regulations for a particular planned development.

§ 4-114 PD Planned Development District Regulations.

The following regulations shall apply to all uses in PD districts, other provisions in this ordinance to the contrary notwithstanding:

Minimum district area:	2 acres
Minimum lot area for structure and maximum density:	Set in approved plan.
Minimum lot width, yards, setbacks:	Set in approved plan.
Maximum structure height:	Forty-five (45) feet when permitted by fire regulations [not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, antennae];
Off street parking and loading requirements:	Set in approved plan.
Screening:	Set in approved plan, but not less than landscaping required by supplemental regulations, Chapter 5.
Signs:	Set in approved plan, but not greater than signs allowed by supplemental regulations, Chapter 5.
Subdivision regulations:	Applicable regulations must be met.
Supplemental regulations:	See Chapter 5.

§ 4-115 PD Planned Development District Application and Review Procedures.

The following procedures shall apply to establishment of a PD district, other provisions in this ordinance to the contrary notwithstanding:

a. Zoning amendment required:	PD districts are established by amendment to the zoning ordinance in the manner prescribed for rezoning.
b. District regulations:	The applicable regulations in § 4-114, Chapter 5, and those in the approved plan and descriptive statement shall constitute the PD district regulations.
c. Preapplication conference optional:	Applicant for PD zoning is encouraged to contact the Planning Commission prior to submission of application for information and review of regulations and procedures applicable to the proposed plan and descriptive statement.
d. Amendment application required:	Initiation of a PD amendment shall be by submission of an application form provided by the Zoning Administrator with required attachments.
e. Development plans required:	A site development plan is required with application for PD amendment. The site development plan shall indicate proposed uses of all land areas and other information the Zoning Administrator deems reasonably necessary for review.
f. Descriptive statement required:	<p>A descriptive statement is required with the application for PD amendment. The descriptive statement shall indicate the characteristics and standards to be used for development of the site, and shall include at least the following items:</p> <ol style="list-style-type: none"> 1. legal description of site boundaries, and total area of the site; 2. area and location of each type of use; 3. number and density of dwelling units by type; 4. description of open space locations, uses and proposed dedication for public use; 5. ownership and maintenance of streets, and proposed dedication to public; 6. methods for dealing with parking and the impact of projected traffic on the uses on the site and adjacent districts and streets; 7. steps proposed to comply with sediment control and storm drainage regulations; 8. steps proposed to comply with landscaping regulations; 9. details of association or organization involved in ownership and maintenance, including procedures and methods of operation; 10. outline for development phasing with anticipated time frames; 11. design standards, procedures and methods demonstrating that development will result in an integrated use district, functional and compatible with the area; 12. proposed restrictive covenants to be recorded to assure future compliance with the standards in the plan; and 13. such other information as may be appropriate for planning commission review.

g. Planning Commission review:	Upon determination that the application meets above requirements, the Zoning Administrator shall forward the application to the Planning Commission for review and recommendation to Town Council as required for zoning amendments.
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§ 4-116 PD Planned Development District Application and Review Procedures (Cont.)

h. Town Council action:	Upon receipt of the Planning Commission recommendation, Town Council shall conduct a public hearing as required for zoning amendments, and may approve, approve with modifications accepted by applicant, or disapprove the proposed amendment.
i. Zoning and building permits:	Zoning and building permits shall not be issued until the zoning is approved by Town Council, and approved plats, the approved descriptive statement and all required restrictive covenants are filed for record with the Town Clerk and the Clerk of Court for Chester County, and all required bonds, if any, are posted with the Town Clerk.
j. District map:	The site development plan approved by Town Council shall be the zoning district map for the PD and shall be the basis for issuance of zoning and building permits.
k. Changes to plan:	<p>1. <u>Minor changes.</u> Changes proposed in writing by the applicant which do not alter district boundaries and which involve revision of minor characteristics of the PD such as relocation of driveways, revision of floor plans, facades, landscaping, relocation of required parking, drainage structures, and features which do not materially affect the approved plan concept or violate any applicable regulations may be approved by the Zoning Administrator. Approval or rejection of the change is subject to review and final determination by the Planning Commission if the applicant or any party whose property is adversely affected files a written objection with the Planning Commission within ten (10) days after action by the Zoning Administrator. An applicant may submit a rejected change as an amendment to the plan under the normal zoning amendment procedures.</p> <p>2. <u>Major changes.</u> Changes proposed in writing by the applicant which alter district boundaries or which materially affect the characteristics of the PD shall be submitted under normal zoning amendment procedures applicable to establishment of the PD.</p> <p>3. <u>Permits.</u> No zoning or building permits involving a minor or major change of the PD descriptive statement or map shall be issued until the written change is filed with the Town Clerk and recorded in the office of the Clerk of Court for Chester County.</p>
l. Failure to begin; failure to progress; failure to complete	If the responsible party fails to begin, fails to progress, or fails to complete development as agreed in the descriptive statement, Town Council may charge the developer with violation of the zoning ordinance, may rezone the property, or may take any combination of these actions. In any event, if the planned development is not initiated within two years of its establishment, the Planning Commission shall initiate the rezoning of the property to an appropriate district classification in conformity with the comprehensive plan.

**CHAPTER 5
SUPPLEMENTAL REGULATIONS**

**Article I
Communications Tower and Antenna**

§ 5-100 Definitions.

- a. "Communications tower" as used in this ordinance shall mean a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free-standing, guyed, or on a building.
- b. "Telecommunications," as defined in the federal Telecommunications Act of 1996, means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- c. "Antenna" means a device, dish or array used to transmit or receive telecommunications signals.
- d. "Height" of communication tower is distance from base of tower to top of structure.

§ 5-101 Communications Tower and Antenna Permitted as Conditional Use.

A communications tower and/or antenna may be permitted by the Zoning Administrator without further review upon determination that all of the applicable conditions in this ordinance are met.

a. Districts in which conditional uses are permitted; height limitations.

DISTRICTS	PERMITTED HEIGHT - FREE-STANDING OR GUYED TOWER
Residential: R-1, R-2	Free-standing tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires special exception.
Residential: R-3	Free-standing tower with height not exceeding 300 feet is a permitted conditional use; height exceeding 300 feet requires special exception.
Commercial: CC, HC	Free-standing or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.
Industrial: I	Free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.
Planned Development PD	Tower with height specified in approved plan is permitted under conditions set forth in plan.
	PERMITTED HEIGHT ABOVE STRUCTURE
All districts	Tower and/or antenna mounted on building, water tank or structure other than a free-standing or guyed communications tower must not extend more than 30 feet above the highest part of the structure.
	SPECIAL EXCEPTIONS AND VARIANCES
All districts except PD - Planned Development	Free-standing or guyed tower and/or antenna exceeding height limitations may be permitted by the Zoning Board of Appeals as a special exception. See requirements for special exceptions in § 5-102.
All districts	Variations from conditions imposed by this section may not be granted by the Zoning Board of Appeals. Variations from other general district regulations may be granted under standards in S.C. Code § 6-29-800.

<p>b. Application requirements:</p>	<p>The applicant for a conditional use zoning permit for construction of a communications tower or placement of a commercial telecommunication antenna on an existing structure other than a tower previously permitted must file with the Zoning Administrator an application accompanied by a fee of \$200.00 and the following documents, if applicable:</p>
<p>specifications;</p>	<p>1. One copy of typical specifications for proposed structures and antennae, including description of design characteristics and material.</p>
<p>site plan;</p>	<p>2. A site plan drawn to scale showing property boundaries, tower location, tower height, guy wires and anchors, existing structures, 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];</p>
<p>tower location map;</p>	<p>3. A current map, or update for an existing map on file, showing locations of applicant’s antennae, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the Town;</p>
<p>antenna capacity; wind load;</p>	<p>4. A report from a structural engineer registered in South Carolina showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards.</p>
<p>antenna owners; owner</p>	<p>5. Identification of the owners of all antennae and equipment to be located on the site;</p>
<p>authorization;</p>	<p>6. Written authorization from the site owner for the application;</p>
<p>FCC license;</p>	<p>7. Evidence that a valid FCC license for the proposed activity has been issued;</p>
<p>visual impact analysis;</p>	<p>8. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts;</p>
<p>removal agreement;</p>	<p>9. A written agreement to remove the tower and/or antenna within 120 days after cessation of use;</p>
<p>conditions met;</p>	<p>10. Evidence that applicable conditions in subsection c. are met; and</p>
<p>additional information.</p>	<p>11. Additional information required by the Zoning Administrator for determination that all applicable zoning regulations are met.</p>

c. Conditions:	Applicant must show that all applicable conditions are met.
location, visual impact	1. The proposed communications tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant’s technical design requirements.
inability to locate on existing structure	2. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant’s technical design requirements without unreasonable modifications on any existing structure or tower under the control of applicant.
necessity for location in residential district	3. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a non-residential district for valid technical reasons.
public property or other private property not suitable	4. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant’s technical design requirements.
design for multiple use	5. Applicant must show that a new tower is designed to accommodate additional antennae equal in number to applicant’s present and future requirements.
safety codes met	6. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.
paint; illumination	7. A communications tower must not be painted or illuminated unless otherwise provided by state or federal regulations.
distance from existing tower	8. A permit for a proposed tower site within 1,000 feet of an existing tower shall not be issued unless the applicant certifies that the existing tower does not meet applicant’s structural specifications and applicant’s technical design requirements, or that a collocation agreement could not be obtained.
indemnity; claim resolution	9. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Zoning Administrator a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the municipal attorney.

c. Conditions (cont.)	
application of zoning regulations	10. Land development regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setback and height conditions in this section apply.
minimum setbacks	11. A tower must be a minimum distance equal to one-half the height of the tower from property designated historic or architecturally significant, and must be set back from all lot lines distances equal to the district setback requirement or 25% of the tower height, whichever is greater.
MASC technical assistance required	12. Prior to issuing a permit, the Zoning Administrator shall make use of technical services of the Municipal Association of South Carolina to determine that the standards in subsections c.2, c.3, c.4, c.5, c.7, and c.8 of § 5-101 of this ordinance are met.

d. Appeal to Board	Applicant may appeal to the Zoning Board of Appeals as follows:
time limit for action by zoning administrator on complete application	1. Failure of the Zoning Administrator to act on an application which is determined to be complete under this section within 45 days, unless extended by agreement, may be considered by applicant to be a denial of a permit which is subject to appeal to the Zoning Board of Appeals.
variance	2. Applicant may appeal to the Board for a variance from general zoning district regulations and setback requirements in this section, but not from any other conditions in this section. Towers exceeding height limitations may be permitted only by special exception pursuant to § 5-102.
special exception	3. Applicant may apply directly to the Board for a permit for any tower as a special exception pursuant to § 5-102.

§ 5-102 Special Exceptions.

A tower, pole, or antenna may be permitted by special exception granted by the Zoning Board of Appeals after public hearing and findings of fact based on the following criteria:

Special exception criteria:	The Zoning Board of Appeals must find and conclude:
application; conditions	1. All application requirements and conditions imposed by § 5-101 of this ordinance for conditional uses are met except height limitations and setbacks.
height limitations	2. If additional tower height is requested, total tower height will not exceed 150% of the maximum height permitted in the district as a conditional use.
necessity for additional height	3. Applicant has demonstrated that additional height above that permitted by conditional use regulations is necessary for service to occupants of an area within the municipality.
setback requirements; additional conditions	4. Setback requirements and such additional conditions are established by the Board as it deems necessary to remove danger to health and safety, and to protect adjacent property.
MASC technical assistance required on special exception or appeal from action on conditional use	5. Prior to approving a permit by special exception or on appeal from action of the Zoning Administrator on an application for a conditional use, the Board shall make use of technical services of the Municipal Association of South Carolina to determine that the standards in subsections c.2, c.3, c.4, c.5, c.7, and c.8 of § 5-101 of this ordinance are met.
denial on substantial evidence	6. The Telecommunications Act of 1996 requires that a denial of a permit be supported by substantial evidence.
variance prohibited	7. The Board may not grant a variance from the standards imposed for a communications tower or antenna in connection with granting a special exception, except as permitted by § 5-101d.

Article III Landscaping

§ 5-300 Purposes for Required Landscaping.

Landscaped open areas are required by this ordinance to provide buffer areas or screening between adjacent land uses to reduce the impact of incompatible activities; to improve, protect, preserve and promote the aesthetic character, natural beauty, and value of land; and to promote and protect public interests in recreation, safety, health, reduction of pollution, and tree protection. The standards in this division shall apply to all zoning districts.

§ 5-301 Buffer Areas.

Landscaped buffer areas along the perimeter of lots, but not in a street right-of-way, which areas may be used for passive recreation only, shall be maintained by property owners as follows:

TYPE	LAND USE	WHERE REQUIRED	BUFFER SIZE AND PLANTS REQUIRED
A	Multi-family complex, manufactured home park, non-residential use not adjacent to residential district, and all surface parking lots	Along street rights-of-way, except driveways & visibility angles.	<u>Minimum buffer width:</u> five (5) feet. <u>Plants required per 100 feet of street frontage:</u> 12 ornamental shrubs, 2 evergreen understory trees, and grass or other ground cover. Shrubs may be clustered.
B	Multi-family complex, manufactured home park, commercial or institutional use adjacent to single-family residential use not separated by street or alley.	Along adjacent residential property lines.	<u>Minimum buffer width:</u> ten (10) feet. <u>Plants required per 100 linear feet:</u> 2 deciduous canopy trees 40 to 60 feet on center, and 8 evergreen plants 10 feet on center.
C	Industrial, warehouse, outdoor sales or storage use adjacent to residential district not separated by street at least 18 feet wide.	Along adjacent residential district lines.	<u>Minimum buffer width:</u> fifteen (15) feet. <u>Plants required per 100 linear feet:</u> 2 deciduous canopy trees 40 to 60 feet on center, and 17 evergreen plants or understory trees in double staggered rows 10 feet on center.
Plant Standards:		<u>Minimum installation height:</u> Evergreen understory trees and shrubs - 6 feet; deciduous canopy trees - 8 feet. <u>Minimum mature size:</u> Evergreens - 10 feet; deciduous trees - 25 feet.	

Substitutions:	<p><u>Existing plants</u>: Existing plants meeting minimum standards may be retained to meet buffer requirements.</p> <p><u>Evergreens</u>: Evergreen plants may be substituted for deciduous plants.</p> <p><u>Fence or wall</u> : Where existing lot use, size, shape, configuration, topography or unusual circumstances prevent reasonable compliance with buffer landscaping requirements, the Zoning Administrator may approve substitution of an opaque fence or wall at least six feet in height, but not exceeding ten feet in height, for a Type B or Type C buffer. Fences and walls shall be neat in appearance and have a finished surface facing adjacent property.</p>
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§ 5-302 Open Space Landscaping Requirements.

The following open space landscaping requirements shall apply to land uses in all zoning districts.

LAND USE	OPEN SPACE REQUIRED	LANDSCAPING
Single-family and two-family residential, except clustered	District yard requirements.	None required.
Clustered residential	15% of land area.	Grass, shrubs and trees selected by owner.
Manufactured home park	2,500 square feet for each acre or major fraction of an acre in the park. See R-3 District special exceptions.	Greenbelt along all interior lot lines. See R-3 District special exceptions.
Multi-family residential, commercial and industrial, except surface parking lots	District yard requirements. Required buffer areas, woodlands and wetlands may be used to satisfy requirements.	Grass, shrubs and trees selected by owner.
Surface parking lots	100 square feet of planted area for each 20 parking spaces. Required buffer areas may be used to satisfy requirements.	One evergreen or deciduous tree for each 20 parking spaces. Grass & shrubs selected by owner.

§ 5-303 Tree Protection.

An existing healthy hardwood tree greater than ten (10) inches in DBH (diameter breast high = 5 feet above ground) is a valuable natural resource by virtue of age, size and contribution to the environment, and must be preserved and protected to the extent practical and feasible. Hardwood trees ten (10) inches in DBH shall be flagged and shown on a required plat or site plan for development. No more than 25% of said trees shall be removed from a lot, except by variance granted by the Board of Zoning Appeals. In the event a variance is granted, each tree removed shall be replaced by a tree at least two (2) inches in DBH in a location meeting required landscaping. In the event a tree is removed without compliance with this section, a measurement of the stump diameter at ground level exceeding fifteen (15) inches shall be prima facie evidence of a violation of this section.

**Article IV
Parking**

§ 5-401 Off-street Parking.

a. Off-street parking spaces required by district regulations shall be located on the same lot as the principal use, or on a lot within 400 feet of the main entrance to the principal use which under the same ownership as the principal use or has been legally restricted for parking in connection with the principal use, and shall have required buffer and landscaped areas.

b. Required off-street parking for a commercial or industrial use may extend up to 120 feet into a residential zoning district provided: (1) the parking area adjoins the property on which the principal commercial or industrial use is located; (2) the parking area access is to the same street as the principal use; and (3) the parking area has a Type B buffer area along residential lot lines and required landscaping.

c. Combined parking areas serving two or more principal uses shall contain spaces equal in number to the total of spaces required for all principal uses served.

§ 5-402 Parking Space Requirements.

Off-street parking spaces shall meet the following design standards.

Parking space dimensions:	<u>Angle parking</u> : 9 feet by 19 feet; provided, 10% may be 8.5 feet by 18 feet; <u>Parallel parking</u> : 9 feet by 24 feet; <u>Handicapped</u> : 12 feet by 20 feet, or 8 feet by 20 feet, with 8 foot isle.
Minimum isle widths:	<u>90 degree parking</u> - 25 feet; <u>60 degree parking</u> - 18 feet; <u>45 degree parking</u> - 13 feet; <u>parallel parking</u> - 10 feet. Secondary street rights-of-way may be considered as isles for adjacent off-street parking.
Paving and marking requirements:	A parking area, including driveways, containing 10 or more parking spaces shall be surfaced with an all weather impervious material, and spaces shall be marked with painted lines.
Lighting requirements:	A parking area open for night use shall have a minimum of one 9000 lumen overhead light for each 25 parking spaces, or major portion thereof.
Parking spaces for handicapped persons:	One parking space for handicapped persons shall be provided for each 25 parking spaces, or fraction thereof, except for dwellings of less than 20 units, meeting federal and State requirements, with access to ramps, walkways, and entrances without moving behind parked vehicles.

§ 5-403 Off-street Loading and Unloading Spaces.

Each lot used for commercial or industrial purposes, or multifamily residences with more than 10 units, shall provide off-street space for loading and unloading as follows.

Access:	Each space shall have access from an alley or public street.																																				
Dimensions:	Each space shall be a minimum of 12 feet by 40 feet, clear of obstructions.																																				
Spaces required:	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Use</th> <th style="width: 40%;">Gross Floor Area [square feet]</th> <th style="width: 10%;">-</th> <th style="width: 10%;">No. of Spaces</th> </tr> </thead> <tbody> <tr> <td>Retail business -</td> <td>for each 5,000</td> <td>-</td> <td>1</td> </tr> <tr> <td>Wholesale, industrial, governmental, institutional, educational, medical, assembly -</td> <td>25,000</td> <td></td> <td>1</td> </tr> <tr> <td></td> <td>25,001 - 99,999</td> <td></td> <td>2</td> </tr> <tr> <td></td> <td>100,000 - 159,999</td> <td></td> <td>3</td> </tr> <tr> <td></td> <td>160,000 - 239,999</td> <td></td> <td>4</td> </tr> <tr> <td></td> <td>240,000 - 349,999</td> <td></td> <td>5</td> </tr> <tr> <td></td> <td>each additional 100,000 of fraction</td> <td></td> <td>1</td> </tr> <tr> <td>Multifamily residence with 10 or more units -</td> <td></td> <td></td> <td>1</td> </tr> </tbody> </table>	Use	Gross Floor Area [square feet]	-	No. of Spaces	Retail business -	for each 5,000	-	1	Wholesale, industrial, governmental, institutional, educational, medical, assembly -	25,000		1		25,001 - 99,999		2		100,000 - 159,999		3		160,000 - 239,999		4		240,000 - 349,999		5		each additional 100,000 of fraction		1	Multifamily residence with 10 or more units -			1
	Use	Gross Floor Area [square feet]	-	No. of Spaces																																	
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Multifamily residence with 10 or more units -			1																																		

§ 5-404 Parking of Recreation, Commercial, and Unlicensed Vehicles.

a. No mobile recreation equipment or vehicle shall be parked or stored on any lot in a residential district for more than twenty-four (24) hours, other than in a carport, enclosed building, or rear yard. The Board of Zoning Appeals may grant a variance in case of unnecessary hardship.

b. No commercial vehicle or trailer shall be parked or stored on any lot in a residential district, except for temporary loading or unloading. The Board of Zoning Appeals may grant a variance for vehicles used in home occupations in case of unnecessary hardship.

c. No vehicle or trailer subject to State licensing which does not display a current license plate shall be parked or stored on any lot in a residential district, except in an enclosed building.

Article V
Signs

§ 5-500 Sign Regulations.

The following sign regulations shall apply to signs in all zoning districts.

a. Permit required:	No sign shall be erected, altered or reconstructed without a permit issued by the Zoning Administrator and compliance with all applicable regulations.
b. Materials:	Signs must be constructed of durable materials approved by the Zoning Administrator, and maintained in good condition.
c. Prohibited signs:	<p><u>Signs imitating traffic or emergency signals.</u> No private sign shall be permitted which imitates or gives the appearance of an official traffic or emergency sign or signal.</p> <p><u>Confusing signs:</u> No private sign shall be permitted within twenty-five (25) feet of a public right of way which utilizes flashing, blinking, or moving lights which are distracting to drivers of vehicles.</p> <p><u>Incompatible with residential district.</u> No illuminated sign shall be permitted within fifty (50) feet of property in any residential district unless the illumination is so designed that it does not shine or reflect light onto such property.</p> <p><u>Off-premises advertising.</u> Signs advertising off-premises businesses or activities are prohibited.</p> <p><u>Trees, natural features, etc.</u> No sign shall be painted on or attached to a tree, fence, utility pole, tower, tank, rock or other natural feature.</p> <p><u>Vehicles:</u> Advertising signs painted or placed on a motor vehicle or trailer parked with the primary purpose of providing a sign not otherwise allowed by this ordinance are prohibited.</p> <p><u>Portable.</u> Portable signs are prohibited.</p>
d. Exceptions - permit not required:	<p>A permit is not required for the following signs:</p> <p><u>Traffic.</u> Traffic, directional, street, warning, or information signs authorized by a public agency.</p> <p><u>Official.</u> Official notices issued by a court, public agency or office.</p> <p><u>Temporary.</u> One non-illuminated political campaign, “yard sale,” “for sale,” “for rent,” “for lease,” or similar sign not exceeding 6 square feet in area in a residential district, or 20 square feet in a non-residential districts, and located at least 10 feet from a street right-of-way or on the front wall of a building.</p> <p><u>Historic.</u> Historic markers not in the public right-of-way.</p>
e. Roof signs:	Not more than one (1) roof sign structure may be erected on the roof of any one (1) building. No roof sign shall extend more than twenty (20) feet above the peak of the principal roof of a building. No sign shall be painted on a roof.

f. Construction signs:	One non-illuminated sign, not exceeding one hundred (100) square feet in area displaying the names of the building, contractors, architects, engineers, owners, and financial, selling and development agencies, is permitted on the premises for work involving construction, alteration, or removal. The sign shall be removed from the site within thirty (30) days after completion of the project.
g. Wall signs attached to, projecting from, or painted on the surface of the wall:	<p><u>Front.</u> Total area of signs on the exterior front surface of a building shall not exceed twenty (20%) percent of the front surface or the maximum area permitted by district regulations, whichever is less.</p> <p><u>Side and rear.</u> Total area of signs on the exterior side or rear surface of a building shall not exceed twenty-five (25%) percent of that surface area or the maximum permitted by district regulations, whichever is less.</p> <p><u>Combined.</u> Total area of signs on the combined exterior surfaces of a building shall not exceed the area permitted by district regulations.</p> <p><u>Surface mounted.</u> Flat surface mounted signs may extend not more than twenty-four (24) inches from the wall.</p> <p><u>Projecting.</u> A projecting sign may extend outward from the wall of a building not more than six and one-half (6 ½) feet, but not closer than eighteen (18) inches to the vertical plane at the street curb line. A projecting sign may not extend above the roof line a distance greater than the height of the roof above the ground level. Signs may not project beyond property lines, except over sidewalks in a C District at a minimum height of ten (10) feet above grade or sidewalk. Signs attached to a canopy over a sidewalk must have a minimum clearance of nine (9) feet above the grade or sidewalk.</p>
h. Temporary subdivision signs:	Temporary signs, not exceeding twenty (20) square feet in area announcing a land subdivision development, are permitted on the premises of the land subdivision not less than ten (10) feet from a street right-of-way or subdivision boundary line and spaced not less than three hundred (300) feet apart. Temporary signs shall be removed when seventy-five (75%) of the subdivision lots are conveyed.
i. Private directional signs:	Off-premises signs, not exceeding six (6) square feet in area and four (4) feet in length, spaced not less than five hundred (500) feet apart, indicating location and direction to property available for or under development may be erected on private property, and may display the names of the owner, developer, builder, or agent.
j. Sign illumination:	Devices illuminating signs shall be placed and shielded in a manner such that the illuminating rays or reflections shall not be directed into any residential district, sleeping room in any district, or public right-of-way.
k. Sign height:	Zoning district height limitations shall apply to signs, except as otherwise specifically provided.
l. Removal of signs	Business signs shall be removed within 60 days after discontinuance of the business advertised. Temporary signs shall be removed within 72 hours after their purpose has ceased to exist.

§ 5-501 Permitted Signs.

The following signs are permitted in the districts indicated.

ZONING DISTRICT	PERMITTED SIGNS
R-1, R-2 R-3	<p>a. Signs for which permits are not required.</p> <p>b. For <u>buildings other than dwellings, and for multi-family dwellings, hotels, and group dwellings</u>, a single non-illuminated business identification sign or bulletin board not exceeding twenty (20) square feet in area, set back not less than ten (10) feet from a street right-of-way.</p> <p>c. <u>Tourist home</u> non-illuminated sign not exceeding six (6) square feet in area, set back not less than five (5) feet from a street right-of-way.</p> <p>d. <u>Temporary subdivision</u> signs, § 5-500h.</p> <p>e. Private <u>directional</u> signs, § 5-500i.</p> <p>f. <u>Manufactured home park</u> signs not exceeding a combined total of three hundred (300) square feet in area.</p> <p>g. One (1) non-illuminated <u>professional or business name plate</u> not exceeding one(1) square foot in area mounted flat against the wall of a building in which a permitted home occupation is conducted.</p> <p>h. One (1) non-illuminated <u>church, institutional, or public facility</u> sign not exceeding twenty (20) square feet in area, set back not less than ten (10) feet from a street right-of-way.</p>
CC, HC, I	<p>a. All signs permitted in residential and neighborhood commercial districts.</p> <p>b. <u>On a lot occupied by a business use</u>: not more than four (4) signs of any type having a total area of not more than six hundred (600) square feet in area. Sign area not exceeding a total of seven hundred fifty (750) square feet may be granted as a special exception by the Board of Zoning Appeals.</p> <p>c. <u>Commercial or industrial uses located on major streets</u> may include in total permitted sign area one (1) business identification pylon sign set back at least ten (10) feet from a street right-of-way.</p> <p>d. <u>Roof and wall signs</u> must meet requirements of § 5-500.</p> <p>e. <u>Illuminated signs</u> must meet requirements of § 5-500j.</p>

Article VI Sexually Oriented Businesses

§ 5-600 Purpose and intent.

It is the purpose of this Article to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this Article to condone or legitimize the distribution of obscene material.

§ 5-601 Definitions.

a. *Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "certain sexual activities" or "specified anatomical areas."

b. *Adult bookstore* or *adult video store* means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas."

(c) *Adult cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity; or
- (2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

d. *Adult motel* means a hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

e. *Adult motion picture theater* means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

f. *Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

g. *Escort* means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

h. *Escort agency* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

i. *Establishment* means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

j. *Permittee* and/or *licensee* means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

k. *Nude model studio* means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

1. *Nudity* or a *state of nudity* means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

m. *Person* means an individual, proprietorship, partnership, corporation, association, or other legal entity.

n. *Semi-nude* means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

o. *Sexual encounter center* means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

p. *Sexually oriented business* means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

q. *Specified anatomical areas* means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

r. *Specified sexual activities* means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in (a) through c. above.

s. *Substantial enlargement* of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on January 1, 2000.

t. *Transfer of ownership or control* of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business,

whether by sale, exchange, or similar means; or

- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

§ 5-602 Classification.

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers.

§ 5-603 Permit required.

a. A person commits a misdemeanor if he operates a sexually oriented business without a valid permit issued by the Town for the particular type of business.

b. An application for a permit must be made on a form provided by the zoning administrator. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

c. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the health department, fire department, and building official.

d. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a 10 percent or greater interest in the corporation must sign the application for a permit as applicant.

e. The fact that a person possesses other types of state, county, or Town permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit.

§ 5-604 Issuance of permit and fee.

a. The Town zoning administrator shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless he finds one or more of the following to be

true:

- (1) An applicant is under 18 years of age.
- (2) An applicant or an applicant's spouse is overdue in his payment to the Town of taxes, fees, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the applicant form.
- (4) An applicant is residing with a Person who has been denied a permit by the Town to operate a sexually oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
- (5) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
- (6) The permit fee required by the ordinance codified in this section has not been paid.
- (7) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of the ordinance codified in this section.
- (8) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

b. The annual fee for a sexually oriented business permit is \$500.00.

c. **Signage (City Council 2nd Reading 9-1-09)**

(1) It shall be unlawful for the owner or operator of any regulated establishment or any other person to erect, construct or maintain any sign for the regulated establishment other than one (1) flat plan, rectangular in shape *primary sign* and one (1) flat plan, rectangular in shape *secondary sign* as provided herein.

(2) *Primary* signs shall have no more than two (2) display surfaces. Each such display surface shall not:

1. Contain any flashing lights;
2. Exceed 20 square feet in area; or
3. Exceed ten (10) feet in height

(3) *Primary* signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:

1. The name of the regulated establishment; and/or
2. One (1) of more of the following phrases:
 - a) Adult Bookstore
 - b) Adult Movie Theater
 - c) Adult Cabaret

- d) Adult Entertainment
- e) Adult Model Studio

3. Primary signs for adult movie theaters may contain the additional phrase, "Movie Title Posted on Premises."

(4) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

§ 5-605 Inspection.

An application of permittee shall permit representatives of the police department, health department, fire department, zoning department, or other Town departments or agencies 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, and it is unlawful to refuse to permit such inspection of the premises at any time it is occupied or open for business.

§ 5-606 Expiration of permit.

a. Each permit shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the permit will not be affected except for good cause shown.

b. When the zoning administrator denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to denial, the zoning administrator finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit.

§ 5-607 Suspension of permit.

The zoning administrator may suspend a permit for a period not to exceed 30 days if he determines that a permittee or an employee of a permittee has:

- (1) Violated or is not in compliance with any section of this ordinance;
- (2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;
- (3) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter,
- (4) Knowingly permitted gambling by any person on the sexually oriented business premises.

§ 5-608 Revocation of permit.

a. The zoning administrator shall revoke a permit if a cause for suspension in § 5-607 occurs and the permit has been suspended within the preceding 12 months for willful and knowing violation of the ordinance codified in this section.

b. The zoning administrator shall revoke a permit if he determines that:

- (1) A permittee knowingly gave false or misleading material information in the application submitted to the zoning 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 permit 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 premises;
- (6) A permittee is delinquent in payments to the Town, county, or state for any taxes or fees past due related to the sexually oriented business.

c. When the zoning administrator revokes a permit, the revocation shall continue for one year, and the permittee shall not be issued a sexually oriented permit for one year from the date revocation became effective. If, subsequent to revocation the zoning administrator finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the date the revocation became effective.

§ 5-609 Transfer of permit.

A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

§ 5-610 Location of sexually oriented businesses; nonconforming uses.

a. A sexually oriented business may be located only within an I - Industrial district as a Special Exception when authorized as such by the ZBA. A person having a substantial interest in a decision of the Zoning Board of Appeals may appeal a decision as provided under section 7-103 of this Code. (*City Council 2nd Reading 9-1-09*)

b. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business outside of a designated I district.

c. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 1,000 feet of:

- (1) A church;
- (2) A public or private elementary or secondary school;
- (3) A boundary of any residential district;
- (4) A public park adjacent to any residential district;
- (5) The property line of a lot devoted to residential use;
- (6) A day care facility.

d. A person commits a misdemeanor if he causes or permits the operation, establishment,

substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

e. A person commits a misdemeanor if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor areas of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

f. For purposes of this Article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.

g. For purposes of this Article, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

h. Any sexually oriented business lawfully operating on January 1, 2000 that is in violation of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.

i. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, public or private elementary or secondary school, public park, residential district, or a residential lot within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

j.

§ 5-611 Additional regulations for adult motels.

a. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

b. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented permit, he rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he rents or subrents the same sleeping room again.

c. For purposes of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

§ 5-612 Regulations for exhibition of sexually explicit films or videos.

a. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (1) Upon application for a sexually oriented permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The zoning administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the zoning administrator or his designee.
- (4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every' area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection (5) of this section remains unobstructed by any walls, merchandise, display racks or other materials at all times and in every booth or room in which viewing of videos, as defined in subsection (a) of this section, is taking place the bottom of the door must be at least 18 inches above the floor level, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed

pursuant to subsection (a) of this section.

- (7) No viewing room may be occupied by more than one person at any time.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle as measured at the floor level.
- (9) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above, is maintained at all times that any patron is present in the premises.

b. A person having a duty under this section commits a misdemeanor if he knowingly fails to fulfill that duty.

§ 5-613 Exemptions.

It is a defense to prosecution under this article that a person appearing in a state of nudity did so in a modeling class operated:

- (1) By a proprietary school, licensed by the state of South Carolina; a college, junior college, or university supported entirely or partly by taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) In a structure:
 - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - (c) Where no more than one nude model is on the premises at any one time.

**CHAPTER 6
ADMINISTRATION**

§ 6-100 Zoning Administrator.

This ordinance shall be administered and enforced by the Zoning Administrator designated by Town Council. The duties of the Zoning Administrator shall include:

1. Interpretation of the terms and provisions of this ordinance;
2. Administration of this ordinance by the issuance of permits and certificates, including the collection of authorized fees;

3. Processing applications for appeals to the Board of Zoning Appeals from decisions of the Zoning Administrator, variances and special exceptions;
4. Preparation of the record for appeal to circuit court from decisions of the Board of Zoning Appeals;
5. Maintenance of a current zoning map, amendments to the zoning ordinance, and all public records related to zoning and planning;
6. Enforcement of the zoning ordinance, investigation and resolution of zoning complaints;
7. Administrative assistance to the Board of Zoning Appeals; and
8. Such other duties as may be authorized.

§ 6-101 Zoning Permits.

a. Permits required. No building, sign or structure shall be erected, moved, enlarged, altered or demolished without a zoning permit issued by the Zoning Administrator. No zoning permit shall be issued by the Zoning Administrator except for a use which is in conformity with the provisions of this ordinance or for a use authorized by order of the Board of Zoning Appeals.

b. Fees for permits. A fee established by regulation of Town Council shall be paid for each zoning permit or certificate of zoning compliance issued by the Zoning Administrator.

c. Applications for permits. Applications for zoning permits shall be accompanied by plans in duplicate drawn to scale showing the actual dimensions and shape of the lot to be used, the sizes and locations of existing structures on the lot, the location and dimensions of a proposed structure or alteration. The application shall include such other information as may be required by the Zoning Administrator to determine conformance with this ordinance, including existing or proposed buildings or alterations, existing or proposed uses of buildings and land, number of families, housekeeping units, rental units, existing conditions on adjacent property. One copy of the plans shall be returned to the applicant with the signed approval or disapproval of the Zoning Administrator noted on the copy within a reasonable time.

d. Expiration of permits. If the work described in a zoning permit has not begun within six (6) months from the date of the permit, or within the time specified in a special exception, the permit shall expire and be void upon written notice by the Zoning Administrator.

§ 6-102 Certificates of Zoning Compliance.

a. Certificates required. It shall be unlawful for any person to use occupy or permit the use or occupancy of any building or property hereafter created, erected, changed, converted, altered or enlarged, in whole or in part, until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the proposed use conforms to the requirements of this ordinance.

b. Nonconforming uses or structures. Uses or structures made nonconforming by this ordinance may not continue without a certificate of zoning compliance issued by the Zoning Administrator which shall state that the use or structure was in existence at the time of adoption or amendment of this ordinance. The certificate of zoning compliance shall specify the features which are nonconforming, and may be used to establish a vested interest in continuation of the nonconformity. The property owner shall apply for a certificate within 90 days after adoption of

this ordinance.

c. Temporary uses. Certificates of zoning compliance may be issued and renewed by the Zoning Administrator for permitted temporary uses for the times permitted by zoning district regulations.

§ 6-103 Violations.

a. Misdemeanor; penalties. It shall be unlawful for any person to use property, or to construct, alter, enlarge or demolish any structure without a permit or permits required by this ordinance. Conviction for violation of this ordinance is punishable as a misdemeanor under the general penalty provisions of the Town Code.

b. Withholding permits. The Zoning Administrator shall deny a zoning permit for any use or work which fails to comply with this ordinance. The Zoning Administrator or other appropriate official shall withhold all other Town permits for work which violates this ordinance.

c. Complaints. A written complaint specifying facts showing a violation of this ordinance filed by any person shall be investigated by the Zoning Administrator. Upon determination that a violation has occurred, the Zoning Administrator shall take appropriate enforcement action authorized by this ordinance.

d. Stop work orders. The Zoning Administrator is authorized to issue a stop work order pursuant to S.C. Code § 6-29-950(A) requiring work to cease until specified code violations are corrected. Failure to comply with a stop work order of the Zoning Administrator is a misdemeanor punishable under the general penalty provisions of the Town Code. Issuance of a stop work order may be appealed to the Board of Zoning Appeals.

e. Ordinance summons. The Zoning Administrator is authorized to issue an ordinance summons pursuant to Town Code provisions for violations of this ordinance.

f. Arrest warrant. The Zoning Administrator, with concurrence of the Town Attorney, is authorized to request the issuance of an arrest warrant for violations of this ordinance.

g. Injunction. The Zoning Administrator shall submit a request to the Town Attorney for institution of a civil action seeking an injunction prohibiting violation of this ordinance when appropriate.

§ 6-104 Appeals.

All questions of interpretation and enforcement of this ordinance shall be presented to the Zoning Administrator. Appeals from decisions and actions of the Zoning Administrator shall be made in writing to the Board of Zoning Appeals.

**CHAPTER 7
APPEALS**

§ 7-100 Board of Zoning Appeals.

a. Board established. A board of zoning appeals is hereby established which shall consist of five (5) members appointed by Town Council for staggered terms of four (4) years. A vacancy shall be filled for the unexpired term in the same manner as the original appointment. Members of the board may be removed by Council for cause.

b. Officers. The board shall elect or reelect one of its members as chairperson for a term

on one year. The board may elect other officers as provided by its rules of procedure. The board shall appoint a secretary who may be an officer or agent of the Town approved by the Mayor, or a member of the board.

c. Rules of procedure. The board shall adopt rules of procedure for the conduct of its meetings and hearings. A majority of the board shall constitute a quorum. Meetings of the board shall be held at the call of the chairperson or at such times as the board may determine. Public notice of all hearings shall be published in the Chester News and Reporter newspaper of general circulation in the Town and shall be posted on the bulletin board at Town Hall at least fifteen (15) days prior to the hearing.. Notice of hearings on appeals for variances or special exceptions shall also be posted on or adjacent to property affected at least fifteen (15) days prior to the hearing with at least one notice visible from each public street abutting the property. The chairperson may administer oaths and compel attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote by reason of conflict, and shall keep records of its examinations and other official actions filed in the office of the secretary of the board as public records. [*Revised 6/15/01*]

§ 7-101 Powers and Duties of Board of Zoning Appeals.

The board of zoning appeals has the following powers:

1. Appeal from Zoning Administrator. Any person aggrieved by a decision of the Zoning Administrator may appeal that decision to the board of zoning appeals in writing on a form provided by the Zoning Administrator within fifteen (15) days after actual notice of the decision. An appeal stays the implementation of the decision of the Zoning Administrator unless he certifies to the board that a stay would cause imminent peril to life or property. The board may affirm or reverse, wholly or in part, or may modify the decision by a written order separately stating findings of fact and conclusions of law.

2. Variances. An owner or authorized agent may appeal to the board on a form provided by the Zoning Administrator for a variance from the requirements of the zoning ordinance when the strict application of regulations would result in unnecessary hardship. A variance may be granted if the board makes all of the following findings and conclusions in a written order:

- (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 the 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;
- (e) the effect of the variance would not allow the establishment of a use not otherwise permitted in the zoning district; would not extend physically a nonconforming use of the land; and would not 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. In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare. Failure to begin or complete an action for which a variance is granted within the time limit specified as a condition of the variance shall void the variance.

3. Special exceptions. An owner or authorized agent may appeal to the board on a form provided by the Zoning Administrator for a special exception for a use permitted by district regulations as a special exception after review, subject to applicable criteria. The board shall consider the following factors in determining whether a special exception should be granted, in addition to specific criteria in district regulations: (1) traffic impact; (2) vehicle and pedestrian safety; (3) potential impact of noise, lights, fumes, or obstruction of air flow on adjoining property; (4) adverse impact of proposed use on aesthetic character of the area; and (5) orientation and spacing of improvements or structures. The board may prescribe appropriate conditions and safeguards to relieve or reduce adverse impact of a special exception and to protect the character of the area.

§ 7-102 Fees for appeals to Board.

A fee of \$150.00 shall be paid for each appeal to the Board of Zoning Appeals from a decision of the Zoning Administrator, for a variance or special exception.

§ 7-103 Appeal to Circuit Court.

A person having a substantial interest in a decision of the board of zoning appeals, or an officer of the Town authorized by Town Council, may appeal to circuit court by petition for review on grounds that the decision is contrary to law, filed with the clerk of court and secretary of the board within thirty (30) days after the decision of the board is mailed. Within thirty (30) days after receipt of notice of filing a petition, the Zoning Administrator or secretary of the board, with assistance of the Town Attorney, shall file with the clerk of court a certified copy of the board proceedings, including a transcript of evidence and findings and conclusions of the board.

**CHAPTER 8
AMENDMENT**

§ 8-100 Initiation of Amendment.

a. An amendment to the zoning ordinance text or zoning map may be initiated by adopted motion of Town Council, adopted motion of the planning commission, or the Zoning Administrator. An amendment to the zoning map for changing a zoning district designation of property may be initiated by the owner of the property affected or by an agent authorized by the owner in writing.

b. An identical amendment to the district designation of the same or a portion of the same property for which a rezoning has been denied shall not be initiated more often than once in each twelve (12) month period after denial unless the planning commission determines either (1) there has been a substantial change in the character of the area, or (2) evidence or factors exist which were not considered in previous deliberations which might substantially alter the basis for the planning commission recommendation.

c. A zoning map amendment shall be initiated by an owner or agent on an application form provided by the Zoning Administrator, accompanied by required documents and information, and a filing fee established by resolution of Town Council.

d. A complete application for amendment must be received at least two (2) weeks prior to a planning commission meeting in order to be considered at the meeting.

e. An application for a zoning map amendment may be withdrawn by the applicant without prejudice at any time prior to final reading by Town Council.

§ 8-101 Minimum district size.

No amendment shall be initiated which would create a new zoning district with an area of less than two (2) acres. The minimum requirement does not apply to extension of an existing district, or addition of a residential district adjacent to an existing residential district, or addition of a commercial district to an existing commercial or industrial district.

§ 8-102 Amendment Procedure.

The following procedural steps are required for adoption of a text or map amendment:

1. Amendment shall be initiated pursuant to § 8-100.
2. Amendment ordinance shall be prepared in written form required by Town Code.
- 3 Proposed amendment shall be referred to planning commission for review and recommendation. The planning commission shall conduct a public hearing, but the property

owner may be allowed to present oral or written comments. If oral or written comments are taken, the commission shall give other interested members of the public ten days' notice and allow them to comment in the same fashion. Review shall include a determination of whether the proposed amendment is in conformity with the comprehensive plan. Planning Commission shall file with Town Council its report and recommendation on the proposed amendment within thirty (30) days after receipt. [*Revised 6-05-01*]

4. Newspaper notice of public hearing before Planning Commission shall be published in the Chester News & Reporter at least fifteen (15) days prior to hearing. The public hearing shall be scheduled for a date after the planning commission recommendation is due.

5. Notices of public hearing shall be posted on or adjacent to property to be rezoned, with one notice visible from each street bordering the property. Posted notices shall contain letters not less than one (1) inch in height.

6. Notices of public hearing shall be mailed to all adjacent landowners and to groups which have filed a written request for notices.

7. Town Council may introduce amendment ordinance for first reading. Planning commission recommendation shall be reviewed and considered, but it shall not be binding on Town Council. If the Planning Commission fails to make its report and recommendation within the prescribed time, the Town Council may presume that the recommendation is for approval of the amendment and proceed to act on it.

8. Town Council may adopt or reject the amendment ordinance on second reading at least six days after first reading. Map amendments may be adopted or rejected for all or any portion of the property; however, a zoning district designation which was not included in the public notices shall not be adopted. An amendment may be withdrawn in writing by the initiator at any time prior to final action by Town Council. A withdrawn amendment is not subject to the twelve (12) month limitation in § 8-100.

9. All amendments shall be noted and placed in the copy of the zoning ordinance maintained by the Zoning Administrator and in the official copy of the Town Code maintained by the Municipal Clerk. Map amendments shall be reflected on the official zoning map.

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