

ZONING ORDINANCE

OF THE

CITY OF FOREST ACRES

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Zoning Ordinance of the City of Forest Acres

Chapter 21 Zoning

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Editor's note -- Ord. No. 86-180, §1, adopted June 10, 1986, transferred the provisions of former Appendix A to Ch. 21 of the code. The basic arrangement of the ordinance has been retained, the major change being that the sections have been renumbered in the style of the code. The section numbers as they appear in the ordinance are included in the history note accompanying each section as well as in the Code Comparative Table at the end of this volume. Prior to the adoption of Ord. No. 86-180, the zoning ordinance as formerly set out in Appendix A derived from an ordinance enacted October 10, 1972, as amended by the following legislation:

Ord. No.	Section	Date	Ord. No.	Section	Date
		2-12-74	80-52	1	2-12-80
		6-11-74	80-65	1	10-14-80
		7-12-74	80-69	1	11-11-80
		10-8-74	81-83	1	6-9-81
		1-13-76	81-86	1	9-8-81
76-6		10-14-76	81-88	1	12-8-81
77-12		1-11-77	82-89	1	3-8-82
77-17		4-25-77	82-96	1	3-8-83
78-26	1	2-14-78	83-100	1	3-8-83
78-29	1	5-9-78	84-114	1	11-9-84
78-35	1-3	10-10-78	85-122	1	6-11-85
78-36	1	12-12-78	85-123	1	6-11-85

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79-39 1 2-13-79 85-135 1 10-8-85

Ordinance No. 99-595, adopted December 20, 1999, effective January 1, 2000, substantially changed and renumbered Chapter 21. Such changes being too numerous to set out herein above or to be added following the sections and subsections changed.

Ordinance No. 05-03, adopted May 12, 2005, effective May 12, 2005, created a new Sec.21.152 – 21.157, Tree Ordinance.

Ordinance No. 05-06, adopted May 12, 2005, effective May 12, 2005, created a new Sec.21.128 – 21.130, Planned Development Ordinance.

Ordinance No. 06-03, adopted May 9, 2006, effective May 9, 2006, rewrote the Parking and Storage Requirements of 21.7.2.

Ordinance No. 06-08, adopted August 8, 2006, effective August 8, 2006, repealed the Cluster Housing Regulations section 21.141 (21-141.1-21.141.3) in its entirety.

Ordinance No. 07-14, adopted May 15, 2007, effective May 15, 2007, rewrote the Garage Sales Requirements section 21.148, by amending (4), (5) and (6) and adding (7).

Ordinance No. 09-05, adopted March 10, 2009, effective March 10, 2009, rewrote the Minimum Land Area Requirements for Change in a Zoning District or Creation of a New Zoning District requirements of section 21-272 by providing for additions of less than two (2) acres to certain commercial zoning districts.

Ordinance No. 09-07, adopted April 14, 2009, effective April 14, 2009, amended section 21-165.5 by adding subsection (5); added section 21-165.6 providing for Digital Message Boards; and amended section 21-166, Prohibitions by revising (7) and (11) adding (12) and (13).

Ordinance No. 09-10, adopted July 14, 2009, effective July 14, 2009, amended section 21-272 by rewriting the section and adding (1), (2), (3) and (4).

Ordinance No. 11-01, adopted October 11, 2011, effective October 11, 2011, amended section 21-62 by adding (13).

Ordinance No. 12-01, adopted January 10, 2012, effective January 10, 2012, created the Commercial Enterprise/Redevelopment Zone (C-5), sections 21.131-21.135.

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Communication Towers	<u>May 12, 2005</u> <u>Revision 21-212 J</u>	9-10-96	
Tree Ordinance	21.152.2	11-8-05	2005-10
Tattoo Parlors	21.120, 21.121	2-14-06	2006-01
	21.92, 21.102		
Parking and Storage Requirements	21.7.2, 21.7.4	5-9-06	2006-03
Tree Ordinance	<u>May 9, 2006</u> <u>Revision 21.3.2,</u> 21-152	5-12-06	2005-03
PDD	21-128,129,130	5-12-06	2005-06
Cluster Housing	<u>May 15, 2007</u> <u>Revision 21.141,</u> 21.42(1),	8-8-06	2006-08
	21.52(1), 21.82(1), 21.92(1), 21.136 Note 4		
Garage Sales	21.148(4)(5)(6)(7)	5-15-07	2007-14
Minimum Land Area	<u>May 15, 2009</u> <u>Revision</u> 21.272(1)-(4)	3-10-09	2009-05
Sign Regulations	21.165.5(5) a-f 21-165.6 (1)-(4) 21.166(7), (11), (12) & (13)	4-14-09	2009-07

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November 1, 2014 Revision

Minimum Land Area	21.272(3)-(5)	7-14-09	2009-10
Communication Towers P-1 Zoning District	21-62 (13)	10-11-11	2011-1
C-5 Zoning District	21.131, 21.132, 21.133, 21.134, 21.135	1-10-12	2012-1
C-4 Zoning District Temporary Shelters	21.120	5-14-13	2013-4.1

Ordinance No. 2015-4, adopted June 9, 2015, effective June 9, 2015, amended section 21.215 to add Water Quality Buffer Requirements.

Ordinance No. 2016-7, adopted August 9, 2016, effective August 9, 2016, amended section 21.152.2 Tree

Ordinance adding (4) to section 21.152.2 Requirements; adding (7) to section 21.152.2 Exceptions; adding 21.152.7

Expiration of Permits; and renumbering 21.152.7 to 21.152.8 and 21.152.8 to 21.152.9.

April 9, 2021 Revision

Nonconformities Standards for Placement of Small Wireless Facilities	21.6 (f)	6/12/2018	2018-3
Accessory Structure Definitions	21.248	7/14/2020	2020-15
Permitted Uses	21.3.2 (4, 5, 7, and 8)	11/10/2020	2020-21
Prohibited Uses	21.3.2	11/10/2020	2020-21
Permitted Uses	21.82 (24)	11/10/2020	2020-21
Permitted Uses	21.83 (7 and 8)	11/10/2020	2020-21
Permitted Uses	21.92 (22-25)	11/10/2020	2020-21

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	21.93 (7 and		
Prohibited Uses	8)	11/10/2020	2020-21
Permitted Uses	21.102 (12-16)	11/10/2020	2020-21
	21.103 (7 and		
Prohibited Uses	8)	11/10/2020	2020-21
Permitted Uses	21.111 (21-32)	11/10/2020	2020-21
Prohibited Uses	21.112 (1-15)	11/10/2020	2020-21
Permitted Uses	21.120 (29-36)	11/10/2020	2020-21
Prohibited Uses	21.121 (1-12)	11/10/2020	2020-21
Purpose	21.131	11/10/2020	2020-21
Permitted Uses	21.132 (6-21)	11/10/2020	2020-21
Prohibited Uses	21.133 (1-15)	11/10/2020	2020-21
District			
Regulations	21.134	11/10/2020	2020-21
Wall Signs	21.135	11/10/2020	2020-21
Planned			
Development			
District	Article XIII	11/10/2020	2020-21
Area, Yard, and			
Height			
Requirements	Article XIV	11/10/2020	2020-21
Minimum Land			
Area	21.272 (6)	3/9/2021	2021-6
Nonconformities	21.6. (c)	4/12/2021	2021-7

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ARTICLE I. GENERAL

Sec. 21.1 Preamble and enactment clause.

21.1.1 Authority: Pursuant to authority conferred by The Code of Laws of South Carolina, Title 6, Chapter 29 of the General Assembly of South Carolina entitled "The South Carolina Local Government Comprehensive Planning Enabling Act of 1994", S. C. Code 6-29-310, et seq. (1994 supp) and to guide development in accordance with existing and future needs; to protect, promote and improve the public health safety, morals, convenience, order, appearance, prosperity, and general welfare; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population, to protect scenic areas; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other, public requirements; in accordance with a comprehensive plan and with reasonable consideration of the character of each area and its peculiar suitability for particular uses, and with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the value of land and buildings, and encouraging the most appropriate use of land, the city enacts into law the following regulations upon the location, height, bulk, number of stories and size of buildings and other structures; the percentage of lot which may be occupied; the size of yards, courts and other open spaces; the density and distribution of population; uses of buildings, structures and land for trade, residence, recreation, water supply, sanitation, protection against floods, public activities; and furthermore provides for the method of administration and amendment of these regulations, defines the powers and duties of the board of zoning appeals with respect to these regulations, defines certain terms used herein, and provides penalties for violation of these regulations. This ordinance is intended to implement the City of Forest Acres Comprehensive Plan.

21.1.2 Title. These regulations shall be known and may be cited as the "Zoning Ordinance for the City of Forest Acres, South Carolina." (Ord. No. 86-180, Art. I, 6-10-86)

Sec. 21.2 Area of applicability.

This chapter shall apply to all land located within the boundaries of the City of Forest Acres, South Carolina. (Ord. No. 86-180, Art. II, 6-10-86)

Sec. 21.3 Definition of terms used in this chapter.

21.3.1 Interpretation of certain terms and words.

The following rules of construction and interpretation shall apply to the text of this ordinance:

Words used in this ordinance shall have their customary meaning as defined in a standard dictionary unless they are specifically defined in this ordinance. Words used in the present tense include the future tense. Singular words include the plural, and plural words include the singular. The word "shall" indicates a mandatory statement; the word "may" indicates a discretionary statement. The word "lot" includes the word "plat" or "parcel". The word "structure" includes the word "building" and "dwelling", and the words "building", "dwelling", or "structure" include any part thereof. The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other entity usually defined in legal usage as a person. The words "used" or "occupied" as applied to land or buildings, shall be construed to include the words "intended", "arranged", or "designed" to be used or occupied. The word "contiguous" as applied to lots or districts shall be interpreted as meaning sharing a common boundary of ten (10) feet or more in length.

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21.3.2 Definitions:

Accessory Structure. A noninhabitable structure, the use of which is subordinate to and serves the principal structure which is:

- (1) located on the same lot as the principal structure;
- (2) located between the rear of the principal structure and the rear lot line;
- (3) located not closer than six (6) feet to the principal structure;
- (4) limited to fifteen (15) feet in height measured from the finished ground level to pinnacle of the roof but in no event greater than the height of the principal structure. For any Accessory Structure exceeding a height of fifteen (15) feet, the setback requirements for the principal structure shall apply;
- (5) not to exceed the maximum coverage of the lot for both the principal structure and accessory structure or structures for the zoning district;
- (6) not to exceed the maximum coverage of the lot for both the principal structure and accessory structure or structures for the zoning district;
- (7) limited to seven hundred fifty (750) square feet for all Accessory Structures on the lot; for any single Accessory Structure larger than seven hundred fifty (750) square feet, the side setback requirements for the principal structure shall apply; (Ord. No. 88-265, § 1, 3-15-88)
- (8) Set back requirements set forth in Section 21.136(C)(5).
(Ord. No. 20-21 § 21.3.2 (4, 5, 7 and 8), 11-10-20)

Accessory Use. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Alley. A public or private thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration of Building. Any change in the supporting members of a building, such as load-bearing walls, beams, columns or girders, except such change as may be required for its safety; any addition to a building; any change in use from that of one district classification to another; or of a building from one location to another.

Buildable Area. That portion of a site, exclusive of the minimum required yard areas and the building site, on which a structure, or building may be erected as established in the zoning ordinance of the city for respective zoning district classifications. (Ord. No. 87 238, § 2, 6-9-87)

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

Building, accessory. A building subordinate or supplemental to the main building on a lot and used for purposes customarily incidental to that of a main or principal building and located on the same lot.

Building official. Party designated by City Administrator to conduct building inspections, issue permits and assist in enforcement of the Zoning Ordinance.

Building, principal. A building in which is conducted the main use of the lot on which the building is located.

Building, site. That portion of a lot which is occupied by a building or that portion of a site which is proposed to be occupied by a building and for which a building permit has been issued. (Ord. No. 87-238, §2, 6-9-87)

Building, subordinate or supplemental. to the main building on a lot and used for purposes customarily incidental to that of a main or principal building and located on the same lot.

Caliper. The diameter of the trunk of a nursery-grown tree as measured at six inches (6") above the top of the root mass. (Ord. No.2005-3, 5-12-05)

Cannabis Product. A product originating from the species Cannabis Sativa L., excluding marijuana as defined in S.C. Code Ann Sec 44-53-110 (27), and shall include all forms of Cannabis or low-THC Cannabis

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product (CBD) to be consumed or applied. (Ord. No. 20-21 § 21.3.2, 11-10-20)

Clearing. Removal and proper disposal of exposed objectionable matter from an area. This may include but is not limited to trees, roots, grass, underbrush, rubble, any type of structures, etc. (Ord. No.2005-3, 5-12-05)

Club, Lodge, Civic or Fraternal Organization. An incorporated or unincorporated association for civic, social, cultural, religious, literary, political, recreational or like activities, but not including shooting clubs, operated for the benefit of its members and not open to the public, provided it is a non-profit organization duly registered with the Secretary of State.

Critical Root Zone. An area on the ground and adjacent to a significant tree that encompasses six (6") inches of space for every one (1) inch of the tree DBH measured outward from the base of the tree in all directions. (Ord. No.2005-3, 5-12-05)

Customary Home Occupation. An occupation, profession or trade customarily carried on by an occupant in a dwelling unit as a secondary use which is clearly incidental to the dwelling unit for residential purposes, and which meets with conditions defined in section 21.146.

Cutting. The detaching or separating of any limb, branch, or root from a tree. (Ord. No.2005-3, 5-12-05)

Dead Tree. A tree that does not contain sufficient live tissue to sustain the entire tree system. (Ord. No.2005-3, 5-12-05)

Developed Property. Property upon which a building has been placed or in which a building permit has been issued. (Ord. No. 87-238, § 2, 6-9-87)

Diameter at Breast-Height (DBH). The standard measure of tree diameter for trees existing on a site. The tree trunk is measured at a height of four and one-half (4.5) feet above the ground. If a tree splits into multiple trunks below 4.5 feet, measure the trunk at its most narrow point beneath the split. (Ord. No.2005-3, 5-12-05)

Diameter, Tree. The diameter of a tree measured as follows: 1) for existing or trees to be preserved, at a point 4.5 feet above the ground; 2) for new replaced/planted trees, at a point 6 inches above the ground. (Ord. No.2005-3, 5-12-05)

Dwelling, Dwelling Unit or Unit. One (1) room or rooms connected constituting a separate, independent housekeeping establishment physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities, but excluding lodging units located in motels.

Single-family dwelling. A detached building containing one (1) dwelling unit only.

Two-family dwelling. A detached building containing two (2) dwelling units only.

Multifamily dwelling. A detached building containing three (3) or more dwelling units.

Family. One (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over three (3) persons, but further provided that domestic servants employed on the premises may be housed within the single dwelling unit without being counted as a separate family or families.

Fence. A barrier or screening structure composed of wood, metal parts, wire mesh, electric fencing, invisible fencing, chain link or masonry used as a boundary or means of protection, confinement, separation, or buffering. The definition of a fence is also inclusive of a wall or walls. See section 21.150 for provisions relating to fences and walls.

Floor Area, Residential. *The* gross horizontal areas of the several floors of a dwelling, exclusive of carport, garages, basement, storage areas with only outside access and open porches (measured from the exterior faces of the exterior walls of a dwelling).

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Genus. A category of tree classification and the first part of the common or scientific tree name (i.e., oak is the common genus name, *Quercus* is the scientific genus name). (Ord. No.2005-3, 5-12-05)

Grading. Altering the shape of the ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling & shaping or any combination thereof and shall include the land in its cut or filled condition. (Ord. No.2005-3, 5-12-05)

Height of Building. The vertical distance measured from the mean finished ground level adjoining the building to the eaves or the base of the roof.

Hemp. The plant *Cannabis s Sativa L.* and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, within a delta-9 THC concentration of not more than .3 percent of a dry weight basis as set forth in S.C Code Ann. Sec 46-55-10(6) and (8). (Ord. No. 20-21 § 21.3.2, 11-10-20)

Hotel or Motel. A hospitality business providing rental units for transient habitation (less than thirty (30) days per sojourn); said business occupying a structure or structures not greater than three (3) stories having rental units accessed from interior, enclosed hallways.

Junkyard. Any use involving the storage or disassembly of wrecked automobiles, trucks or other vehicles or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof, the keeping, abandonment, sale or resale of junk, including scrap metal, used paper or other scrap materials, salvaged house wrecking and structural steel materials and equipment, storage, baling or otherwise dealing in bones, animal hides, cloth or rags, used plumbing fixtures, appliances, furniture, and used brick, wood or other building materials. Such uses shall be considered junkyards whether all or part of such operations are conducted inside a building or in conjunction with, in, addition to, or accessory to other uses of the premises.

Land Disturbance Activity. Any activity involving the clearing or cutting of trees in combination with other activities, including but not limited to, dredging, grading, or filling of land, which may result in soil erosion from water or wind and the movement or relocation of sediments. (Ord. No.2005-3, 5-12-05)

Land Disturbance Permit. Permit issued giving authorization to begin land disturbance activities. (Ord. No.2005-3, 5-12-05)

Landscaping. Landscaping shall consist of any of the following or a combination thereof: materials, such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees, or palms; and nonliving durable material commonly used in landscaping such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

Lot. A piece, parcel, or plat of land which may consist of one (1) or more platted lots in one (1) ownership, either an individual or a partnership, occupied or intended to be occupied by one (1) principal building and its accessory building, including the open space required under this chapter.

Lot Width. The distance between the side lot lines measured at the front building setback line.

Manufactured Housing, Mobile Home, or Trailer. A structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or when erected on site is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. (Not to be confused with a single-family dwelling.)

Mature Tree. Any tree which has attained the maximum capability of growth, flowering and reproducing. (Ord. No.2005-3, 5-12-05)

Modular Home. A manufactured single-family dwelling or an integral part over thirty-five (35) feet in length, or over eight (8) feet in width, so constructed that it may be transported from one site to another, permanently

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affixed to real estate, made up of one (1) or more components, and constructed with the same or similar electrical, plumbing, heating, and sanitary facilities as on-site constructed housing. (Not to be confused with a single-family dwelling.)

Non-conforming Use. The use of a building, structure, or land existing at the time of enactment of this chapter or subsequent amendment, which does not conform to the regulations for the district in which it is located on the official zoning map.

Official Street Tree Planting Plan and Program. A plan and program adopted for the planting of trees along public streets, parks, and other public places. (Ord. No.2005-3, 5-12-05)

Off-Street Loading Space. The area required to load or unload goods or other material plus the necessary driveways and maneuvering area.

Off-Street Parking Space. The area required to park one (1) automobile plus the necessary driveways and maneuvering area.

Perimeter Planting Strip. Land area located within the boundary of a lot and required to be set aside and used for landscaping upon which only limited encroachments are authorized. (Ord. No.2005-3, 5-12-05)

Planting Season. The time or season during which newly planted trees will have the best opportunity for survival. The planting season begins on November 1st and ends on March 31st. (Ord. No.2005-3, 5-12-05)

Pruning. The elimination of live and/or dead branches from a tree's crown to improve tree structure, visibility, and/or maintain safety. All pruning shall follow the American National Standards Institute for Tree Pruning (ANSI A300 (Part 1 - 2001 Pruning)). (Ord. No.2005-3, 5-12-05)

Removal of Trees. Any intentional or negligent act which will cause a tree to decline and die within a period of one (1) year, including but not limited to such damage inflicted upon the root system of a tree by application of toxic substances, the operation of machinery, the change of natural grade by excavation or filling above the root system or around the trunk of a tree, and damages from injury or fire inflicted on trees which result in or permit pest infestation. (Ord. No. 87-238, §2, 6-9-87) **Repair Garage.** A business engaged in major engine repairs of automobiles, trucks, boats, heavy equipment of all sorts consisting of but not limited to one (1) or more of the following: spray or other manner of painting; body, fender, clutch, transmission, differential, axle, spring or frame repair; engine overhaul requiring, but not limited to, removal there from of cylinder head or crankcase pan; repair of radiators requiring removal thereof; major engine tune-ups, brake relining, front end alignment.

Replacement Tree. A new tree planted on a site after development. The minimum planting size of large maturing trees shall not be less than three (3") inches caliper, medium maturing trees shall not be less than two and one half (2 1/2") inches caliper, and small maturing trees not less than two (2") inches caliper. (Ord. No.2005-3, 5-12-05)

Setback Line, Building Setback Line. The distance of a line beyond which no foundation or wall of any building shall project unless specified exceptions are made elsewhere in these regulations. Standard overhangs, steps, bay windows without under support and exterior chimneys are not normally considered in the setback requirements.

Shrub. A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground. (Ord. No.2005-3, 5-12-05)

Significant Tree. Any healthy and structurally sound tree which has a diameter at breast height twelve (12") inches and larger including the specific list and size of trees below:

<u>Botanical Name</u>	<u>Common Name</u>	<u>DBH</u>
<i>Magnolia virginiana</i>	Sweet Bay	4 inches
<i>Cercis canadensis</i>	Eastern Redbud	4 inches
<i>Ilex opaca</i>	American Holly	4 inches
<i>Cornus florida</i>	Flowering Dogwood	4 inches

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Oxydendrum arboreum Sourwood 6 inches
(Ord. No.2005-3, 5-12-05)

Site Plan. A plan that reflects existing and proposed conditions on a site that is intended for construction. Including but is not limited to topography, structures and/or additions, grading, drainage, erosion control measures, trees to be saved or planted to comply with the requirements of this Ordinance, best management practices, parking requirements, streets, and other type improvements. (Ord. No.2005-3, 5-12-05)

Structure. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground. (See section 21.150 for exceptions regarding fences.)

Subdivision. The division of a tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development, as defined in the subdivision regulations of the city (chapter 17). (Ord. No. 87-238, § 2, 6-9-87).

Topping. The severe cutting back of branches to a stub, bud, or a lateral branch not large enough to assume the terminal role. (Ord. No.2005-3, 5-12-05)

Tree. A usually tall, woody plant, distinguished from a shrub by having comparatively greater size and longevity and, characteristically, defined as:

- (1) Large Maturing - Single trunk whose canopy dimensions have the potential to reach at least 45 feet tall and 25 feet wide at maturity (List of Large Maturing trees set forth in Appendix D).
- (2) Medium Maturing - Single trunk whose canopy dimensions have the potential to reach at least 25 feet tall and 20 feet wide at maturity (List of Medium Maturing trees set forth in Appendix D).
- (3) Small Maturing - Single trunk or multi-stem whose canopy dimensions have the potential to reach at least 15 feet tall and 15 feet wide at maturity (List of Small Maturing trees set forth in Appendix D). (Ord. No.2005-3, 5-12-05)

Tree Permit. That consent given in writing by the city to a person or private firm or agency to maintain, remove or do any work requiring a permit involving any tree within the public right-of-way or other public property. (Ord. No.2005-3, 5-12-05)

Tree Planting Standards: The standards and specifications adopted for replacement tree material and the installation thereof. Appendix C. (Ord. No.2005-3, 5-12-05)

Tree Protection and/or Planting Plan. A plan that identifies the critical root zone where significant trees are to be protected and preserved, and replacement trees planted on a property to meet minimum requirements, as well as methods of tree protection to be undertaken on the site and other pertinent information. See Appendix B-Requirements. (Ord. No.2005-3, 5-12-05)

Tree Survey. A schematic property plan showing the physical location, DBH and genus of all significant trees. (Ord. No.2005-3, 5-12-05)

Utility. Any publicly, privately, or cooperatively owned line, facility, or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, steam, waste, storm water, and other similar services and commodities including publicly owned fire and police and traffic signals and lighting systems, which directly or indirectly serve the public or any part thereof (Ord. No. 87-238, §2, 6-9-87)

Utility Easement. The right-of-way acquired by a utility or governmental agency or private agency to locate utilities, including all types of pipelines, television cable, telephone, and electric cables. (Ord. No.2005-3, 5-12-05)

Vines. are plants which normally require support to reach mature form.

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Yard. An open or unoccupied space on the same lot with a principal building and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

Yard Area. That portion of any site covered by the front, side and rear yard areas as established by the minimum setback requirements in this chapter for respective zoning district classifications.

Yard, Front. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street or road and the front line of the building.

Yard, Rear. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building.

Yard, Side. An open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear or a front line shall be deemed a sideline.

Zoning Administrator. The City Administrator or his designee.

Sec. 21.4 Establishment of districts.

21.4.1 Division of area into districts: For the purposes of this chapter, the area described in section 21.2 of this chapter is divided into twelve (12) districts as follows:

R1	Low-Density Residential (Single-Family)
R-1a	Low-Density Residential (Single-Family)
R-2	Medium Density Residential (Two-Family and Single-Family)
R-3	High-Density Residential (Multifamily, Two-Family, and Single-Family)
P-1	Public or Semipublic
P-2	Institutional
C-1	Office and Limited Commercial
C-2	Neighborhood Commercial
C-2a	Service Commercial Districts
C-3	General Commercial
C-4	Concentrated Commercial District
C-5	Commercial Enterprise/Redevelopment Zone
PDD	Planned Development District

21.4.2 Zoning Map and district boundaries: The boundaries of the districts listed in 21.4.1 are hereby established as shown on the map entitled "Zoning Map of the City of Forest Acres, South Carolina", dated as of the effective date of this chapter or any subsequent major amendments hereto. The zoning map described above is made a part of this chapter. An official copy of the zoning map shall be kept on file in the office of the building official. Facsimiles may be produced from time to time and distributed; however, the sole official zoning district determination shall be made from the official copy of the zoning map.

21.4.3 Rules for determining boundaries: Where reasonable uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the building official shall decide the location of the boundaries, and in so doing shall be guided by the following rules:

21.4.3.1 Where district boundaries are indicated as approximately following the centerline of streams, railroads, street or highways, or street, highway, or railroad right-of-way lines, then such centerline or right-of-way lines shall be construed to be such boundaries.

21.4.3.2 Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries.

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21.4.3.3 Where district boundaries are so indicated that they are approximately parallel to the centerline of streets, highways or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and such distance therefrom as indicated on the zoning map. If some distance is given, such dimension shall be determined using the scale shown on the zoning map.

21.4.3.4 Where a district boundary line as appearing on the zoning map divides a lot in single ownership at the time of this enactment, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof; provided that such extensions shall not include any part of such a lot more than twenty-five (25) feet beyond the district boundary line.

21.4.3.5 For purposes of determining minimum size for any separate zoning district or square footage calculations for purposes of zoning, only actual property lines will be utilized for the district boundaries, excluding any area covered by streams and lakes, or the right-of-way of highways, roads or railroads.

(Ord. No. 86-180, Art. IV, 6-10-86; Ord. No. 89-298, §1, 6-29-89; Ord. No. 97-519, §3, 10-28-97)

Sec. 21.5 Application of regulations.

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

21.5.1 Zoning affects every building and use: No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

21.5.2 Height and density: No building or other structure shall hereafter be created or altered:

- a. to exceed the height; or
- b. to house a greater number of families or occupy a smaller lot area per family or occupy a greater percentage of lot area; or
- c. to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner be created or altered to be contrary to the provisions of this chapter.

21.5.3 Yard service to one building: No part of a yard, or other open space, or off-street parking, or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

21.5.4 One principal building to a residential lot: Only one (1) principal building and its customary accessory buildings may hereinafter be erected on any lot zoned R (residential) except as otherwise provided by this chapter (see section 21.140 for exceptions permitting group housing projects).

21.5.5 Reduction of lot area: No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side, or rear yard lot area per family, or other requirements of this chapter are not maintained. This section shall not apply when a portion of a lot is acquired for public purposes.

21.5.6 Street frontage: No principal building shall be erected on any lot which does not have immediate frontage on at least one (1) public or private street for a distance of not less than twenty-five (25) feet if such lots are on a cul-de-sac. All other lots must meet the lot width provision of article XIV (see sections 21.140 and 21.141 for exceptions). Flag lots are specifically prohibited.

21.5.7 Corner lots: Minimum side yards for corner lots in residential districts shall meet the minimum front yard requirements on the sides adjacent to a street.

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21.5.8 Double frontage lots: On each double frontage lot, front yard, and rear yard requirements, as stated in article XIV, shall be observed for principal and/or accessory buildings on each street depending on which street the principal building fronts.

21.5.9 Inspection of required buffers: In the event a screen, wall, fence, planted dividing strip, or any other type of buffer is required by this chapter for any use or is required by the zoning board of appeals, such screen, wall, etc., will be subjected to periodic inspections by the building official to determine that such required walls, fences, etc., are being properly maintained. In the case of landscaping, all planted material shall be maintained in a healthy, growing condition, neat and orderly in appearance. Failure to maintain such required walls, fences, etc. to an acceptable standard may be deemed a violation of this chapter.

21.5.10 Lots of record.

a. Single lots: Where the owner of a lot at the time of adoption of this chapter or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this chapter, such lot may be used as a building site for a single-family residence in a district where residences are permitted.

b. Adjoining lots: If two (2) or more adjoining lots with continuous frontage are in a single ownership at any time after the adoption of this chapter and such lots individually are too small to meet the yard, width and area requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size, and the lot or lots in one (1) ownership shall be subject to the requirements of this chapter.

21.5.11 Exceptions for front yard setbacks for dwellings: The setback requirements of this chapter for dwellings shall not apply to any lot where the average existing setback line on lots located wholly or in part within one hundred (100) feet on each side of such lot, within the same block and zoning district and fronting on the same side of the street or road as such lot, is less than the minimum setback required. In such cases the setback on such lots may be less than the required setback, but no less than the average setbacks on the aforementioned lots, and in no case less than ten (10) feet from the street or roadright-of-way.

21.5.12 Yard requirements, existing buildings: The minimum yard requirements set forth in article XIV shall not be construed as prohibiting the conversion of an existing building which does not meet such yard requirements to another permitted use, so long as no further encroachment is made into the existing yards and provided the land use is allowed in that zoning district.

21.5.13 Side and rear yard setbacks for residential districts: Parking facilities or driveways shall not be permitted closer than two (2) feet from the side or rear property line of lots of record in residential districts.

21.5.14 Required buffer between commercial and residential lots: When the rear or side lot line of a lot used for commercial purposes adjoins the rear or side lot line of a lot used for residential purposes, a visual screen or buffer shall be provided at the rear or side lot used for commercial purposes. This buffer may consist of vegetative screening designed to be at least five (5) feet tall, or an equivalent buffer as authorized by the building official.

21.5.15 Vision clearance: In any zoning district on any corner lot, no fence, sign or other structure, planting, or other obstruction to vision between two and one-half (2 ½) and ten (10) feet above the established street grades shall be erected or maintained within the line connecting points on the street lot line twenty (20) feet distance from the corner.

21.5.16 Height limits: The height limitations of this chapter shall not apply to:

a. Church spires, belfries, cupolas, and domes not intended for human occupancy in public and semi-public districts (P-1) and institutional zoning districts (P-2).

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b. Special exceptions as authorized by the zoning board of appeals for the following structures: church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, communication towers (as defined in Sec. 21.244), conveyors, flagpoles, chimneys, masts, aerials, and similar structures located in Public and Semi-Public Districts (P-1), Institutional Districts (P-2), Office and Limited Commercial Districts (C-1), Neighborhood Commercial Zoning Districts (C-2), Service Commercial Zoning Districts (C-2a), General Commercial Zoning Districts (C-3), and Concentrated Commercial Zoning Districts (C-4).

(Ord. No. 86-180, Art. V, 6-10-86; Ord. No. 95-398, § 4, 9-12-95; Ord. No. 96-437, § 5, 4-9-96; Ord. No. 97-519, § 4, 10-28-97)

Sec. 21.6 Non-conforming Uses.

21.6.1 The lawful use of any building or structure of land existing at the time of the enactment (June 10, 1986) or subsequent amendment to this chapter may be continued, subject to the restrictions contained in this chapter even though such does not conform with the provisions of this chapter, except that the non-conforming structure or use shall not be:

- (a) changed to another nonconforming use;
- (b) torn down and rebuilt as a nonconforming use;
- (c) extended or enlarged except in conformity with this chapter. Nonconforming single-family residential structures may be enlarged or extended in any zoning district provided that the new additions or alterations: (1) conform to all provisions and requirements in the zoning district in which such structures or uses are located; (2) conform to subdivision restrictions of record duly noticed to the city; and (3) do not increase or enlarge the existing nonconformity;

Example 1

For example, a structure that has a five-foot side yard setback where the Ordinance requires a 10-foot side yard setback cannot be enlarged so as to further encroach into the side yard setback such as by extending the building an additional two feet towards the setback line.

Example 2

This also means that a structure with a five-foot side yard setback where the Ordinance requires a 10-foot side yard setback cannot be expanded further along that plane of the structure, such that a larger portion of building area is now nonconforming.

- (d) re-established after vacancy or discontinuance for one (1) year;
- (e) rebuilt, altered, or repaired, except in conformity with this chapter, after damage exceeding seventy-five (75) percent of the fair market value of the improvement as determined from the tax assessor's records of Richland County, provided, however, this provision shall not apply to owner occupied dwellings; or
- (f) repair or alteration to an extent exceeding fifty (50%) percent of the fair market value of the existing improvements as determined from the tax assessor's records of Richland County within any period of twelve (12) consecutive months. Work may be done on ordinary repairs, provided that the cubic content of the building as it existed at the time the non-conforming use was established shall not be increased, and that the costs and time limits set by this section are not exceeded.

(Ord. No. 18-3, § 21.6 (f), 06-12-2018, Ord. No. 21-7, §21.6 (c) 4-12-21)

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Sec. 21.7 Off-Street Automobile Parking and Storage

21.7.1 Off-street automobile parking and storage space shall be provided on every lot on which any of the uses mentioned in this section are hereafter established. Such automobile parking or storage space shall be provided with vehicular access to a street or alley and shall be equal in area to at least the minimum requirements for the specific uses as set forth below. Each automobile parking space, along with its necessary maneuvering space, shall have an area of at least three hundred (300) square feet. If the required automobile parking or storage space cannot be provided on the same lot on which the principal use is located, the zoning board of appeals may permit such space to be provided on other off-street property; provided such space is within five hundred (500) feet of such principal use and in the same zoning district. Such spaces shall be associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. Off-street automobile parking and storage spaces shall be so arranged so that vehicles will not be required to back onto a public right-of-way when leaving the premises. Off-street automobile parking and storage spaces shall be equal in number to at least the minimum requirements for the specific uses set forth below:

- a. Churches, synagogues, or other places of worship: One (1) space for every four (4) seats in the main assembly room or sanctuary.
- b. Filling stations. Three (3) spaces for each grease rack or similar facility, plus one (1) space for each employee on the shift with highest employment.
- c. Hospitals, nursing homes, extended care facilities, assisted care facilities or similar institutions: One (1) space for every two (2) beds intended for patients, not including bassinets, plus one (1) space for every three (3) employees on the shift with highest employment.
- d. Offices, including banks. One (1) space for every three hundred (300) square feet of gross floor area.
- e. Places of public assembly, fraternal organizations. One (1) space for every four (4) seats of maximum seating capacity in the main assembly room.
- f. Restaurants or similar eating establishments: One (1) space for every four (4) seats provided for patron use and one (1) additional space for each two (2) employees on the shift with highest employment.
- g. Residences: Two (2) spaces for each dwelling unit.
- h. Retail and service businesses: One (1) space for every three hundred (300) square feet of sales floor area.
- i. Schools, public and private. One (1) space for every four (4) seats in the main auditorium or assembly room.
- j. Shopping centers. One (1) space for every two hundred (200) square feet of gross leasable area.

21.7.2 Parking and Storage Requirements.

- a. All Districts, Prohibitions. The following are prohibited in all zoning districts:
 1. Shipping containers, cargo containers, storage units, storage facilities, trash or debris dumpsters, or other containers or like items, with or without logo or name, are prohibited except when: (1) utilized in conjunction with an active construction project, duly permitted, and located on the construction site, provided such container(s) are removed within six (6) months of the date located on any property within the City unless otherwise permitted for a longer period of time as a result of the duration of the construction project; (2) utilized in conjunction with relocating or moving to or from the site for the purposes of packing or

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unloading due to shipping for the purpose of relocation, provided any such container is removed within two (2) weeks of the date first located on any property; or (3) located in the back yard of residential property for the purpose of storage of yard equipment and household goods.

2. Tractor trailers and semi-trailers except for the purpose of loading or unloading merchandise not to exceed a period of three (3) days and not for any type of storage.

3. Automobiles, trucks, tractors, buses or other motor vehicles, boats, campers or trailers of any kind or type, not in normal operating condition, without current license or permit, or deemed abandoned as defined in section 10-6 of the City Code of Ordinances are prohibited other than in a building fully enclosed on at least three sides.

b. Residential Districts, Prohibitions. The following are prohibited in all residential zoning districts:

1. Any vehicle, truck, or trailer used for a business or commercial purpose over nineteen (19') feet in length;

2. Campers, recreational vehicles, boats, and trailers in the front yard, except in cases in which the geographical layout of the property or improvements thereon make backyard parking physically impossible, dangerous, or impractical;

3. Any motor vehicle in the front or side yard except in a driveway or parking area surfaced with gravel, rock, concrete, or asphalt, not to exceed thirty percent (30%) of the total front or side yard, except by special exception; and

4. Commercial solid waste dumpsters except for properties containing four (4) or more housing units.

(Ordinance No. 2006-03, 5-9-06, rewrote this section)

21.7.3 Definitions: The following words and phrases shall have the meaning set opposite them for purposes of this subsection:

a. *Encroachment* is defined as any protrusion of a vehicle outside of a parking space, display area or access way into landscape area

b. *Shrubs and hedges*. A self-supporting, non-deciduous species of plants as normally grown in the City of Forest Acres.

c. *Trees*. Self-supporting woody plants of species which normally grow to an overall height of a minimum of fifteen (15) feet. Palms are included as trees and are defined as trees of tropical or subtropical species commonly marked by a simple stem and terminal crown of large leaves.

21.7.4 Landscaping and Parking designations.

a. Landscaping of off-street parking areas in general: The provisions of this subsection shall be the minimum requirements to promote the public health, safety, and general welfare by providing, for installation and maintenance of certain landscaped areas; to protect the character and stability of residential, business and institutional areas and to conserve the value of land and building on surrounding properties and neighborhoods. The provisions of this subsection shall not be applicable to single-family dwellings and the property of such dwellings, regardless of zoning classifications, so long as such property is used for single family purposes. (Refer to subdivision regulations for additional landscaping requirements.)

b. Parking lots or areas shall be designed as follows: Authorized parking designated by white markings; unauthorized parking designated by yellow markings; fire zone parking designated by red markings and/or otherwise designated by words or symbols; handicapped parking designated by blue markings and/or otherwise designated by words or symbols; and loading or unloading spaces

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designated by yellow markings and further designated by words or symbols.
(Ordinance No. 2006-03, 5-9-06, rewrote this section)

21.7.5 Minimum requirements: Landscaping of off-street parking and other vehicular use areas shall conform to the minimum requirements hereinafter provided.

a. Installation. The owner, tenant and/or agent, if any, shall be jointly and severally responsible for installing landscaped areas according to accepted commercial planting procedures with the quality of plant materials as hereinafter described. All elements of landscaping shall be installed so as to meet all other applicable ordinances and code requirements of the City of Forest Acres. Landscaped areas shall require protection from vehicular encroachment as herein provided in 21.8.2.3 and 21.8.3.6. Qualified representatives of the City of Forest Acres shall inspect all landscaping, and no certificates of occupancy or similar authorization shall be issued prior to landscaping conforming to the requirements herein provided.

b. Maintenance. The owner, tenant and/or agent, if any, shall be jointly and severally responsible for maintaining such landscaping in a healthy, neat, and orderly condition. The owner shall provide each landscaped area with a readily available water supply with a minimum of one (1) outlet within one hundred fifty (150) feet of all plant material to be maintained.

c. Plant material.

1. Quality. Plant materials used in conformance with provisions of this subsection shall be of good quality.

2. Trees: Trees shall be species of average mature spread or crown greater than fifteen (15) feet and trunk(s) which can be maintained in a clean condition with over seven (7) feet of clear wood. Trees having an average mature spread or crown less than fifteen (15) feet may be substituted by grouping the same to create the minimum fifteen (15) feet of crown spread. Trees shall be a minimum of ten (10) feet overall in height immediately upon planting. Trees of species providing roots known to cause damage to public roadways or other public works shall not be planted closer than twelve (12) feet to such public works, unless the tree root system is completely encased with container for which the minimum interior dimensions shall be five (5) feet square and five (5) feet deep.

3. Shrubs and hedges: Shrubs shall be a minimum of two (2) feet six (6) inches in height immediately upon planting. Hedges shall be of non-deciduous species and planted and maintained to form a continuous, unbroken, solid, visual screen within a maximum of one (1) year after planting.

4. Vines: Vines shall be a minimum of twelve (12) inches in height immediately upon planting and may be used in conjunction with fences, screens, or walls to meet physical barrier requirements as specified.

5. Ground covers. Ground covers used in lieu of grass shall be planted in such manner as to present a finished appearance and reasonably complete coverage within three (3) months after planting.

6. Lawn grass. Grass shall be species normally grown as permanent lawns in the City of Forest Acres. Grass areas may be sodded, plugged, sprigged, or seeded except that solid sod shall be used in swales or other areas subject to erosion and providing that in areas where other than solid sod grass seed is used, nurse-grass seed shall be sown for early coverage with protection until coverage is otherwise achieved.

(Ordinance No. 2006-03, 5-9-06, renumbered this subsection from 21.7.4 to 21.7.5)

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Sec. 21.8 Landscaping

21.8.1 Minimum standards for landscaping adjacent to public rights-of-way, including streets and walks. The owner, tenant and/or agent of an off-street parking or other vehicular use area shall landscape between such area and any adjacent public street, walk or right-of-way as provided below. Prior to issuance of a certificate of occupancy by the building inspector, this landscaping shall be installed as follows:

1. A landscaped strip at least five (5) feet wide.
2. One (1) tree planted within each forty (40) lineal feet or fraction thereof in a planting area of at least twenty-five (25) square feet with the minimum dimension of at least five (5) feet.
3. A hedge, wall, or other durable landscape screen at least two (2) feet six (6) inches in height except as provided in paragraph (2) of this section.
4. If the durable screen is of nonliving material, one (1) shrub or vine shall be planted abutting the screen for each ten (10) feet but not necessarily evenly spaced ten (10) feet apart. Such shrubs or vines shall be planted along the street side of the screen or of sufficient height at the time of planting to be readily visible over the top of the screen.
5. The remainder of the required landscaped areas shall be landscaped with grass, ground cover or other landscape material.
6. All ground between the right-of-way and off-street parking or other vehicular use area shall be landscaped.

21.8.2 Minimum standards for perimeter landscaping adjacent to abutting properties: The owner, his tenant and/or agent, of an off-street parking or other vehicular use area shall landscape between such area and the abutting property as provided below. Prior to the issuance of a certificate of occupancy by the building inspector, this landscaping shall be installed as follows:

1. A wall, hedge, or other durable landscaped screen at least five (5) feet in height between the common lot line and the off-street parking or other vehicular use area.
2. Live screening materials shall be planted in a strip not less than two and one-half (2 1/2) feet in width, and shall be landscaped with grass, ground cover or other landscape material.
3. Perimeter landscaped areas shall be protected from vehicular encroachment using curbing or wheel stops.
4. Where the abutting property is zoned or used for nonresidential purposes, only the tree provisions with its planting area as prescribed in this subsection shall apply to the rear and sides, but all perimeter requirements shall apply to the front setback area. A minimum of one (1) tree shall be planted within and for each seventy-five (75) lineal feet or fraction thereof and in an area of at least twenty-five (25) square feet with a minimum dimension of at least five (5) feet.
5. A minimum of one (1) tree shall be planted within and for each forty (40) lineal feet or fraction thereof and in an area of at least twenty-five (25) square feet with a minimum dimension of at least five (5) feet.

21.8.3 Landscaping the interior of off-street parking and vehicular-use areas: The owner, tenant and/or agent of an off-street parking or other vehicular use area shall landscape the interior of these areas to define aisles and other vehicular use areas and to provide relief from the expense of paving. Prior to issuance of a certificate of occupancy by the building inspector, this landscaping shall be installed as follows:

1. Off-street parking areas: At least ten (10) square feet of interior landscaping for each parking space, excluding those spaces abutting a perimeter for which landscaping is required, and excluding all

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parking spaces which are directly served by an aisle abutting and running parallel to this perimeter.

2. Other vehicular use areas: At least one (1) square foot of landscaping for each one hundred (100) square feet of paving over two thousand, four hundred (2,400) square feet.

3. If the property contains both parking and other vehicular use areas, the two (2) areas may be prorated to determine the landscaping required by this subsection for other vehicular use area by multiplying the total number of parking spaces by three hundred (300) and subtracting the resulting figure from the total square footage of the paved area.

4. Each separate landscaped area shall be a minimum of fifty (50) square feet with a minimum dimension of five (5) feet and shall include at least one (1) tree. The remaining area shall be fully landscaped with shrubs, ground cover or other authorized landscaping material.

5. There shall be not less than one (1) tree for each one hundred (100) square feet of the interior landscaped area or fraction thereof.

6. All planting areas except those abutting the perimeter of a parking lot shall be raised and curbed.

21.8.4 Sight distance for landscaping adjacent to public rights-of-way and points of access: No landscaping, tree, fence, wall, or similar item shall be maintained in the vicinity of any corner, street, intersection or access way intersecting a public right-of-way that the building official or his designee determines is an obstruction to visibility, extends into sight lines, or is a traffic hazard.

21.8.5 Existing plant material: The building official or his designee may adjust the application of the above standards, in part or in whole, to allow credit for healthy plant material on a site prior to its development if, in his opinion, such an adjustment is consistent with the intent of this section.

21.8.6 Other applicable regulations: The provisions of this section shall be subject to other applicable regulations where such regulations are more restrictive and not otherwise inconsistent with the provisions of this section.

21.8.7 Off-street loading and unloading space: Every building or structure used for business trade or industry shall provide space as indicated herein for the loading and unloading of vehicles off a street or public alley. Such space shall have access to an alley or to a street. Such space shall be so arranged that no vehicle is required to back onto a public street, road, or highway in order to leave the premises.

Retail business and service: One (1) space ten (10) feet by twenty-five (25) feet for every twenty thousand (20,000) square feet of total floor area or fraction thereof.

Sec. 21.9 Annexed property

21.9.1 For property annexed by ordinance the zoning district classification shall be designated as follows:

a. City council, after receiving a recommendation from the planning commission, shall specify a zoning district classification or classifications in the annexation ordinance. Such classification or classifications shall become effective on the effective date of the annexation.

b. If the zoning district classification recommended by the planning commission for incorporation in the annexation ordinance is different from the existing land use of the property or use specified by the existing county zoning district classification, the planning commission shall so advise city council specifying the reasons for the planning commission recommendation. In such event, the city council shall hold a public hearing on the proposed zoning district or districts of the property or properties to be annexed. A notice shall be distributed, published, and posted in the same manner as required for rezoning as set forth in section 21-275 of the Forest Acres Code of Ordinances and hearings conducted as set forth in section 21-274 of the City of Forest Acres Code of Ordinances.

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c. Immediately after the effective date of such annexation, the building official shall initiate zoning amendment procedures to establish or confirm the appropriate zoning classifications for the annexed area.

21.9.2. For property annexed by petition and referendum, the zoning district classification shall be designated as follows:

a. When a petition is submitted for annexation of an area, the planning commission will be requested to prepare a proposed zoning plan for the area.

b. The proposed zoning plan will be made public at a meeting of city council prior to the referendum.

c. If the referendum is successful, the city council will establish the proposed zoning plan as a part of the ordinance ratifying the referendum and taking the area into the city limits.

d. The building official will institute zoning amendment procedures to confirm the classification for the annexed area.

Sec. 21.10 Motor fuels.

21.10.1 All gasoline, diesel fuel, gasohol or other fuels used to operate motor vehicles (collectively "motor fuels") shall be stored in and pumped, dispersed or in any way dispensed solely from underground storage tanks/facilities duly registered, approved, authorized, and permitted/licensed by the department of health and environmental control. The pumping, dispersing, or dispensing of motor fuels from any type of mobile unit to a motor vehicle, tank or other containers is expressly prohibited, except residential or emergency use in five (5) gallon containers or less; duly permitted construction sites; and underground tanks. (Ord. No. 86-180, Art. VI, 10-86; Ord. No. 88-263, § 1, 3-15-88; Ord. No. 88-288, § 1, 11-15-88; Ord. No. 88-289, §1, 10-11-88; Ord. No. 96-415, § 1, 2-13-96; Ord. No. 96-417, § 1, 2-13-96)

Secs. 21.11--21.20. Reserved.

ARTICLE II. USE REQUIREMENTS FOR SINGLE FAMILY RESIDENTIAL DISTRICT (R-1)

Sec. 21.21 Purpose.

The purpose of the R -1 district is to establish a quiet low density residential area and to protect property in the district from the depreciating effects of incompatible land uses. The principal use of land is for single family dwellings. The regulations for this district are intended to discourage any use which because of its character, would interfere with the development of or be, detrimental to the quiet residential nature of the area included in the zone. (Ord. No. 86-180, §7-1, 6-10-80)

Sec. 21.22. Permitted uses.

The following uses are permitted in the R-1 district:

- (1) Single-family dwellings.
- (2) Accessory buildings and uses of structures customarily incidental to any permitted use.
- (3) Signs subject to the provisions of Article XVI.
- (4) Home occupations subject to the provisions of section 21-146.
- (5) Reserved.

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(6) Public utilities, transformer stations, electrical transmission and telephone lines and poles, telephone exchanges with no vehicles or equipment stored on the premises subject to the height requirements of section 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.

(7) Accessory apartments for the elderly subject, to the provisions of section 21.149.

(8) Garage sales subject to the provisions of section 21.148.
(Ord. No. 86-180, § 7-2, 6-10-86; Ord. No.96-437, §4-9-96)

Secs. 21.23--21.30. Reserved.

ARTICLE III. USE REQUIREMENTS FOR SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1a)

Sec. 21.31. Purpose.

The purpose of the R-1a district is to establish a quiet low-density residential area similar to residential district R-1 but requiring smaller minimum lot sizes and to protect property in the district from the depreciating effects of incompatible land uses. The principal use of the land is for single family dwellings. The regulations for this district are intended to discourage any use which, because of its character, would interfere with the development of or be detrimental to the quiet residential nature of the area included in the zone. (Ord. No. 86-180, § 7(a)-1, 6-10-86)

Sec. 21.32. Permitted uses.

The following uses are permitted in the R-1a district:

(1) Single-family dwellings.

(2) Accessory buildings and uses of structures customarily incidental to any permitted use.

(3) Signs subject to the provisions of article XVI.

(4) Home occupations subject to the provisions of section 21.146.

(5) Reserved.

(6) Public utilities, transformer stations electrical transmission and telephone lines and poles, telephone exchanges with no vehicles or equipment stored on the premises, subject to the height requirements of section 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.

(7) Garage sales subject to the provisions of section 21.148.
(Ord. No. 86-180, § 7(a)-2, 6-10-86; Ord. No. 96-437, § 2, 4-9-96)

Secs. 21.33--21.40. Reserved.

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ARTICLE IV. USE REQUIREMENTS FOR DUPLEX RESIDENTIAL DISTRICT (R-2)

Sec. 21.41. Purpose.

The purpose of the R-2 district is to provide a slightly higher population density but with basic restrictions similar to those in residential district R-1. The principal use of land is for single family and two-family dwellings. The regulations for this district are intended to discourage any use which, because of its character, would interfere with the development of or be detrimental to the quiet residential nature of the area included in the zone. (Ord. No. 86-180, § 8-1, 6-10-86)

Sec. 21.42. Permitted uses.

The following uses are permitted in the R-2 district:

- (1) Single-family and two-family dwellings on single lots, or in group housing projects subject to the provisions of section 21.140. (Ord. No. 06-08 repealed Cluster Hosing Regulations).
- (2) Accessory buildings and uses customarily incidental to any permitted uses, and accessory apartments for the elderly.
- (3) Home occupations, subject to the provisions of section 21.146.
- (4) Signs subject to the provisions of article XVI.
- (5) Public utilities, transformer stations, electrical transmission and telephone lines and poles, telephone exchanges with no vehicles or equipment stored on the premises, subject to the height requirements of section 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.
- (6) Garage sales subject to the provisions of section 21.148.
(Ord. No. 86-180, § 8-2, 6-10-86; Ord. No. 96-437, § 3, 4-9-96)

Secs. 21.43--21.50. Reserved.

ARTICLE V. USE REQUIREMENTS FOR MULTIFAMILY RESIDENTIAL DISTRICT (R-3)

Sec. 21.51. Purpose.

The purpose of the R-3 district is to provide for a medium population density. The principal use of land is for single-family, two-family, and multi-family dwellings. The regulations for this district are intended to discourage any use which, because of its character, would interfere with the development of, or be detrimental to, the quiet residential nature of the area included in the zone. (Ord. No. 86-180, § 9-1, 6-10-86)

Sec. 21.52. Permitted uses.

The following uses are permitted in the R-3 district:

- (1) Single-family, two-family, and multi-family dwellings on single lots, or in group housing projects, subject to the provisions of section 21.140. (Ord. No. 06-08 repealed Cluster Hosing Regulations).
- (2) Accessory buildings and uses customarily incidental to any permitted use, and accessory apartments for the elderly.
- (3) Home occupations, subject to the provisions of section 21.146.
- (4) Signs subject to the provisions of article XVI.

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(5) Public utilities, transformer stations, electrical transmission and telephone lines and poles, telephone exchanges with no vehicles or equipment stored on the premises, subject to the height requirements of section 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.

(6) Garage sales subject to the provisions of section 21.148.

(7) Small group homes for the handicapped and developmentally disabled sheltering nine (9) or fewer such persons are permitted when required by the terms of section 6-7-830 of the South Carolina Code of Laws of 1976, as amended.

(Ord. No. 86-180, § 9-2 6-10-86; Ord. No. 96-437, § 4, 4-9-96)

Secs. 21.53--21.60. Reserved.

ARTICLE VI. USE REQUIREMENTS FOR PUBLIC AND SEMIPUBLIC DISTRICT (P-1)

Sec. 21.61. Purpose.

The purpose of the P-1 district is to establish a public area for religious and recreational facilities and governmental institutions. The nature of these facilities requires location in areas with good access and near the residential areas served. (Ord. No. 86-180, § 10-1, 6-10-86; Ord. No. 87-213, § 2, 1-13-87)

Sec. 21.62. Permitted uses.

The following uses are permitted in the P-1 district:

(1) Public recreational facilities and uses not operated for profit, which may include parks, playgrounds, country clubs, community centers, and neighborhood buildings.

(2) Churches, including Sunday school or educational buildings and other places of worship, including nonprofit nursery and kindergarten schools conducted in church facilities, provided all state requirements are met, and subject to the provisions of section 21.147.

(3) Signs subject to the provisions of article XVI.

(4) Ash gardens or other area for burial or retention of cremated human remains, provided the area must be part of a fully functional church; not to exceed seven hundred fifty (750') square feet; be located at least fifty (50') feet from any boundary of church property.

(5) Libraries.

(6) Single-family dwellings.

(7) Accessory buildings and uses of structures customarily incidental to any permitted use.

(8) Home occupations subject to the provisions of section 21.146

(9) Public utilities, transformer stations, water tanks and towers, electrical transmission lines and towers, telephone exchanges with no vehicles or equipment stored on the premises, subject to the height requirements of sections 21.5.16 and 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet

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high and suitably landscaped.

(10) Garage sales subject to the provisions of section 21.148.

(11) Municipal buildings and functions.

(12) Children's homes, or orphanages, not to include penal facilities or any kind.

(13) Communication Towers located on municipal owned property, property leased solely for municipal functions or property solely associated with municipal functions; subject to the following conditions: (a) no tower shall exceed a height of one hundred sixty feet (160); (b) no tower shall be located within one hundred twenty (120) feet (as measured from the base line of the tower) of any main public right-of-way or twenty-five (25) feet (as measured from the base line of the tower) of any secondary public right of way; (c) no tower shall be located within one hundred twenty (120) feet (as measured from the base line of the tower) from any dwelling located in a residential zoning district; and (4) subject to the provisions of Sections 21.244, 21.245.1, 21.245.3, 21.245.4, 21.245.5, 21.245.6, and 21.245.7. The provisions of sections 21.245.2, 21.245.8 and 21.246 shall not apply. (Ord. No. 2011-1, 10-11-11).

(Ord. No. 86-180, § 10-2, 6-10-86; Ord. No. 87-213, § 2, 1-13-87; Ord. No. 90 -308, § 1, 4-10-90; Ord. No. 95-402, § 1 9-12-95; Ord. No. 2011-1, §13 10-11-11)

Secs. 21.63--21.70. Reserved.

ARTICLE VII. USE REQUIREMENTS FOR INSTITUTIONAL DISTRICT (P-2)

Sec. 21.71. Purpose.

The purpose of the P-2 district is to establish a public or semi-public area for health, educational, and governmental institutions. The nature of these institutions requires location in areas with good access and relatively near the residential areas served. All references to and requirements for the P-1 district in this chapter shall likewise apply to the P-2 district except as set out in this section and section 21-72. (Ord. No. 86-180) § 10-3, 6-10-86; Ord. No. 87-213, § 2, 1-13-87)

Sec. 21.72. Permitted uses.

The following uses are permitted in the P-2 district:

(1) Public and private schools offering general educational courses.

(2) Public and semipublic recreational facilities and uses not operated for profit, which may include parks, playgrounds, country clubs, community centers, neighborhood buildings.

(3) Reserved

(4) Signs subject to the provisions of article XVI.

(5) Reserved.

(6) Hospitals and medical treatment facilities.

(7) Governmental buildings and uses except for penology.

(8) Libraries.

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(9) Nursery and kindergarten schools operated for profit, provided all state requirements are met and subject to the provisions of section 21.147.

(10) Single-family dwellings.

(11) Accessory buildings and uses of structures customarily incidental to any permitted use.

(12) Home occupations subject to the provisions of section 21.146.

(13) Public utilities, transformer stations, water tanks and towers, electrical transmission lines and towers, telephone exchanges with no vehicles or equipment stored on the premises, subject to the height requirements of sections 21.5.16 and 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.

(14) Garage sales subject to the provisions of section 21.148.

(15) Small group homes for the handicapped and developmentally disabled sheltering nine (9) or fewer such persons are permitted when required by the terms of section 6-7-830 of the South Carolina Code of Laws of 1976, as amended.

(Ord. No. 86-180, § 10-4, 6-10-86; Ord. No. 87-213, § 2, 1-13-87)

Secs. 21.73--21.80. Reserved.

ARTICLE VIII. USE REQUIREMENTS FOR OFFICE AND LIMITED COMMERCIAL DISTRICT (C-1)

Sec. 21-81. Purpose.

21.81.1. The purpose of the Office and Limited Commercial Districts to develop and reserve land for business, office, institutional specified public, semipublic, and residential purposes. The regulations which apply within this district are designed to encourage the formation and continuance of a quiet, compatible, and uncongested environment for office type business or professional firms intermingled with dwellings and certain public or semipublic uses, and to discourage any encroachment by unrestricted retail and/or other uses capable of adversely affecting the specialized commercial, institutional, and housing character of the district.

21.81.2 Commercial districts should have access from major traffic arteries; however, it is not the intent of this chapter to encourage the development of long, narrow strips of commercial development fronting on major arteries, often referred to as "strip commercial" areas. Strip commercial development can lead to the eventual formation of commercial slums, damage the traffic-carrying capacity of streets, and increase congestion. It is often incompatible with adjacent residential uses, frequently leads to depreciation of property values in adjacent residential areas, encourages undue saturation of commercial facilities to the inconvenience of the public, and creates disproportionate costs in the provision of governmental services.

21.81.3 Extensions of commercial zoning via amendments to this chapter should be made principally for the provision of planned, unified commercial areas, and not in such a way that strip commercial areas are encouraged. Extension of commercial zoning should only be made after careful consideration of compatibility with adjacent uses, the need for additional commercial facilities, and whether other land is available which is already zoned for commercial use.

(Ord. No. 86-180, § 11-1, 6-10-86)

Sec. 21.82. Permitted uses.

The following uses are permitted in the C-1 district:

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- (1) Single-family and two-family dwellings on single lots, or in group housing projects, subject to the provisions of section 21.140. (Ord. No. 06-08 repealed Cluster Hosing Regulations).
- (2) Accessory buildings and uses customarily incidental to any permitted use.
- (3) Home occupations.
- (4) Public and private schools offering general educational courses.
- (5) Public and semipublic recreational facilities and uses not operated for profit, which may include parks, playgrounds, country club's community enters, neighborhood buildings.
- (6) Churches, including Sunday school or educational buildings and other places of worship.
- (7) Nursing or convalescent homes.
- (8) Private, nonprofit clubs and lodges.
- (9) Hospitals and medical treatment facilities.
- (10) Governmental buildings and uses except those relating to penology.
- (11) Libraries.
- (12) Nursery and kindergarten schools provided all state requirements are met and subject to the provisions of section 21.147.
- (13) Public utilities, transformer stations, water tanks and towers, electrical transmission lines and towers, telephone exchanges with no vehicles or equipment stored on the premises, subject to the height requirements of sections 21.5.16 and 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.
- (14) Banks and other financial institutions.
- (15) Professional and business offices.
- (16) Medical, dental or chiropractic or other medically oriented office, clinic and/or laboratory.
- (17) Business schools.
- (18) Studios for teaching art, music, dancing, etc.
- (19) Signs subject to the provisions of article XVI.
- (20) Garage sales subject to the provisions of section 21.148.
- (21) Canteens contained in office buildings where the service of food is not the main or principal use of the building; consisting of an area of not more than 1,200 square feet; limited in hours of operation from 8:00 a.m. to 5:30 p.m., Monday through Friday; without drive-up or walk-up facilities; no preparation of food on the premises requiring frying or grilling; and no advertising or signs on the exterior of the building.
- (22) Styling salons, barber, and beauty shops.
- (23) Any establishment engaged in the merchandising and sale of products containing hemp, hemp-derived Cannabidiol (CBD), CBD oils, Cannabis Product, or vaping product of alternative consumable matter

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other than tobacco meant to be smoked, vaped or ingested orally in any fashion, provided such merchandising and sale is ancillary to the primary use of the establishment as a medical, dental chiropractic or other medically oriented office, clinic and/or laboratory, and this activity is restricted to no more than twenty percent (20%) of the total square footage of the business, not to exceed five hundred (500) square feet, whichever is less.

(Ord. No. 86-180, § 11-2, 6-10-86; Ord. No. 89-293, § 1, 1-10-89; Ord. No. 90-322, § 1, 12-11-90; Ord. No. 20-21 §, 11-10-20)

Sec. 21.83. Prohibited uses.

The following are examples of specific uses, consisting of but not limited to the uses set out herein below, prohibited in the C-1 district:

- (1) Wholesale sales and service.
- (2) Eating and drinking establishments except as provided in subsection 21-82(21).
- (3) Commercial recreational facilities.
- (4) Amusement centers, billiard parlors, pool halls and establishments sponsoring devices for engaging in billiards, pocket billiards, or pool, and tattoo parlors.
- (5) Automotive service stations and retailers of gasoline, diesel fuel and other related petroleum products.
- (6) Service and repair establishments for gasoline or diesel engines of any designated horsepower rating.
- (7) Any business engaged in the merchandising and sale of products containing hemp, hemp derived Cannabidiol (CBD), CBD oils, Cannabis Product, or vaping product of alternative consumable matter other than tobacco meant to be smoked, vaped or ingested orally in any fashion, except as set forth in 21.82 (24).
- (8) Storage yards, warehouses, mini-warehouses, distribution and fulfillment centers, and other storage facilities.

(Ord. No. 86-180, § 11-3, 6-10-86; Ord. No. 89-293, § 2, 1-10-89; Ord. No. 20-21 § 11-10-20)

Secs. 21.84--21.90. Reserved.

ARTICLE IX. USE REQUIREMENTS FOR NEIGHBORHOOD COMMERCIAL DISTRICT (C-2)

Sec. 21.91. Purpose.

The purpose of the Neighborhood Commercial District is to provide for small shopping areas primarily designed to serve nearby residential areas. The district is usually located on a major street and contains businesses that sell such items as groceries and drugs as well as businesses that furnish personal services. Because the neighborhood commercial zone is closely related to adjacent residential areas, the surrounding residential property must be protected. The statements of intent about formation of "strip" commercial developments as set forth in section 21.81.2, and 21.81.3 also apply to C-2 commercial areas. (Ord. No. 86-180, § 12-1, 6-10-86)

Sec. 21.92. Permitted uses.

The following uses are permitted in the C-2 district:

- (1) Single-family and two-family dwellings on single lots, or in group housing projects, subject to the provisions of section 21.140. (Ord. No. 06-08 repealed Hosing Regulations).

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- (2) Accessory buildings and uses customarily incidental to any permitted use.
- (3) Home occupations.
- (4) Public and private schools offering general educational courses.
- (5) Public and semipublic recreational facilities and uses not operated for profit which may include parks, playgrounds, country clubs, community centers, neighborhood buildings.
- (6) Churches, including Sunday school or educational buildings, and other places of worship.
- (7) Nursing or convalescent homes.
- (8) Private, nonprofit clubs and lodges.
- (9) Hospitals and medical treatment facilities.
- (10) Governmental buildings and uses.
- (11) Libraries.
- (12) Nursery and kindergarten schools provided all state requirements are met and subject to the provisions of section 21.147.
- (13) Public utilities, transformer stations, water tanks and towers, electrical transmission lines and towers, telephone exchanges with no vehicles or equipment stored on the premises, subject to the height requirements of sections 21.5.16 and 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.
- (14) Banks and other financial institutions.
- (15) Professional and business offices.
- (16) Medical, dental or chiropractic or other medically oriented office, clinic and/or laboratory.
- (17) Business schools.
- (18) Studios for teaching art, music, dancing, etc.
- (19) Signs subject to the provisions of article XVI.
- (20) Garage sales subject to the provisions of section 21.148.
- (21) Retail establishments of five thousand (5,000) square feet or less of interior floor space.
- (22) Retail establishments wherein no more than twenty percent (20%) of the total square footage of the business, not to exceed one thousand (1,000) square feet, whichever is less, is engaged in the merchandising and sale of products containing hemp, hemp- derived Cannabidiol (CBD), CBD oils, Cannabis Products, or vaping products of alternative consumable matter other than tobacco meant to be smoked, vaped, or ingested orally in any fashion.
- (23) Personal service establishments, including, but not limited to, barber and beauty shops, post office substations, shoe repair shops, dry cleaning and laundry pickup stations, garment making, tailoring and garment repair shops, excluding tattoo facilities and parlors.
(Ordinance No. 2006-01, 2-14-06, added “excluding tattoo facilities and parlors”)

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(24) Service and repair establishments, including, but not limited to, radio, television, business machines, and household appliances without gasoline engines.

(25) Canteens contained in office buildings where the service of food is not the main or principal use of the building; consisting of an area of not more than 1,200 square feet; limited in hours of operation from 8:00 a.m. to 5:30 p.m., Monday through Friday; without drive-up or walk-up facilities; no preparation of food on the premises requiring frying or grilling; and no advertising or signs on the exterior of the building.

(Ord. No. 86-180, § 12-2, 6-10-86; Ord. No. 88-261, § 1, 3-8-88; Ord. No. 89-293, § 1, 1-10-89; Ord. No. 20-21 §, 11-10-20)

Sec. 21.93. Prohibited uses.

The following are examples of specific uses, consisting of but not limited to the uses set out herein below, prohibited in the C-2 district:

- (1) Wholesale sales and service.
- (2) Eating and drinking establishments except as provided in subsection 21.92(24).
- (3) Commercial recreational facilities.
- (4) Amusement centers, billiard parlors, pool halls and establishments sponsoring devices for engaging in billiards, pocket billiards or pool, and tattoo parlors.
- (5) Automotive service stations and retailers of gasoline, diesel fuel and other related petroleum products.
- (6) Service and repair establishments for gasoline or diesel engines of any designated horsepower rating.
- (7) Adult and/or sexually oriented businesses, adult arcades, adult bookstores, adult video stores, adult cabarets, adult motion picture theaters, adult theaters, nude model studios, and any and all other adult and/or similar sexually oriented activity.
- (8) Storage yards, warehouses, mini-warehouses, distribution and fulfillment centers, and other storage facilities.

(Ord. No. 86-180, § 12-3, 6-10-86; Ord. No. 89-293, § 3, 1-10-89; Ord. No. 20-21 §, 11-10-20)

Secs. 21.94--21.100. Reserved.

ARTICLE X. USE REQUIREMENTS FOR SERVICE COMMERCIAL DISTRICT (C-2a)

Sec. 21.101 Purpose.

The purpose of the Service Commercial District is to provide for hotels and small shopping areas primarily designed to serve nearby residential areas and smaller business providing services to the local area. The district is usually located on a major street and contains businesses that furnish personal services and temporary housing. Because the service commercial zone is closely related to adjacent residential areas, the surrounding residential property must be protected. The statements of intent about formation of "strip" commercial developments as given in section 21.81.1 and 21.81.2 also apply to C-2a commercial areas. (Ord. No. 87-233 § 1(13a-1), 5-12-87)

Sec. 21.102. Permitted uses.

The following uses are permitted in the C-2a district:

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- (1) Public and semipublic recreational facilities and uses not operated for profit, which may include parks, playgrounds, country clubs, community centers, neighborhood buildings.
- (2) Governmental buildings and uses except relating to purposes of penology.
- (3) Libraries.
- (4) Public Utilities, transformer stations, water tanks and towers, electrical transmission lines and towers, telephone exchanges with no vehicles or equipment stored on the premises, subject to the height requirements of sections 21.5.16 and 21.136. All district yard requirements must be met and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.
- (5) Banks and other financial institutions.
- (6) Professional and business offices.
- (7) Medical, dental or chiropractic or other medically oriented office, clinic, and/or laboratory.
- (8) Studios for teaching art, music, dancing, etc.
- (9) Signs subject to the provisions of article XVI.
- (10) Video and computer games provided that no more than four (4) games are operated at anyone(1) location or premises.
- (11) Retail establishments of twenty-five hundred (2,500) square feet or less of interior floorspace.
- (12) Retail establishments wherein no more than twenty percent (20%) of the total square footage of the business, not to exceed five hundred (500) square feet, whichever is less, is engaged in the merchandising and sale of products containing hemp, hemp- derived Cannabidiol (CBD), CBD oils, Cannabis Products, or vaping products of alternative consumable matter other than tobacco meant to be smoked, vaped, or ingested orally in any fashion.
- (13) Personal service establishments, including but not limited to barber and beauty shops, post office substations, shoe repair shops, dry cleaning and laundry pickup stations, garment making, tailoring and garment repair shops, excluding tattoo facilities and parlors.
(Ordinance No. 2006-01, 2-14-06, added “excluding tattoo facilities and parlors”)
- (14) Hotel or motel.
- (15) Inns, bed and breakfast facilities or similar establishments none of which shall exceed eight (8) rental units or rooms. No rental unit or rooms shall be offered for rent or allowed to be sub rented for a period of less than ten (10) hours or greater than thirty (30) days.
- (16) Restaurants.
(Ord. No. 87--233, §1 (13a-2), 5-12-87; Ord. No. 20-21 §, 11-10-20)

Sec. 21.103. Prohibited uses.

The following are examples of specific uses, consisting of but not limited to the uses set out herein below, prohibited in the C-2a district:

- (1) Wholesale sales and services.
- (2) Commercial recreational facilities

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- (3) Amusement centers, billiard parlors, pool halls and establishments sponsoring devices for engaging in billiards, pocket billiards or pool, and tattoo parlors.
- (4) Automotive service stations and retainers of gasoline, diesel fuel and other related petroleum products.
- (5) Service and repair establishments for gasoline or diesel engines of any designated horsepower rating.
- (6) Drive-in restaurants with curbside service.
- (7) Adult and/or sexually oriented businesses, adult arcades, adult bookstores, adult video stores, adult cabarets, adult motion picture theaters, adult theaters, nude model studios, and all other adult and/or similar sexually oriented activity.
- (8) Storage yards, warehouses, mini-warehouses, distribution and fulfillment centers, and other storage facilities.
(Ord. No. 87-233 § 1 [13a-3] 5-12-87; Ord. No. 20-21 §, 11-10-20)

Secs. 21.104--21.109 Reserved

ARTICLE XI. USE REQUIREMENTS FOR GENERAL COMMERCIAL DISTRICT (C-3)

Sec. 21.110 Purpose.

The purpose of the General Commercial District is to provide for and promote concentrated development of retail establishments and personal and business services to supply the needs of the residents as well as a large market area. The statements of intent about formation of "strip" commercial developments as set forth in section 21.81.1 and 21.81.2 also apply to C-3 commercial areas. (Ord. No. 86-180, § 13-1, 6-10-86)

Sec. 21.111 Permitted uses.

The following uses are permitted in the C-3 district:

- (1) Reserved.
- (2) Accessory buildings and uses customarily incidental to any permitted use.
- (3) Reserved.
- (4) Signs subject to the provisions of article XVI.
- (5) Public utilities, transfer stations, water tanks and towers, electrical transmission lines and towers, telephone exchanges with no vehicles or equipment stored on premises, subject to the height requirements of sections 21.5.16 and 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.
- (6) Public and private schools offering general educational courses.
- (7) Public and semipublic recreational facilities and uses not operated for profit, which may include parks playgrounds, country clubs, neighborhood community buildings and community centers.
- (8) Churches including Sunday school or educational buildings and other places of worship.
- (9) Nursing or convalescent homes.

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- (10) Private, non-profit clubs and lodges not engaging in activities set forth in Article XXII.
- (11) Hospitals, medical treatment facilities, and emergency medical services.
- (12) Governmental buildings, services, and uses except relating to purposes of penology.
- (13) Libraries.
- (14) Nursery and kindergarten schools provided all state requirements are met and subject to the provisions of section 21.147.
- (15) All banks and other financial institutions.
- (16) Professional and business offices.
- (17) Medical, dental or chiropractic or other medically oriented office, clinic and/or laboratory.
- (18) Business schools.
- (19) Studios for teaching art, music, dancing, etc.
- (20) Retail establishments.
- (21) Retail establishments wherein no more than twenty percent (20%) of the total square footage of the business, not to exceed one thousand (1,000) square feet, whichever is less, is engaged in the merchandising and sale of products containing hemp, hemp- derived Cannabidiol (CBD), CBD oils, Cannabis Product, or vaping product of alternative consumable matter other than tobacco meant to be smoked, vaped or ingested orally in any fashion.
- (22) Restaurants.
- (23) Commercial recreational uses such as theaters, miniature golf courses, driving ranges and the like.
- (24) Veterinarian establishments provided that all animals shall be kept inside soundproof, air conditioned buildings.
- (25) Parks public and semipublic grounds, for games and sports, country clubs, recreational and community centers or neighborhood buildings and activities operated for profit.
- (26) Repair garages for small engines and automobiles.
- (27) Video and computer games.
- (28) Reserved
- (29) Inns, bed and breakfast facilities or similar establishments none of which shall exceed eight (8) rentals units or rooms. No rental unit or room shall be offered for rent or allowed to be sub rented for a period of less than ten (10) hours or greater than thirty (30) days.
- (30) Automotive service stations provided that the storage of gasoline or other flammables shall be accomplished in underground tanks.
- (31) Yard and garden services and (plant) nurseries.
- (32) Emergency Medical Services. The requirements of sections 11-1 through 11-4 shall not apply.

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(33) Automobile leasing consisting of passenger automobiles and vans with seating capacity not exceeding fifteen (15) people provided no more than fifteen (15) vehicles are present on the premises at any time, except as limited by section 10-5 of the Code of Ordinances.

(Ord. No. 86-180, § 13-2, 6-10-86; Ord. No. 90-307, § 1, 4-10-90; Ord. No. 97-519, § 1, 10-28-97; Ord. No. 20-21 §, 11-10-20)

Sec. 21.112 Prohibited uses.

The following are examples of specific uses, consisting of but not limited to the uses set out herein below, prohibited in the C-3 district:

- (1) Bulk fuel storage or distribution.
- (2) Manufacturing and/or processing.
- (3) Storage yards, warehouses, mini-warehouses, distribution and fulfillment centers and other storage facilities.
- (4) Automobile or truck sales (new or used).
- (5) Major construction equipment sales.
- (6) Truck terminals.
- (7) Drive-in restaurants with curb service.
- (8) Dance halls.
- (9) Outdoor theaters.
- (10) Mortuaries.
- (11) Industrial operations of any kind.
- (12) Amusement centers, billiard parlors, video poker parlors, pool halls and establishments sponsoring devices for engaging in billiards, pocket billiards or pool, and tattoo parlors.
- (13) Bars, lounges, taverns, beer and wine gardens or parlors and tasting rooms, except as operating in a full-service restaurant permitted by the South Carolina Department of Revenue.
- (14) Hotels, motels, boarding houses, and rooming houses.
- (15) Wholesale sales and service.
- (16) Adult and/or sexually oriented businesses, adult arcades, adult bookstores, adult video stores, adult cabaret, adult motion picture theaters, adult theaters, nude model studios, and all other adult and/or similar sexually oriented activity.

(Ord. No. 86-180, § 13-3, 6-10-86; Ord. No. 97-519, § 2, 10-28-97; Ord. No. 20-21 §, 11-10-20)

Secs. 21.113--21.118. Reserved

ARTICLE XII. USE REQUIREMENTS FOR CONCENTRATED COMMERCIAL DISTRICTS (C- 4)

Sec. 21.119 Purpose.

The purpose of the Concentrated Commercial District is to provide for and promote a more concentrated development of

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retail establishments and personal business services to supply the needs of the residents as well as a large market area and to provide for limited warehousing, vehicular sales and overnight accommodations. (Ord. No. 97-519, § 6, 10-28-97)

Sec. 21.120 Permitted uses.

The following uses are permitted in the C-4 district:

- (1) Accessory buildings and uses customarily incidental to all permitted use.
- (2) Signs subject to the provisions of article XVI.
- (3) Public utilities, transfer stations, water tanks and towers, electrical transmission lines and towers, telephone exchanges with no vehicles or equipment stored on premises, subject to the height requirements of sections 21.5.16 and 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.
- (4) Public and private schools offering general educational courses.
- (5) Public and semipublic recreational facilities and uses not operated for profit which may include parks, play grounds, country clubs, community centers, neighborhood buildings.
- (6) Churches, including Sunday school or education buildings and other places of worship.
- (7) Nursing or convalescent homes.
- (8) Private, nonprofit clubs or lodges, not engaging in activities set forth in Article XXII.
- (9) Hospitals and medical treatment facilities.
- (10) Governmental buildings and uses, except relating to purposes of penology.
- (11) Libraries.
- (12) Nursery and kindergarten schools provided all state requirements are met and subject to the provisions of section 21.147.
- (13) Banks and other financial institutions.
- (14) Professional and business offices.
- (15) Medical, dental or chiropractic or other medically oriented office, clinic and/or laboratory.
- (16) Business schools.
- (17) Studios for teaching art, music, dancing, etc., and not engaging in activities set forth in Article XXII.
- (18) Retail establishments.
- (19) Restaurants.
- (20) Clubs, lodges, fraternal and social organizations, not engaging in activities set forth in Article XXII.
- (21) Commercial recreational uses such as theaters, miniature golf courses, driving ranges and the like.
- (22) Veterinarian establishments provided that all animals shall be kept inside soundproof, air conditioned buildings.

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- (23) Parks, public and semipublic grounds for games and sports, country clubs, recreational and community centers or neighborhood buildings and activities operated for profit.
- (24) Repair garages for small engines and automobiles.
- (25) Video and computer games.
- (26) Reserved
- (27) Automotive service stations provided that the storage of gasoline or other flammables shall be accomplished in an underground tank.
- (28) Mobile home parks.
- (29) Warehouses, mini warehouses, distribution and fulfillment centers, or other enclosed storage facilities.
- (30) Rental, leasing and sale of passenger automobiles, vans with a seating capacity not exceeding fifteen (15) people, and trucks with a capacity not exceeding one and one-half tons.
- (31) Inns, bed and breakfast facilities or similar establishments none of which shall exceed eight (8) rental units or rooms each. No rental unit or room shall be offered for rent or allowed to be sub rented for a period of time less than ten (10) hours or greater than thirty (30) days.
- (32) Communication towers by special exception as set forth in sections 21.244 - 21.246.
- (33) Tattoo facilities, parlors or establishments engaging in the tattooing business or practice of marking the skin with patterns, pictures, designs, legends, or other markings, as permitted by state law and regulation. (Ordinance No. 2006-01, 2-14-06, added subsection 35)
- (34) Establishments primarily engaged in providing (1) short term emergency shelter for victims of domestic violence, sexual assault, or child abuse and/or (2) temporary residential shelter for homeless individuals or families, runaway youth, and patients and families caught in medical crisis. (Ordinance No. 2013-4.1, 5-14- 2013, added subsection 36)
- (35) Businesses engaging in the retail merchandising and sale of products containing hemp, hemp derived Cannabidiol (CBD), CBD oils, Cannabis Products, or vaping products of alternative consumable matter other than tobacco meant to be smoked, vaped, or ingested orally in any fashion.
- (36) Adult and/or sexually oriented businesses, adult arcades, adult bookstores, adult video stores, adult cabarets, adult motion picture theaters, adult theaters, nude model studios, and all other adult and/or similar sexually oriented activity as set forth in sections 21.250 - 21.262. (Ord. No. 86-180, § 13-3, 6-10-86; Ord. No. 97-519, § 2, 10-28-97) (Ord. No. 20-21 §, 11-10-20)

Sec. 21.121 Prohibited uses.

The following are examples of specific uses, consisting of but not limited to the uses set out herein below, prohibited in the C-4 district:

- (1) Bulk fuel storage or distribution.
- (2) Manufacturing and/or processing.
- (3) Storage yards or other outside storage.
- (4) Major construction equipment sales.

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- (5) Truck terminals.
- (6) Outdoor theaters.
- (7) Mortuaries.
- (8) Industrial operations of any kind.
- (9) Amusement centers, billiard parlors, pool halls and establishments sponsoring devices for engaging in billiards pocket billiards or pool.
(Ordinance No. 2006-01, 2-14-06, deleted tattoo parlors)
- (10) Bars, night clubs, lounges, taverns, beer and wine gardens or parlors and tasting rooms, except as operating in a full-service restaurant permitted by the South Carolina Department of Revenue.
- (11) Boardinghouses and rooming houses.
- (12) Wholesale sales and service.
(Ord. No. 97-519, § 6, 10-28-97; Ord. No. 20-21 §, 11-10-20)

Secs. 21.122--21.127 Reserved

ARTICLE XIII A. USE REQUIREMENTS FOR COMMERCIAL ENTERPRISE/REDEVELOPMENT ZONE (C-5)

Sec. 21.131 Purpose.

The purpose of the Commercial Enterprise/Redevelopment Zone District is to provide for and promote compatible development of commercial and retail establishments, personal and business services, and residential uses within the district to supply the needs of the residents as well as a large market area. The District is usually located on a major street and must contain a minimum site area or 5 contiguous acres and minimum developed space of 250,000 square feet. The regulations which apply within this district are designed to encourage the formation and continuance of large developments containing a compatible environment for retail, office, professional, residential uses, hotels, convention centers, call centers and governmental institutions. The statements of intent about formation of "strip" commercial developments as set forth in section 21.81.1 and 21.81.2 also apply to C-5 commercial areas. It is highly likely, if not inevitable, that redevelopment of property or properties with the acreage and existing development necessary to qualify for this District will involve proximity to a variety of surrounding commercial and/or residential areas outside of the District and, further, will materially impact the City's fiscal resources, the demand for public services and infrastructure, and the existing community character. The potential for redevelopment to impact surrounding areas and the City is heightened by the flexibility provided for within the District with regard to maximum building height and other development standards, which flexibility is not available in other commercial districts. Accordingly, the regulation of permitted uses within the District is based upon, in addition to the other factors set forth in Section 2.1.1, consideration of the City's desire to facilitate the creation of a convenient, attractive and harmonious community; to avoid undue concentration of population and increased congestion in the streets; to facilitate the adequate provision or availability of transportation, police and fire protection, water, and sewer to secure economy in governmental expenditures; to minimize increased levels of noise and other environmental factors incompatible with existing and anticipated future uses in surrounding areas; and to conserve the value of land and buildings and sustain the stability of neighborhoods.

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Sec. 21.132 Permitted uses.

The following uses are permitted in the C-5 district:

- (1) Multi-family residences
- (2) Signs subject to the provisions of subsection 21.134 District Regulations.
- (3) Public utilities transfer stations, water tanks and towers, electrical transmission lines and towers, telephone exchanges with no vehicles or equipment stored on premises, subject to the height requirements of sections 21.5.16 and 21.136. All district yard requirements must be met, and all electric power substations, transformer substations or relay substations must be enclosed by a vision restricted fence at least eight (8) feet high and suitably landscaped.
- (4) Public and private recreational facilities and uses, which may include parks and playgrounds.
- (5) Churches including Sunday school or educational buildings and other places of worship.
- (6) Any combination, whether adjoining or separate facilities, of: (1) governmental buildings, services, and uses except relating to purposes of penology; (2) medical treatment facilities; (3) hospitals; (4) other medically oriented offices, clinic and/or laboratory; (5) assisted living, nursing, or convalescent homes (limited to 50,000 square feet), provided the total of all such uses shall be limited to 250,000 square feet (measured from the exterior face of the exterior walls) of the total development in the district.
- (7) Nursery and kindergarten schools provided all state requirements are met and subject to the provisions of section 21.147.
- (8) All banks and other financial institutions.
- (9) Professional and business offices.
- (10) Dental and chiropractic offices.
- (11) Studios for teaching art, music, dancing, etc.
- (12) Retail establishments.
- (13) Retail establishments wherein no more than twenty percent (20%) of the total square footage of the business, not to exceed one thousand (1,000) square feet, whichever is less, is engaged in the merchandising and sale of products containing hemp, hemp derived Cannabidiol (CBD), CBD oils, Cannabis Product, or vaping product of alternative consumable matter other than tobacco meant to be smoked, vaped or ingested orally in any fashion.
- (14) Restaurants.
- (15) Commercial recreational uses such as theaters and auditoriums.
- (16) Personal service establishments, including but not limited to barber and beauty shops, post office substations, shoe repair shops, dry cleaning and laundry pickup stations, garment making, tailoring and garment repair shops, excluding tattoo facilities and parlors.
- (17) Open air markets.
- (18) Call centers
- (19) Veterinarian establishments, to include boarding facilities for medical purposes only, provided that all animals shall be kept inside soundproof, airconditioned buildings.
- (20) Amusement centers containing games, facilities, and activities for children and video and computer games.
- (21) Hotels, inns, conference and convention center facilities or similar establishments.

Sec. 21.133 Prohibited uses.

The following are examples of specific uses, consisting of but not limited to the uses set out herein below, prohibited in the C-5 district:

- (1) Bulk fuel storage or distribution.
- (2) Manufacturing and/or processing.
- (3) Storage yards, warehouses, mini-warehouses, distribution and fulfillment centers and other storage facilities.
- (4) Major construction equipment sales.

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- (5) Truck terminals.
- (6) Restaurants with drive-in service.
- (7) Outdoor theaters.
- (8) Mortuaries.
- (9) Industrial operations of any kind.
- (10) Billiard parlors, pool halls and establishments sponsoring devices for engaging in billiards, pocket billiards or pool, and tattoo parlors.
- (11) Bars, lounges, taverns, beer and wine gardens or parlors, except as operating in a full-service restaurant permitted by the South Carolina Department of Revenue, excluding festivals or public events where wine, beer or alcoholic beverages are served or offered for sale.
- (12) Tattoo facilities, parlors or establishments engaging in the tattooing business or practice of marking the skin with patterns, pictures, designs, legends, or other markings, as permitted by state law or regulations.
- (13) Boardinghouses and rooming houses.
- (14) Wholesale sales and service.
- (15) Adult and/or sexually oriented businesses, adult arcades, adult bookstores, adult video stores, adult cabarets, adult motion picture theaters, adult theaters, nude model studios, and any and all other adult and/or similar sexually oriented activity. (Ord. No. 86-180, § 13-3, 6-10-86; Ord. No. 97-519, § 2, 10-28-97)

Sec. 21.134 District regulations. All requirements and provisions of the Zoning Ordinance and Code of Ordinances of the City shall apply to the Commercial Enterprise/Redevelopment District, except as set forth herein below, conflicting provisions in the zoning ordinance to the contrary notwithstanding:

- (1) Maximum building height within a Commercial Enterprise/Redevelopment District shall be 65 feet.
- (2) Minimum Yard setback: Front 0, Side 10, and Rear 20.
- (3) Off-street automobile parking and storage spaces in the district shall be equal in number to at least the minimum requirements of one space for each 300 square feet of developed space.
- (4) Private streets are allowed provided such streets comply with the standards for public streets.
- (5) Signage:
 - a. The Commercial Enterprise/Redevelopment District shall be allowed signage as approved for a major shopping center in Sec. 21.165 (5)(c).
 - b. The signage allowed in Section 21.165(5)(c) for each Commercial Enterprise/Redevelopment District may include the following:
 - i. A sign may contain a digital display and contain parts that move, change, or operate by light emitting diodes (LEDs), change static message or copy by electronic means, or capable of changing displaying words or figures that can be electronically changed by remote or automatic means, subject to the following restrictions and requirements:

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1. Message Display Intervals or Dwell Time. Each message appearing on a digital sign face shall remain fixed for a minimum of six (6) seconds, and message changes shall be accomplished in one second or less.
 2. Malfunction Display Lock. Digital signs shall contain a default design that will freeze the sign in one position if a malfunction occurs or in the alternative shut down.
 3. Illustration. Display brightness shall be adjusted as ambient light levels changes and shall be subject to review and regulation by the City.
 4. The digital sign may not display light of such intensity or brilliance to cause glare or otherwise impair driver vision or result in a nuisance to any driver.
- ii. Such signs may display Bonafide business conducted, or products sold at its location.
- c. The use of a Commercial Enterprise/Redevelopment District Sign shall not in any manner limit the availability of other signage contained in Sec 21-165 of the Zoning Ordinance and Code Ordinances of the City.

Sec. 21.135 Wall signs. Wall signs are permitted on the primary building façade, and architecturally finished secondary facades. Building rears or sides that do not meet the architectural standards described below do not qualify for wall signs. No space greater than twelve (12) inches shall exist between the surface of the wall and the interior edge of the sign. For shopping centers and similar multi-tenant buildings with individual entrances, wall sign area shall be calculated independently for each distinct tenant space. Wall sign area is permitted as follows:

- a. Wall Sign Area - Primary Façade. The maximum wall sign face area shall be one square foot per building front foot, or five percent (5%) of the façade area, whichever is greater. The maximum sign area for any building façade shall be four hundred (400) square feet, and the maximum size of any single wall sign shall be three hundred (300) square feet.
- b. Wall Sign Area - Secondary Facades. For parcels with secondary facades facing streets or primary drive aisles, that are architecturally finished with similar materials, details and window patterning, the wall sign area shall be the same as the primary façade. The maximum sign area shall be four hundred (400) square feet, and the maximum size of any single wall sign shall be three hundred (300) square feet. For secondary facades that are architecturally finished with similar materials and details, but not similar window treatments, the maximum wall sign area shall be one-half (1/2) square foot per building front foot, or two and one half per cent (2.5%) of the façade, whichever is greater. The maximum sign area shall be two hundred (200) square feet, and the maximum size of any single wall sign shall be one hundred fifty (150) square feet.
- c. Wall Sign Vertical Dimension. Wall Sign vertical dimension shall be a maximum of fifty percent (50%) of the height of the first-floor façade, or ten (10) feet, whichever is less. An additional two feet may be allowed for a logo figure, capital letter or letter ascender or descender of a registered trademark.

(Ord. 2012-1, 1-10-12 created new Article)

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ARTICLE XIII. PLANNED DEVELOPMENT DISTRICT (PDD)

Section 21.128 Purpose.

Planned Development Districts are intended to allow flexibility in the design and development of land while fostering innovative site planning techniques, resulting in improved character and quality of the built and natural environment. A planned development district is characterized by unified site design incorporating at least one residential and one commercial use but may also incorporate compatible institutional and industrial uses. The district should include preservation of natural and scenic areas and utilization of open space, buffering, screening, and vehicular and pedestrian circulation. The flexibility allowed is intended to result in a wider choice in the type of environment and living units available to the public, more open space, a creative approach to the use of land and related physical development, and an efficient use of land resulting in less extensive networks of utilities and streets. Planned Development Districts are also intended to encourage flexible and creative planning and property development, to ensure the compatibility of land uses, to allow for the adjustment of changing demands to meet the current needs of the community, and to result in a higher quality development for the community than would result from the use of conventional zoning districts. The site plan and descriptive statement, approved by ordinance, constitutes the zoning district map and district regulations for a particular planned development.

A PDD may only be established in one of the following circumstances:

1. The land is in close proximity to established residential neighborhoods where conventional zoning classifications may not adequately address neighborhood concerns regarding the quality or compatibility of the adjacent development, and where it may be desirable to the neighborhood, the developer or the City to develop and implement mutually agreed, enforceable development standards;
2. The land, or adjacent property that would be impacted by the development of the land, has sensitive or unique environmental features requiring a more flexible approach to zoning and clustering of uses, or special design standards, to afford the best possible protection of the unique qualities of the site or the adjacent property;
3. The land serves as transition between different and seemingly incompatible land uses;
4. The land is of such a character that it is in the community's best interest to encourage high quality development through flexible development standards to further the goals and objectives of the City's Comprehensive Plan; and
5. The land consists of unusually configured parcels that cannot be developed efficiently under traditional zoning district standards.

Each PDD shall be established as an independent district. Development in a PDD must be consistent with a Site Development Plan that is incorporated as part of the district by the adopting ordinance for the PDD.

No PDD shall be established for a gross contiguous area less than the following:
Mixed residential and nonresidential uses: two (2) acres.

Criteria for Approval

The following criteria will be used by the City in deciding whether to approve, approve with modifications, or deny an application for a PDD:

1. The extent to which the land covered by the proposed PDD fits one or more of the circumstances in warranting a PDD classification.
The extent to which the proposed PDD furthers the policies of the City's adopted Comprehensive Plan (as amended) and other formally adopted City planning documents.
2. The extent to which the proposed PDD will result in a superior development that could not be achieved through conventional zoning classifications.
3. The extent to which the proposed PDD will resolve or mitigate any compatibility issues with surrounding development.
4. The extent to which proposed uses and the configuration of uses depicted in the Site Development Plan are compatible with existing and planned adjoining uses;
5. The extent to which the proposed development is consistent with adopted public facilities plans, including those related to water, wastewater, transportation, drainage and other public facilities; and
6. The extent to which the proposed open space and recreational amenities within the development provide a superior living environment and enhanced recreational opportunities for residents of the district and for the public generally.

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Conditions for Approval

The City Council may establish conditions to the PDD regulations and Site Development Plan as are necessary to assure that the purpose of the PDD is implemented. The PDD document attached to the ordinance presented at the public hearing and first reading of the ordinance shall reflect all changes and recommendations made by the Planning and Zoning Commission and City Council.

Section 21.129 District Regulations. All requirements and provisions of the Zoning Ordinance and Code of Ordinances of the City shall apply to the Planned Development District, except as set forth herein below, conflicting provisions in the zoning ordinance to the contrary notwithstanding:

Permitted Uses. Set forth in approved plan.

Prohibited Uses. As set forth in approved plan to include all prohibited uses set forth in Section 21.121, Prohibited Uses for General Commercial Districts (C-3), excluding hotels.

Minimum lot width, internal setbacks, and internal landscaping and buffering. Set forth in the approved plan to include requirements set forth in Section 21.152 Tree Protection and Land Disturbance Activity.

Minimum external (i.e., bordering any perimeter street or property not in the PDD) setbacks. Set forth in the approved plan but must, at a minimum, meet all setback requirements of the zoning district immediately adjacent to or across the street from any given area within the PDD, but in no event less than five (5') feet from any structure.

Minimum external (i.e., bordering any perimeter street or property not in the PDD) landscaping and buffering. Set forth in the approved plan but must meet, at a minimum, the requirements set forth in Sections 21.8.1 and 21.8.2.

Maximum number of residential units per acre. Set forth in the approved plan but not to exceed 21 residential units per acre. May vary from area to area within the approved plan.

Maximum structure height. Set forth in approved plan, but not exceeding five (5) stories or sixty-five (65') feet in height, provided the building along any perimeter street or residential area shall not exceed two (2) stories or thirty-five (35') feet in height.

Off-street parking and loading requirements. Set forth in the approved plan.

Signs. Set forth in approved plan, but not to conflict with Sign Regulations set forth in Sections 21.160-173

Streets, public or private. Private streets may be permitted, provided such streets comply with standards for public streets. Public Streets shall comply with all standards for public streets in accordance with all guidelines, regulations, and requirements established by S. C. Department of Transportation.

Infrastructure bonding, plat approvals, and site plan approvals. Set forth in approved plan but shall not conflict with existing Land Development Regulations adopted by the City of Forest Acres.

Section 21-130 Neighborhood Character Policy.

It is the policy of Forest Acres in considering proposed planned development districts to balance responsible growth with preservation of neighborhood and community character, including but not limited to the forested characteristics that give the City its name. Furthermore, the City finds that innovation and flexibility in site planning techniques may at times be appropriately balanced with additional measures to prevent impacts to the character of neighboring residential areas and public thoroughfares. Accordingly, the City encourages applicants to consider site design and district regulation that would:

- (i) Provide effective buffering for single-family and two-family residential uses outside the district using setbacks, landscaping, and other measures within the district appropriate to meaningfully preserve existing community character, but in no event less than five (5) feet;
- (ii) Provide innovative site layout techniques and/or district restrictions intended to prevent impacts from outdoor lighting and noise on residential properties outside the district;
- (iii) Tailor limitations on specific non-residential uses based on proximity to existing residential areas, considering the compatibility of specific uses with residential areas (for example, a restaurant use could have a greater impact than a professional office use on a neighboring residential property); and
- (iv) Preserve to the greatest extent possible significant trees, as defined in section 21.3.2, located at trunk

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center within fifty (50) feet of the district perimeter abutting any existing residential use or public street.

The Planning Commission shall adopt (and as it deems warranted from time to time, amend) a form designed to elicit PDD applicant information relevant to this policy, including the design factors specified above. The form, once approved by the Planning Commission, shall be a component of an application to establish a PDD district.

Section 21.131 Planned Development District Application and review procedures. The following procedures shall apply to the establishment of a PDD district, other provisions in this ordinance to the contrary notwithstanding:

Pre-Application Conference. An applicant for PDD zoning is required to contact the Zoning Administrator prior to submission of a PDD application. The Zoning Administrator will provide information and a review of regulations and procedures applicable to the proposed plan and descriptive statement.

Application Submission. PDD districts are established by amendment to the zoning ordinance in the manner prescribed for rezoning. Official initiation of a PDD amendment shall be by submission of a rezoning application form with required attachments. This application form and corresponding instructions will be provided by the Zoning Administrator or can be accessed through the City's website. All property owners or authorized agents must sign the completed application.

Site Development Plan. A site development plan is a required attachment to the application for the PDD amendment. The site development plan shall indicate the following:

1. The shape and dimensions of the zoning lot(s);
2. The size and location of all existing buildings;
3. The general location and orientation of any proposed buildings that shall be erected, altered, or moved;
4. The locations of any building setback line;
5. The heights of all proposed buildings and parts thereof;
6. The existing and proposed use of each building and part thereof;
7. The number of families or dwelling units in each existing building and the number that each proposed building is intended to accommodate;
8. The size and location of all proposed points of ingress/egress to the property, interior driveways, off-street loading areas, and off-street parking areas containing more than six parking spaces;
9. Finished first floor elevation above mean sea level requirement and the flood hazard zone designation if in a special flood hazard zone;
10. Clear illustration of proposed development phasing boundaries; and
11. Such other reasonable and pertinent information concerning the lot or neighboring lots as the Zoning Administrator may find necessary for the enforcement of this Ordinance.

Descriptive Statement. A thorough descriptive statement is a required attachment to the application for the PDD amendment. It shall address the regulations in Section 21.129 and shall indicate the characteristics and standards to be used for development of the site, and shall include at least the following items:

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 use;
6. Methods for dealing with parking and the impact on projected traffic related to the uses on the site and adjacent districts and streets;
7. Steps proposed to comply with landscape and buffering regulations;
8. Steps proposed to comply with sediment control and storm drainage regulations;
9. Outline for development phasing with anticipated time frames;
10. Design standards, procedures and methods demonstrating that development will result in an integrated-use district, functional and compatible with the area;
11. Proposed restrictive covenants to be recorded to assure future compliance with the standards of the plan;

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12. Phasing Schedule; and
13. Such other information as may be appropriate for review.

Checklist. Completion of a checklist, as an attachment to the application, is required to allow staff and the Planning Commission to ascertain whether and how the applicant intends to address concerns related to the multiple uses and varying densities associated with planned development districts.

Planning Commission Review. Upon determination that the application meets the above requirements, the Zoning Administrator shall forward the application to the Planning Commission for review and recommendation to City Council as set forth in Section 21.273.

City Council Action. Upon receipt of the Planning Commission recommendation, the City Council shall conduct a public hearing as required for zoning amendments, and may approve, approve with modifications accepted by the applicant, or disapprove the proposed amendment.

Zoning and Building Permits. Zoning and building permits shall not be issued until the zoning is approved by the City Council; approved plats, the approved descriptive statement and all restrictive covenants are filed for record with the City Clerk and the Clerk of Court for Richland County; and all required bonds are posted with the Zoning Administrator.

District Regulations. The applicable regulations provided for in Section 21.129, and those in the approved plan and descriptive statement, shall constitute the PDD district regulations for the site.

District Map. The site development plan approved by the City Council shall be the zoning district map for the PDD and shall be the basis for decisions by the Zoning Administrator and issuance of zoning and building permits.

Section 21.132 Changes to Previously Approved PDD Plan.

Major Changes.

Changes proposed in writing by the applicant which alter district boundaries, or which materially affect the characteristics of the PDD shall be submitted under normal zoning amendment procedures applicable to the establishment of the PDD, including review by the Planning Commission and approval by City Council. Such major changes, which materially affect the characteristics of the PDD, include:

1. Boundary Changes;
2. Decrease in Open Space;
3. Change in External Screening and Buffering (>10% decrease in height, width, or area of buffering; or change in materials used to provide screening or buffering);
4. Increase or Decrease in number of access points;
5. Increase in Lighting;
6. Changes to more intensive land uses (e.g., from residential to commercial) within any given area of the PDD;
7. Changes to any component of the plan that was previously expressly limited by reference to any other section of the City's Zoning Ordinance or Code of Ordinances;
8. Any change that may alter the character of the PDD or that may have an adverse impact upon neighboring property owners; or
9. Increase or decrease in any building size, not to include height, of more than five per cent (5%).

Minor Changes.

Changes proposed in writing by the applicant which involve revision of minor characteristics of the PDD. Such minor changes, which do not materially affect the approved plan concept or violate any applicable regulations, may be approved by the Zoning Administrator. The decision of the Zoning Administrator is subject to review by the Planning Commission and by the Zoning Board of Appeals if the applicant or any party whose property is adversely affected files a written appeal pursuant to Section 2126.2. An applicant may submit a rejected change by the Zoning Administrator or Planning Commission to City Council as an amendment to the plan under the normal zoning amendment procedures.

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Permits.

No zoning or building permits involving a minor or major change of the PDD descriptive statement or map shall be issued until the written change is approved and filed with the City Clerk and recorded in the RMC office for Richland County.

Section 21.134 Failure to Begin, Failure to Make Adequate Progress, or Failure to Complete

If the responsible party fails to begin, fails to progress, or fails to complete development as agreed in the descriptive statement and/or ordinance amendment, the City Council may charge the developer with violation of the zoning ordinance, may enforce bonds posted for compliance, may rezone the property, or may take any combination of these actions. In any event, if construction of the planned development is not initiated within 2 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.

Expiration

Progress toward development of the Site Development Plan shall occur within the following time periods:

1. An application for approval of a Site Development Plan, subdivision plat or site plan, as may be required, shall be submitted for approval within two years of the date of establishment of the PD District, unless otherwise provided in the adopting ordinance. If a Site Development Plan for all or a phase of the development depicted in the Site Development Plan is not submitted within such period, the authority to submit such development and all subsequent site development plans or required permits for the PDD shall be suspended.
2. If the land within the PDD is to be developed in phases, a Site Development Plan or other development application shall be submitted for the next phase within two (2) years from approval of a Site Development Plan or other development application for the preceding phase, or as otherwise provided in the phasing schedule for the PDD. If a subsequent Site Development Plan or other development application is not submitted within such period, the authority to submit such Site Development Plan application for that portion of the property and any subsequent site development plans or other development applications for the PDD shall be suspended.
3. Expiration of an approved Site Development Plan or other development application shall result in suspension of the authority to submit a new Site Development Plan or other development application for that portion of the property and for subsequent phases of development within the district for which a Site Development Plan or other development application has not been approved.
4. An approved Site Development Plan shall expire if a preliminary plat application for single-family residential projects, or a site plan for any other project, is not approved within two years of the date of approval of the Site Development Plan.

Expiration of the approved preliminary plat or site plan subsequently shall result in expiration of the associated Site Development Plan. If the preliminary plat or site plan is reinstated, the Site Development Plan shall be deemed to be reinstated as well.

(Ord. No. 20-21 §, 11-10-20 replaced article)

Secs. 21.131--21.135 Reserved

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Article XIV Area, Yard, and Height Requirements

District	Minimum Lot Area (Sq Ft)			Min. Lot Width		Minimum Setbacks						Maximum Height (f)	Maximum Coverage of Lot by Building (%)
	First Unit	Second Unit	Additional Units Over Two Units	At Front Setback Line	At Street Frontage (a)	Front Yard Setback	Side Yard Setback (b)	Rear Yard Setback	Accessory Structure (d)	Driveways	All sides bordering any public highway, street, or road (e)		
R-1	15,000	NP	NP	90	70	35	10	20	5	2	35	35	25
R-1a	12,000	NP	NP	85	70	35	10	20	5	2	35	35	30
R-2	10,000	5,000	NP	70	70	35	10	20	5	2	35	35	35
R-3	10,000	5,000	3,500	70	70	35	10	20	5	2	35	35	40
P-1/P-2	10,000	5,000	3,500	90	70	25	10	20	3	NA	25	35	60
C-1	7,500	7,500	3,500	70	70	25	10	20	3	NA	25	35	60
C-2/C-2a	7,500	7,500	3,000	70	70	25	10	20	3	NA	25	35	60
C-3	7,500	7,500	3,000	70	70	NA	10 (c)	20	3	NA	25	35	NA
C-4	7,500	7,500	3,000	70	70	NA	10 (c)	20	3	NA	25	35	NA
C-5	7,500	7,500	3,000	70	70	NA	10 (c)	20	3	NA	25	35	NA

TABLE NOTES

NP = Not Permitted

NA = Not Applicable

(a) Twenty-five (25) feet if such lots are on a cul-de-sac

(b) Minimum side yards for corner lots in residential districts shall meet the minimum front yard requirements on the sides adjacent to a street.

(c) No yard setback required if building is built to lot line, except when any side adjoins or borders any public highway, street, or road. (Also see Section 21.5.15 Vision Clearance)

(d)

(e) Not to exceed an accumulative total of seven hundred fifty (750) square feet for all Accessory Structures on the lot; for any single Accessory Structure larger than seven hundred fifty (750) square feet, the side setback requirements for the principal structure shall apply. See Section 21.3.2 Definitions: Accessory Structures

(f) Residential corner lots see Section 21.5.7

(g) No structure shall be more than three (3) stories in height. See Section 21.5.16 for exceptions.

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Secs. 21.137--21.139 Reserved

**ARTICLE XV
GENERAL AND SPECIAL PROVISIONS**

Sec. 21.140 Group housing projects

Group housing projects consist of more than one (1) residential structure (single-family, duplex, or multifamily) on a single lot in permitted districts. Prior to issuance of a building permit by the building official or his designee, all group housing projects proposals shall be reviewed and approved by the planning commission. In no instance shall the planning commission approve any group housing project which does not meet the following minimum standards:

(1) Lot size: A group housing project shall not be permitted on a lot having an area of less than one (1) acre.

(2) Street access: Any building established in connection with such group housing project which cannot properly be served by emergency or service vehicles from an abutting street shall be made accessible to such vehicles by a paved driveway having a roadbed width of not less than twenty (20) feet, exclusive of parking spaces.

(3) Off street parking facilities: Off street parking facilities established in connection with such developments shall be of such design, location and arrangement that will not interfere with the efficient flow of traffic through the area and that will not interfere with the access of emergency or service vehicles.

(4) Minimum spacing (in feet) between principal buildings:

Front to front: 30	Front to side: 20
Side to side: 15	Rear to front: 100
Rear to side: 20	Rear to rear: 20

(5) Setback requirements: Unless otherwise provided by this chapter, all buildings and structures established in connection with such development shall be placed not closer than twenty (20) feet from any property line. Parking facilities on streets shall not be permitted within ten (10) feet of any perimeter property line.

(6) Street design and construction standards: All streets and roads, whether public or private, must meet requirements and specifications as provided by South Carolina Department of Transportation and those in Richland County.

(7) Density calculation: A group housing project shall conform to the minimum lot area per dwelling unit for the district in which it is located.

(8) Screening. Group housing projects shall be effectively screened along the side and rear property line by a planting of trees or shrubs designed at least five (5) feet high-and four (4) feet deep, or a solid wall or fence at least five (5) feet high, or an equivalent screen approved by the building official.

(Ord. No. 86-180, § 15-1, 6-10-86)

Sec. 21.141 Reserved

(Ord. No. 86-180, § 15-2, 6-10-86, Ord. No. 99-577, § 21-122, 6-15-99)

(Ord. No. 06-08, § 21-141 (21.141.1-21.141.3) repealed Cluster Housing Regulations.

Sec. 21.142 Manufactured housing, mobile homes and mobile home parks.

21.142.1 Mobile homes are permitted only in mobile home parks.

21.141.2 Mobile home parks are permitted only in zoning district C-4 and shall comply with the regulations

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and standards in Article XV of this Code of Ordinances. No mobile home park shall be allowed, continued or constructed in flood hazard areas which consist of floodways and floodplains as set forth in article XVII. (Ord. No. 86-180, §15-3, 6-10-86; Ord. No. 97-519 § 7, 10-28-97)

Sec. 21.143--21.145. Reserved.

Sec. 21.146 Home occupations

Home occupations shall meet the following requirements:

- (1) The occupation, profession or trade is carried on wholly within the principal building.
- (2) Not more than twenty (20) percent of the floor area of the principal building is used for the conduct of the home occupations.
- (3) No merchandise or articles are displayed for advertising purposes, nor are displayed in such a way as to be visible from outside the dwelling.
- (4) No merchandise or articles are stored other than inside the principal building.
- (5) There is no alteration of the residential character of the building or premises.
- (6) Only persons residing on the premises may be employed and/or work with the home occupation.
- (7) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(Ord. No. 86-180, § 15-5, 6-10-86)

Sec. 21.147 Day nurseries and kindergartens

Day nurseries and kindergartens shall comply with standards promulgated by the South Carolina Department of Social Services and the South Carolina Fire Marshal's office.

- (1) No play equipment shall be closer than twenty (20) feet to any residential lot line.
- (2) A solid masonry wall with vegetative screening shall be provided along property lines to buffer the day nursery or kindergarten from adjoining residential use or residential zoning districts.

(Ord. No. 86-180, § 15-6, 6-10-86)

Sec. 21.148 Garage sales.

A permit for a garage sale must be obtained from city hall for each sale, and the permit must be posted on the site of the sale. The maximum period for each permit is two (2) days consecutively. The maximum number of permits allowed per year is two (2) per residence or dwelling.

- (1) Under no circumstances shall new or used merchandise, furniture, etc. be purchased or brought to the premises for sale.
- (2) All merchandise must be that of the family or families conducting the sale.

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(3) Only one (1) sign may be posted not larger than two (2) square feet in size advertising the sale, and the sign must be placed on the private property of the person conducting the sale. The hours of the sale shall not be before sunrise or after sunset. No Sunday sales will be allowed.

(4) Any sign permitted by this section or any nonpermitted garage sale sign shall be removed within twenty-four (24) hours of the conclusion of the sale.

(5) No public address system, amplification system, megaphone or similar amplification device shall be utilized at any garage sale.

(6) No alcoholic beverages or beer of any type shall be served or given away on or near the premises of the sale.

(7) If upon inspection by the premises, it is determined that any sale is being conducted in violation of this section, the person to whom the permit is issued or in the event no permit was obtained, the owner(s) of the property or the tenant(s) on the property shall be issued a citation for violation of this section and/or the right to continue the sale terminated. Any person found to be in violation of this section shall be punishable by a fine not to exceed \$50.00 for the first offense and \$100.00 for any subsequent offense.

(Ord. No. 86-180, § 15-7, 6-10-86)

(Ord. No. 07-14, § 21-148, 5-15-07 revised (4), (5) and (6) and added (7).

Sec. 21.149 Accessory apartments for the elderly.

21.149.1 Intent. It is the intent of this section to provide elderly housing apartments for those aged sixty (60) and over. Such housing apartments shall consist of accessory apartments attached to a principal dwelling unit on a lot in an R-1 zoning district. Such accessory apartment may have a separate entrance and separate cooking facilities for the occupant. It shall not have separate water, sewer, gas, or electric meters.

21.149.2 Conditions. The building official shall review requests for accessory apartments for the elderly. The building official may grant or deny such requests subject to the following conditions:

(1) Compliance with all conditions of this section is mandatory.

(2) The dwelling unit, of which the accessory apartment is a part, shall be owner-occupied.

(3) The accessory apartment tenant shall be a family member of the owner of the dwelling unit.

(4) The floor space of the accessory apartment shall not exceed twenty-five (25) percent of the floor space of the dwelling unit.

(5) Construction or creation of an accessory apartment shall not change the single-family appearance of the dwelling unit. The applicant shall submit a plan showing proposed construction and site plan.

(6) Adequate off-street parking shall be provided.

(7) The building official shall secure assurance from the applicant stating that the accessory apartment will be leased or rented to the tenant named in the application.

(8) Declaration of covenants restricting the use to be filed with the Office of the Register of Deeds.

21.149.3 Expiration, Renewal of Permit.

(1) Expiration of permit:

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- a. The permit shall expire one (1) year from the date of issuance.
- b. The permit shall expire when the accessory apartment becomes vacant.
- c. The permit shall expire at the time of sale of property on which the dwelling unit and accessory apartment are located.
- d. The permit shall expire if the dwelling unit is not owner-occupied.

(2) Renewal of permit

- a. The applicant may request a renewal of the permit in writing within ten (10) days before expiration. The request shall be addressed to the building official.
- b. The building official shall review the conditions under which the permit was issued. If the applicant follows the stated conditions, the building official shall renew the permit. If the applicant is not in compliance with the conditions under which the permit was issued, the building official shall not renew the permit.

(Ord. No. 86-180, § 15-8, 6-10-86)

Sec. 21.150 Fences and walls.

21.150.1 Fences and walls no taller than eight (8) feet may be in the required yards of all zoning districts in the City of Forest Acres subject to the provisions of section 21.5.15.

21.150.2 No fence or wall in a R (residential) district shall be constructed of concrete blocks or cement bricks. Where walls or fences are used for retention or support as in holding back earth or in damming water, this provision shall not apply. 21.150.3 Fences or walls as described in this section and in section 21.3 may be built to the lot line of any required yard. See sections 21.5.13 and 21.5.15 for requirements for visibility at intersections.

21.150.4 Chain link or wire mesh fences shall not be permitted in the required front yards of any zoning district.

(Ord. No. 86-180, § 15-9, 6-10-86)

Sec. 21.151 Satellite receiver dishes for television signal reception (yard placement).

Satellite receiver dishes for television signal reception are permitted only in the rear yards of principal structures in R-1, R-1a, R-2, R-3, P-1, and P-2 zoning districts, and no portion of the dish shall be nearer than five (5) feet from any side or rear property line. In all other zoning districts, no satellite dish shall be permitted within the front yard setback requirements. (Ord. No. 86-180, § 15-10, 6-10-86)

Sec. 21.152 Tree protection.

21.152.1 Policy. It is the policy of Forest Acres to maintain the forested characteristics that gives the city its name, "Forest Acres". The objective of this section is the protection and replacement of trees consistent with economic, environmental, and healthful enjoyment of the community. It is not the intent of this section to cause unnecessary hardship to any individual, entity, or public agency. It is intended to provide reasonable conservation of existing trees and/or require planting of additional trees after development.

21.152.2 General Requirements, Permit. In any zoning district within the City of Forest Acres a tree permit is required to cut or otherwise remove:

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- (1) any significant tree, which consist of any healthy and structurally sound tree having a diameter at breast height (DBH) twelve (12") inches or larger, which shall also include the following: Sweet Bay with a DBH of 4 inches or greater; Eastern Redbud with a DBH of 4 inches or greater; American Holly with a DHH of 4 inches or greater; Flowering Dogwood with a DBH of 4 inches or greater; and Sourwood with a DBH of 6 inches or greater.
- (2) any tree located within twenty-five (25) feet of the right-of-way of Forest Drive, Trenholm Road or Beltline Blvd; or
- (3) any tree or shrub located within the five (5) foot required buffer zone between residential and commercial property as provided for in Section 21.5.14.
- (4) Trees preventing a reasonable site configuration including the establishment of a lawn, provided however, that no more than fifty (50%) percent of the number of significant trees are removed in the lawn area, otherwise, the requirements for a planting plan as set forth in 21.152.3 (1) shall apply. [Ord. No. 2016-7, 8-9-2016, added section (4)]

Except that, in zoning districts R-1 and R-1a any tree removal service(s) or person(s) employed to remove or assist in removal of any significant tree(s) shall be responsible for obtaining a tree permit, in the failure to do so, the landowner, occupant or tenant must obtain a permit prior to removal.

An application for a tree permit shall be a conditional use. In considering such a request for a tree permit, the Zoning Administrator or his designee shall take into consideration and consider the following as exceptions:

- (1) Dead or dying trees.
- (2) Structurally unstable trees posing a safety hazard to nearby buildings, utility lines, pedestrian, or vehicular traffic.
- (3) Trees preventing essential grade changes or reasonable utility installations.
- (4) Trees preventing a reasonable site configuration including the establishment of a lawn.
- (5) Trees preventing a reasonable means by which building, zoning, subdivision, health, public safety, or other municipal requirements can be met.
- (6) Storm damage where fifty (50%) percent or more of the canopy is broken or damaged. [Ordinance No. 2005-10, 11-8-05, added subsection (6)]
- (7) Written requirement by the corporate office of an insurance company affording hazard insurance coverage to the property requiring tree removal as a condition for continuing insurance coverage. [Ord. No. 2016-7, 8-9-2016, added section (7)]

21.152.3 Land Disturbance Activity. In any zoning district within the City of Forest Acres, any land disturbance activity, not covered by an approved plan, involving the clearing, or cutting of trees in combination with other activities, including but not limited to, dredging, grading, or filling of land, which may result in soil erosion from water or wind and the movement or relocation of sediments is prohibited without a land disturbance permit. Application for such a permit must be accompanied by:

- (1) a tree survey of the property showing the location, DBH and genus of all significant trees. In all zoning districts except R-1 and R-1a, the tree survey shall also indicate the critical root zone of all such trees proposed to be saved;
- (2) a statement of the purpose of the proposed land disturbance activity;

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- (3) the location and number of all significant trees proposed to be removed;
- (4) a planting plan, which may be a part of any required landscaping plan, showing the number, location, species, and caliper of the replacement trees. The number of replacement trees shall equal at least fifty (50%) percent of the number of significant trees removed and shall consist of not less than fifty (50%) percent large maturing trees. The planting plan shall conform to the Tree Planting Standards, Appendix C; and
- (5) written statement setting forth the specific necessity for removal of each significant tree.

21.152.4 Commercial Construction or Improvement, to include public, non-profit, institutional and residential development other than single family.

- (1) Building Permit Application. An application for a building permit shall include, in addition to the other requirements of this ordinance, the following supporting materials:
 - a. A tree survey of the property showing the location, DBH and genus of all significant trees. The critical root zone for all significant trees proposed to be preserved shall be shown on the tree survey;
 - b. A grading plan showing the number and location of significant trees that will be removed along with a statement as to why the tree(s) could not be saved;
 - c. A planting plan, which may be a part of any required landscaping plan, showing the number, location, species, and caliper of the replacement trees. The number of replacement trees shall equal at least fifty (50%) percent of the number of significant trees removed and shall consist of not less than fifty (50%) percent large maturing trees. The planting plan shall conform to the Tree Planting Standards, Appendix C; and
 - d. A sketch plan for marking all trees to be retained and a description of protective barriers to be installed around all trees to be retained, as set forth in the Tree Protection and Planting Plan Requirements, Appendix B.

21.152.5 Single Family Residential Construction or Improvement

- (1) Building Permit Application: An application for a building permit shall include, in addition to the other requirements of this ordinance, the following supporting material:
 - a. A tree survey of the area of the lot ten feet (10') outside of the site improvement area (house and all accessory uses) showing the location of all significant trees, designating all significant trees proposed to be removed.
 - b. In considering such a request for a building permit, the Zoning Administrator shall take into consideration the following:
 1. Dead or dying trees.
 2. Structurally unstable trees posing a safety hazard to nearby buildings, utility lines or pedestrian or vehicular traffic.
 3. Trees preventing essential grade changes or reasonable utility installations.

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4. Trees preventing a reasonable site configuration including the establishment of a lawn, provided however, that no more than fifty (50%) percent of the number of significant trees are removed in the lawn area, otherwise, the requirements for a planting plan as set forth in section 21.152.3 (1) shall apply.

5. Trees preventing a reasonable means by which building, zoning, subdivision, health, public safety or other municipal requirements can be met.

21.152.6 Exemptions and Exceptions

- (1) The following are exempted from the tree protection requirements:
 - a. Underground utility construction within a utility easement;
 - b. The pruning (or cutting) of large maturing trees required to protect overhead utility lines;
 - c. Large and medium maturing trees planted within ten (10) feet of overhead utility easements; (Ordinance No. 2005-10, 11-8-05, deleted subsections c and d)

Sec. 21.152.7 Expiration of Permits.

Any tree or land disturbance permit shall be valid for a period of not to exceed six (6) months from date of issue. A new application must be completed, and a new permit issued for any tree(s) not removed under an expired permit. (Ord. No. 2016-7, 8-9-2016, added this subsection)

Sec. 21.152.8 Violations

Any title holder(s), homeowner(s), business owner(s), managing person(s), partner(s), renter(s), lessor(s), lessee(s), landlord(s) or tenant(s) of the property; tree service company(s), tree removal company(s), their officers and/or employees; or any combination thereof, violating any of the tree protection provisions shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred fifty (\$250.00) dollars or imprisonment of for not more than thirty (30) days or both. The removal of each significant tree in violation of this ordinance shall be considered and constitute a separate offense.

Section 21.152.9 Appendixes

Tree Protection During Construction Standards (Appendix A), Tree Protection and Planting Requirements (Appendix B), Tree Planting Standards (Appendix C), and Recommended Large, Medium and Small Maturing Tree Planting List (Appendix D) and all subsequent amendments and editions are hereby adopted by reference and fully set forth in the Appendixes to the Zoning Ordinance as requirements in all zoning districts except R-1 and R-1a wherein such appendixes shall be recommendations only.

(Ord. No. 87-238, § 1, 6-9-87, Ord. No. 2005-03, 5-12-2005, replaced Tree Ordinance provisions sections 21-152 through 21-158)

Secs. 21.153- 21.159. Reserved.

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ARTICLE XVI SIGN REGULATIONS

Sec. 21.160 Definitions.

In addition to the definitions set forth in section 21.3 of this chapter, the following definitions relate to signs:

Alter. Change the size, shape or outline, or type of sign, or replace parts or materials of the sign.

Erect. Build, construct, attach, hang, place, suspend or fix.

Major Arterial Street. Those four-lane thoroughfares that carry the highest traffic volumes and serve the major centers of activity in the City of Forest Acres; specifically, Forest Drive, Beltline Boulevard and Trenholm Road.

Sign. Any sign, poster, billboard, marquee, pictorial, picture, trademark, letter, figure, character, mark, design, reading matter or device which shall be so constructed, placed, attached, painted, erected, installed, fastened or manufactured in any manner whatsoever, so that the same shall be intended or used for the attraction of the public, or the attention of the public, to any place subject, person, firm, corporation, public performance, article, object or merchandise whatsoever and which is displayed in any manner whatsoever out-of-doors, whether permanently or temporarily.

Sign, Freestanding. A sign which is permanently affixed to the ground and which is not a part of a building or other structure.

Sign, Projecting. Any sign, other than a wall or window, which projects from and is supported by a building; such sign cannot project more than ten (10) feet from a building.

Sign, Temporary. A wall or window mounted sign that is mounted or affixed for a period of ten (10) days or less.

Sign, Wall. Any sign attached flat or parallel to the exterior wall or surface of a building or other structure and which projects not more than six (6) inches from that wall or surface.

Sign, Window. Any sign attached to a window or windows of a building, regardless of internal or external display, with the purpose of attracting the attention of the public.

(Ord. No. 86-180, § 6-10-86)

Sec. 21.161 Sign permit requirements.

21.161.1 Except as hereinafter exempted, no sign shall hereafter be erected, constructed, installed, or altered except as provided in this chapter and until:

- (1) a permit has been applied for by the prospective owner or other person desiring the same;
- (2) the permit has been approved by the building official or other official designated by the city; and;
- (3) the fee specified in section 21.162 hereinbelow has been paid.

21.161.2 When applying for a permit, the applicant shall make written application on the prescribed form supplied by the City of Forest Acres and shall provide completed plans and specifications, including a plot plan, showing size, location, lettering, design, picture, symbol or device, construction, method of support, materials used, illumination, invoice, contract or other evidence of cost or value, and any and all other information deemed pertinent or desirable by the building official or designated city official.

21.161.3 Any applicant receiving a permit for the erection, construction, installation or alteration of a sign shall notify the building official of completion of the work in order to provide a final inspection of the sign to ensure it meets the standards and requirements as specified in this chapter.

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(Ord. No. 86-180, § 16-2, 6-10-86)

Sec. 21.162 Fees.

No permit for the erection, construction, installation, or alteration of a sign, except those hereinafter excluded, shall be issued until the applicable fee, as set out hereinbelow, shall have been paid by the owner or the responsible person desiring the same.

(1) Where the valuation of the work, installed and in place, does not exceed twenty-five hundred dollars (\$2,500.00), the fee shall be twenty-five dollars (\$25.00).

(2) Where the valuation of the work, installed and in place exceeds twenty-five hundred dollars (\$2,500.00), the fee shall be ten dollars (\$10.00) per one thousand dollars (\$1,000.00) or a fraction thereof.

(Ord. No. 86-180, §16-3, 6-10-86)

Sec. 21.163 Permit expiration.

All sign permits expire after six (6) months from the date of issuance. All work authorized under a sign permit must be completed prior to expiration of the permit. The sign permit may be revoked for cause at any time prior to its expiration. All rights and privileges acquired under the provisions of this article or any amendments thereto are mere licenses revocable at any time by the city council, and all such permits shall contain this provision.

(Ord. No. 86-180, §16-4, 6-10-86)

Sec. 21.164 Signs exempted from permit.

The following signs are exempted from obtaining the required sign permit; however, such signs as hereinbelow enumerated must meet the requirements of this chapter for erection, construction, installation, alteration, or time allowed for display, except as hereinbelow enumerated:

(1) Street name signs, traffic or other regulating signs maintained by an authorized governmental agency, which may be located on a highway right-of-way.

(2) Nonpermanent political signs which do not exceed three (3) square feet in area. Such signs shall not be posted on any public property. Political signs shall not be posted more than forty-five (45) days prior to the election to which the sign relates and shall be removed by the candidate within five (5) days following the election to which the sign relates.

(3) Occupational signs denoting only the name and profession, of an occupant in a commercial, public, office or institutional building shall be allowed only in P-1, P-2, C-1, C-2, C-2a, C-3 and C-4 zones. Such signs shall not exceed three (3) square feet in area. Such signs may not extend above the roof line of any building and shall be surface mounted.

(4) Memorial signs or tablets, names of buildings and dates of erection when cut into a masonry surface or when constructed of bronze or other noncombustible material must be attached to the appropriate building. Such signs or tablets are allowed only in P-1, P-2, C- 1, C-2, C-2a, C-3 and C-4 zones.

(5) Flags, emblems and insignia of the United States and federal agencies and offices, and flags, emblems, and insignia of any state or local government body, decorative displays for holidays or legal public demonstrations which do not contain advertising and are not used as such.

(6) Non-permanent construction signs denoting the architect, engineer, contractor, subcontractor and/or financier and temporary signs denoting the future location of a particular business, retail center or institution, provided that such uses are limited to one (1) sign not exceeding four (4) square feet in area on one (1) side, and provided such signs do not extend above six (6) feet in height measured from the ground, provided such signs

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are located on the premises where construction or location being advertised is or will be occurring. Such a freestanding sign shall be located a minimum of twenty (20) feet from the highway right-of-way. Such signs shall only be erected after a building permit has been issued and may remain standing for the life of the permit or the completion of the structure, whichever occurs first. Should construction be halted, or the sign remain standing for an unreasonable length of time, the building official or the designated city official may order removal of the sign.

(7) Real estate signs advertising the sale, rental, or lease of the premises upon which the signs are located only, provided the sign shall not exceed four (4) square feet in area. The number of such signs shall be limited to one (1) per lot or complex except where such lot or complex abuts more than one (1) dedicated public street, in which event one (1) additional sign shall be allowed for each additional public street.

(8) Signs designating sites used by public, charitable, educational, or religious institutions in P-1, P-2, C-I, C-2, C-2a, C-3, and C-4 districts, provided such signs shall not exceed twenty-four (24) square feet in area and exceed six (6) feet in height, provided such signs are an integral part of the site architecture or landscaping. Such signs may be freestanding or attached to features such as decorative screen walls and landscape planters. No site shall be allowed more than one (1) such sign

(9) Signs prohibiting trespassing or other warning signs not exceeding two (2) square feet in area are allowed; such signs shall not contain any words, phrases, logos, emblems other or device advertising a business enterprise or activity.

(10) Window signs may be located on a window externally or internally, but in no case will be allowed to obscure more than fifty (50) percent of the visible window area available.

(11) Signs or banners of a nonpermanent nature used as advertising for public, charitable, educational, or religious events are allowed, provided such signs and banners shall not be displayed for more than fifteen (15) days.

(12) No exempt sign shall be posted or otherwise displayed in any manner upon any utility pole, traffic signal/directional sign pole, street sign pole, or upon the public right-of-way within the city, except as specifically permitted in section 21.164(13). Any exempt sign so displayed may be summarily removed, without notice, by the building official or his/her designee.

(13) Temporary signs or banners affixed to privately (non-utility) owned utility poles advertising special events, new tenants or special pricing shall be allowed in C-1, C-2, C-2a, C-3, and C-4 zones, provided such signs or banners shall not exceed twenty (20) inches width and forty-eight (48) inches in length, the bottom of which shall be at least nine (9) feet above ground level and shall be set back from the highway/road right-of-way for a distance of at least forty (40) feet. No more than one (1) such sign or banner shall be permitted for any property containing less than five thousand (5,000) square feet of improved space, plus an additional sign or banner for each ten thousand (10,000) square feet thereafter. No sign or banner shall be displayed for more than one hundred twenty (120) days.

(Ord. No. 95-395, §1, 3-14-95; Ord. No. 97-519, §8, 10-28-97; Ord. No. 98-558 §§1, 2, 10-13-98)

(14) Signs or banners used in governmental sports facilities located in a P-1 or P-2 district, provided such signs shall not exceed fifty (50) square feet in area, not exceed six (6) feet in height above ground level, and constitute an integral part of the sports facility. Such signs or banners shall not be freestanding, shall be attached to the interior side of facility walls and fences, and shall not be generally visible from the roadway. (Ord. No.2002-626, 4-9-02)

Sec. 21.165 Sign design requirements.

21.165.1 Freestanding Signs: Any freestanding signs erected, constructed installed or maintained in the City of Forest Acres must comply with the following size, height and other regulations as follows:

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- (1) Maximum height of freestanding sign: twenty-five (25) feet.
- (2) Surface area:
 - a. Lot frontage greater than one hundred (100) feet, maximum area of eighty (80) square feet in freestanding sign on one (1) side;
 - b. Lot frontage less than one hundred (100) feet, maximum area of sixty (60) square feet on one (1) side of freestanding sign.
- (3) Maximum dimension: ten (10) feet vertical and twelve (12) feet horizontal.
- (4) No more than one (1) freestanding sign shall be erected upon the premises of a business, enterprise or activity; but in no case will more than one (1) sign be allowed for each building or lot, whichever is greater, except as provided in (5) below.
- (5) Shopping center signs: Retail shopping centers shall comply with the requirements of this section regarding size and number of signs with the following exceptions:
 - a. All shopping center, plaza, or signs for more than one business shall provide reasonable space for all tenants or occupants to advertise in a manner proportional to the premises occupied. Such space shall be provided within the size limitations as set out herein. Minor or major shopping centers or plazas shall be comprised of at least one (1) retail establishment containing a minimum of twenty-five thousand (25,000) square feet and two (2) additional retail establishments each containing a minimum of twenty-five hundred (2,500) square feet.
 - b. Minor shopping centers under 100,000 square feet: One (1) freestanding sign for each street frontage; but each sign not over one hundred twenty (120) square feet in complete display area; ten (10) feet vertical, and twelve (12) feet horizontal dimensions.
 - c. Major shopping centers over 100,000 square feet: One (1) freestanding sign for each street frontage; but each not over three hundred (300) square feet in complete display area; twenty (20) feet vertical and twenty-five (25) feet horizontal.
- (6) Non-permanent signs
 - a. Nonpermanent construction signs not exceeding twenty-four (24) square feet in area on one (1) side and meeting all requirements of section 21.164 (6), except as to size
 - b. Real estate signs not exceeding eighteen (18) square feet in area in zoning districts R-3, P-1, P-2, C-1, C-2, C-2a, C-3 and C-4 only and meeting all requirement of section 21.164 (7), except as to size. Real estate sign permits, provided for under this item, shall be issued for a twelve-month period.
 - c. Public, charitable, educational, or religious institutional signs not exceeding twenty-four (24) square feet in area and meeting all requirements of section 21.164 (8), except as to size.

21.165.2 Wall Signs or Projecting Signs:

- (1) cumulative maximum display area: one hundred twenty (120) square feet.
- (2) maximum vertical dimensions: ten (10) feet.
- (3) maximum horizontal dimension: forty (40) feet or two-thirds of the building, whichever is less.

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A business, enterprise or activity may have no more than six (6) wall or projecting signs, providing the total area of all wall mounted or projecting signs does not exceed one hundred twenty (120) square feet however, additional temporary signs may be mounted or affixed. Additionally, no such sign, whether mounted or painted, may exceed twenty-five (25) feet in height measured from the ground floor level of the building at the street entrance. In the event of a multistory building, the sign shall not exceed a height projecting two-thirds the height of the building or twenty-five (25) feet whichever is greater.

21.165.3. General Provisions. All signs shall comply with the following provisions:

- (1) All signs erected, constructed, installed, or maintained in Forest Acres shall not conflict with any provisions of this chapter or any ordinance of the City of Forest Acres.
- (2) All signs shall be erected, constructed, installed, or maintained in a manner to prevent extension into, over, or beyond a minimum of twenty (20) feet from the highway right-of-way, except as set out in section 21.165.4(3). See section 21.5.15 for additional requirements.
- (3) All signs erected, constructed, installed, or maintained in the City of Forest Acres must be located upon the premises occupied by the business enterprise or activities advertised thereby.

21.165.4 Directional Signs:

- (1) Maximum height: thirty (30) inches.
- (2) Maximum size: three (3) square feet.
- (3) Setback requirements: Five (5) feet from the highway right-of-way, otherwise as set out in section 21.165.3(2).

Directional signs shall not contain any words, phrases, logos, emblems, or other device advertising a business, enterprise or activity.

21.165.5 Signs on Interstate Highways.

Off Premise Free Standing Signs shall be permitted only in railroad rights-of-way, C-3 or C-4 zoning districts, provided such signs are located within one hundred and twenty-five feet (125') of the right-of-way of any interstate highway that is part of the United States Interstate Highway System. Such signs shall comply with the following size, height, and other restrictions:

- (1) Surface area: The maximum display area shall not exceed three hundred seventy-eight (378) square feet per side.
- (2) Dimensions: The maximum dimensions shall be ten feet six inches (10.6') vertical and thirty-six feet (36') horizontal.
- (3) Height: The maximum height shall be forty feet (40').
- (4) Spacing: No sign provided for in this section shall be permitted to locate within five hundred feet (500') from any other free-standing sign.
- (5) Such signs may be digital and contain parts that move, change, or operate by light emitting diodes (LEDs), change static message or copy by electronic means, or capable of changing displaying words or figures that can be electronically changed by remote or automatic means, subject to the following restrictions and requirements:

- a. Message Display Intervals or Dwell Time. Each message appearing on a digital

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sign face shall remain fixed for a minimum of six (6) seconds, and message changes shall be accomplished in one second or less.

b. Malfunction Display Lock. Digital signs shall contain a default design that will freeze the sign in one position if a malfunction occurs or in the alternative shutdown.

c. Illumination. Display brightness shall be adjusted as ambient light levels change and shall be subject to review and regulation by the City.

d. The digital sign may not display light of such intensity or brilliance to cause glare or otherwise impair driver vision or result in a nuisance to any driver.

e. No Warning signs. The digital sign shall not be configured to resemble a warning or danger signal or to cause a driver to mistake the digital sign for a warning or danger signal.

f. Display. Displays or messages shall not be side by side or stacked. Only one depiction or message shall be displayed at any one time

21.165.6 Digital Message Boards. Free Standing Signs containing a total fixed display area of not more than thirty (30) square feet and a maximum height of ten (10) feet including any support poles or other structure, a portion of which may be digital consisting only of a message board no larger than twelve (12) square feet with parts that move, change or operate by light emitting diodes (LEDs), change static message or copy by electronic means, or capable of changing displaying words or figures that can be electronically changed by remote or automatic means. The message board shall be subject to the following restrictions and requirements:

(1) Message Display Intervals or Dwell Time. Each message appearing on a digital sign face shall remain fixed for a minimum of five (5) minutes, and message changes shall be accomplished in one second or less.

(2) Malfunction Display Lock. Digital signs shall contain a default design that will freeze the sign in one position if a malfunction occurs or in the alternative shut down.

(3) Illumination. The digital sign may not display light of such intensity or brilliance to cause glare or otherwise impair driver vision or result in a nuisance to any driver.

(4) No Warning signs. The sign shall not be configured to resemble a warning or danger signal or to cause a driver to mistake the digital sign for a warning or danger signal.

(Ord. No. 86-180, §16-6, 6-10-86; Ord. No. 90-306, §§1, 2, 4-10-90; Ord. No. 97-519, §9, 10-28-97; Ord. No. 99-584, 8-10-99); Ord. No. 09-07, §§ 21.165.5(5) a-f, 21.165.6 (1)-(4) 4-14-09.

Sec. 21.166 Prohibitions.

It shall be unlawful for any person to erect, cause to have erected, or allow to remain erected any sign or condition prohibited in this section and shall remove such sign or correct such condition immediately upon notice by the building official or other designated city official.

(1) No portion of any sign may be erected on or over public property, except where herein exempted.

(2) No sign shall be erected, constructed, installed, or maintained, which by reason of size, location, type, illumination, or otherwise, interferes with visibility upon and along the public right-of-way, interferes with the safe and smooth flow of traffic (either vehicular or pedestrian) thereon, or otherwise constitutes a hazard or danger to such traffic. Such signs include all those which present illusion of movement in any manner which may confuse, distract, or unduly defer attention.

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- (3) No advertising sign shall be erected, constructed, installed, or maintained which, by reason of design, legend, lettering, subject matter, or nature of illumination, shall in the opinion of the city council constitute an eyesore, contain any obscene, indecent, or immoral subject matter, or offend the public taste or conscience or be out of keeping with the character and traditions of the City of Forest Acres.
- (4) No person shall attach any sign, paper or other material or paint, stencil or write any name, number (except house numbers) or otherwise mark on any sidewalk curb, gutter, street, tree, tower, utility pole, public building, public fence, or public structure for advertising purposes.
- (5) No person shall erect, maintain, or permit the erection of a balloon or other floating device anchored to the ground or to any structure.
- (6) No cloth, paper, banner, flag, device, or other similar advertising matter shall be permitted to be attached, suspended from, or allowed to hang loose from any sign, building or structure, except as noted in section 21.164(11) and (13).
- (7) Advertising signs on or attached to moving or parked trucks, trailers, vans or other vehicles, on private or public property, visible from a public street, which has attached thereto or located thereon any sign or advertising device for the basic purpose of directing attention to products or business activity, sold on or off the premises upon which such vehicle is located, except those permanent signs on commercial vehicles or delivery vehicles regularly used in the normal course of business or other bona fide transportation activity.
- (8) Signs attached to or upon any vehicle shall be prohibited where such vehicle is allowed to remain parked in the same location, or in the same vicinity, at frequent or extended periods of time where the intent is apparent to be one of use of the vehicle and signs for purposes of advertising an establishment, services, or product.
- (9) A-frame signs and sandwich board signs as well as similar types of portable signs are prohibited.
- (10) No advertising signs shall be allowed in R-1, R-1a and R-2 zones except as allowed in section 21.164.
- (11) No flashing signs; signs with flashing or reflective disks; signs with flashing lights or lights changing degree of intensity or color; signs with trailing messages; signs containing electronically scrolled messages; signs with moving graphic displays; rotating signs; or signs containing visual effects as fading dissolves or graphics.
- (12) Signs capable of changing displaying symbols or images that can be electronically changed by remote or automatic means, or intermittent changeable digital display, video signs, except the movement of the hands of a clock or digital changes indicating time and temperature;
- (13) Signs having a part or parts which move, revolve, or operate by light emitting diodes (LEDs), change static message or copy by electronic means, or capable of changing or displaying words or figures that can be electronically changed by remote or automatic means, except as set forth in sections 21.165.5 and 21.165.6;

(Ord. No. 86-180, §16-71 6-10-86); Ord. No. 09-07, §21-166 (7), (11), (12), (13) 4-14-09.

Sec. 21.167 Non-conforming existing signs

Any sign not in conformance with these regulations, and lawfully in existence on June 9, 1981, may be repaired but not altered or moved unless it shall be made to conform with the provisions of this section. All signs in existence on the date of passage of this section shall be made to conform with these sign regulations within ten (10) years of the adoption of this chapter on June 9, 1981, by the City of Forest Acres, or upon a change in ownership, alteration or

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relocation of a sign, whichever occurs first. Any sign constructed after June 9, 1991, pursuant to a valid permit issued in compliance with section 21.161, shall be made to conform with the sign regulations within five (5) years of notice of violation of this chapter except as otherwise authorized by the Zoning Board of Appeals. (Ord. No. 86-180, 16-8, 6-10-86).

Sec. 21.168 Construction standards.

21.168.1 All signs shall be constructed of metal or other noncombustible materials conforming to the standards of the latest Standard Building Code in effect at the time concerned, and shall be safely or securely supported, stayed, bolted and/or anchored to the ground or other solid, secure structure or building. Upon request by the building official, the applicant shall provide a design plan or specifications by a registered structural engineer attesting to the soundness and safety of the proposed sign and all related supports, stays, bolts, guides, anchors, and other structures.

21.168.2 Any illumination or other electrical installation, materials, conduits, and connections shall comply with and conform to the latest National Electrical Code, as approved by the American Engineering Standards Association, in effect at the time concerned.

(Ord. No. 86-180, § 16-9, 6-10-86)

Sec. 21.169 Maintenance.

All signs, together with all their supports, braces, stays, guides, and anchors shall be kept in good repair to prevent the sign from falling into disrepair or creating an unsightly appearance. (Ord. No. 86-180, 1§ 16- 10,6-10-86)

Sec. 21.170 Inspection.

The building official or other designated city official shall have the authority, but is not required, to inspect, when necessary, each sign regulated by this chapter for the purposes of ascertaining whether the same is secure or insecure, whether it is still in conformance with this chapter, and whether it needs removal or repair. (Ord. No. 86-180, §16-11, 6-10-86)

Sec. 21.171 Removal of certain signs

21.171.1 Any sign existing which no longer advertises a bonafide, business conducted, or products sold at its location shall be removed by the owner, agent or person having the beneficial use of the building or structure. Such sign and supporting structure or structures shall be removed within sixty (60) days after it no longer advertises a bona fide business conducted or products sold at that location, and any removal expense incident thereto shall be paid by the owner of the land or building or structure to which such sign is attached or upon which it is erected.

21.171.2 Whenever it shall appear that any sign has been erected constructed, or installed, or is being maintained in violation of the terms of this section, except as set forth in section 21.171.4 or is unsafe or insecure, or is hazardous to pedestrians or vehicular traffic, or is otherwise detrimental to the welfare, safety and health of the public, such sign shall be made to conform in all respects to this section within twenty-four (24) hours after written notification by registered mail or personal service by the building official or other designated city official. In the event the sign is not made to conform in all respects with the provisions of this chapter, the permit for the sign, if one has been issued, shall be revoked by the building official and the sign shall be removed within twelve (12) hours after written notice thereof, by the persons to whom the permit was granted or the owner or lessor of the property. The building official may remove the sign at the expense of owner of the property upon which it is located. The building official shall refuse to issue a permit to any person or owner who refuses to pay costs so assessed. The building official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.

21.171.3 The twenty-four-hour notice to conform may be waived by the zoning administrator or other designated city official when it shall appear that the purpose and intent of the sign is of a limited duration and

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that a twenty-four-hour notice would be unreasonable under the circumstances. In such situations, the building official or other designated official shall grant only a six-hour notice to conform; and if such sign is not removed or brought into conformity within two (2) hours thereafter, the building official or other designated city official shall remove the sign at the owner's expense.

21.171.4 Any sign installed after June 9, 1991, pursuant to a valid permit issued in compliance with section 21.161, not in compliance with these sign regulations shall be made to conform with these sign regulations within five (5) years of notice of violation of this chapter except as otherwise authorized by the Zoning Board of Appeals.

(Ord. No. 86-180, § 16-12, 6-10-86).

Sec. 21.172 Penalties for violations.

21.172.1 The owner or lessee of any sign erected, constructed, installed, or maintained in violation of this section, and any architect, builder, contractor or other person employed to assist in any such erection, construction, installation or maintenance in violation of this section, and any person who violates or fails to comply with any requirements or provisions of this chapter shall be guilty of a misdemeanor, with penalty as provided by law.

21.172.2 The owner or responsible person erecting a sign without a required permit shall pay a mandatory fee for such permit of three (3) times the normal fee for that category of sign as set out in section 21.162, such fee being in addition to any penalty provided by law.

(Ord. No. 86-180, § 16-13, 6-10-86)

Sec. 21.173 Appeals.

All appeals of the building official regarding this sign ordinance shall be to the Board of Zoning Appeals; such appeals must be made within fifteen (15) days of the building official's decision by filing a written notice of appeal stating the grounds for appeal. In considering appeals, the Board of Zoning Appeals shall consider the degree of variance, the reasons for variance requested, the duration of the requested variance, the effect on public safety, protection of neighborhood property, the degree of hardship or injustice involved, and the effect of the variance on the general plan for signs within the city.

Secs. 21.174--21.185 Reserved.

ARTICLE XVII FLOOD PROTECTION AREAS; FLOODWAY AND FLOODPLAIN

(Article VXII, Sections 21.186 -21.191.10 deleted and replaced with Chapter 22 of the Code of Ordinances, Ord. 2010-4, 7-14-10)

Sec 21.186-21.197 Reserved

ARTICLE XVIII EROSION AND SEDIMENT CONTROL*

Sec. 21.198 Purpose.

*Editor's note: The city's erosion and sediment control ordinance was adopted July 10, 1984, as Ch. 21, §§ 21-1-21-18 and are included as Art. XVIII, §§ 21.198 – 21.214. The sections of the ordinance as it was originally inserted as Ch. 21 have been included in the history note accompanying each section as well as in the Code Comparative Table at the end of this volume.

Chapter 21 Zoning Ordinance of the City of Forest Acres

In order to protect the general health, safety and welfare of the residents of the City of Forest Acres, South Carolina, and to protect the natural assets and resources of the City of Forest Acres for posterity, this article is enacted to protect all land and waters in the City from the effects of excessive soil erosion and sedimentation, to prevent siltation of streams and lakes, to prevent the clogging of drainage channels, and to prevent damages to the property of adjacent landowners. (Ord. of 7-10-84, § 1[21-1])

Sec. 21.199 Definitions.

The following definitions apply to words and terms used in this article. All other words shall have their customary meanings.

Construction: Any building or erection of a structure or any preparation for same.

Developer: Any person acting in his own behalf as a property owner, or as an agent for a property owner, who makes application for plan approval and a grading permit under the provisions of this article.

Drainage: A general term applied to the removal of surface or subsurface water from a given area, either by gravity via natural means, or by systems constructed to so remove water, commonly applied herein to surface water.

Drainage System: The surface and subsurface system for removal of water from the land, including both the natural elements of streams, marshes, swales, and ponds, whether of an intermittent or continuous nature; and the man-made elements such as improved open channels, culverts, retention facilities, and enclosed storm sewers.

Embankment of Fill: A deposit of soil, rock or other material placed by man.

Erosion: The general process by which soil and rock fragments are detached and moved by the action of wind, water, ice and gravity.

Erosion and Sediment Control Plan: A plan which adequately describes necessary land management practices and control measures, including a timetable or schedule for their installation, which will effectively minimize soil erosion and sedimentation; prepared and approved as provided herein for application to a particular land area.

Flood: A temporary rise in the level of water which results in the inundation of areas not ordinarily covered by water. For the purposes of this article, a flood shall be any inundation which has a return frequency of one hundred (100) years or less.

Grading. Any displacement of soil by stripping, excavating, filling, stockpiling or any combination thereof, and shall include the land in its excavated or filled state.

Grading Permit. A certificate issued to perform work pursuant to an approved erosion and sediment control plan prepared under the provisions of this article.

Land Disturbance: Any activity involving the clearing, grading, transporting, filling, and any other activity which causes the land to be exposed to the danger of erosion.

Runoff: The portion of the precipitation on the land which reaches the drainage system.

Sedimentation: The process which operates at or near the surface of the ground to deposit soil, debris and other material, either on other ground surfaces or in water channels.

Soil and Water Conservation District. The Soil and Water Conservation district for Richland County, as established by state statute.

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Structure. Anything constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground, including but not limited to tennis courts, swimming pools, fences and buildings.

Vegetation: All plant growth, including trees, shrubs, grasses, and mosses.
(Ord. of 7-10-84, § 1 [21-2])

Sec. 21.200 Approved plan and permit required for land disturbance.

A plan for the control of erosion and sedimentation approved by the City of Forest Acres and a grading permit are required for any land disturbance in the City of Forest Acres, but not including exemptions, outlined in section 21.201.
(Ord. of 7-10-84, § 1 [21-3])

Sec. 21.201 Exemptions.

The provisions of this article shall not apply to:

(a) Emergency repairs or maintenance of existing structures and facilities which require ground to be broken. The responsible persons shall notify the City of Forest Acres building official in writing within five (5) working days of such emergency repairs and maintenance actions.

(b) Ground disturbances for purposes of installing, repairing, and maintaining individual utility service lines to single lots.

(Ord. of 7-10-84, § 1[(21-4)])

Sec. 21.202 Application for plan approval and permit.

21.202.1 The developer shall apply in writing to the City for a grading permit to disturb or change land in the City of Forest Acres. Such application shall be accompanied by three (3) copies of an erosion and sediment control plan prepared in accordance with this article. The plan shall be certified by the applicant, and by a registered professional engineer, professional soil conservationist, or registered landscape architect.

21.202.2 The building official shall have the authority to waive any or all the required contents and certifications of the sediment and erosion control plan subject to the following conditions:

(1) Development shall be limited to construction of a single-family dwelling unit on a single-family lot.

(2) The building official shall determine that such construction will pose no significant sedimentation or erosion problems.

(3) The building official shall consider on-going or expected development in the surrounding area in waiving any requirements.

(4) The building official shall reserve the right to rescind any waiver if a significant sedimentation or erosion problem develops.

(Ord. of 7-10-84, § 1[21-5])

Sec. 21.203 Application fee.

Applications for plan approval and a grading permit shall be accompanied by a nonrefundable fee, payable to the City of Forest Acres. The amount of the application fee is as follows:

Acreage of Plan Coverage

1 acre or smaller \$50.00

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Each additional acre or increment thereof..... 20.00
(Ord. of 7-10-84, § 1 [21-6])

Sec. 21.204 Approval or disapproval of application.

21.204.1 The City shall forward a copy of the erosion and sediment control plan to the soil and water conservation district and a copy to the Richland County engineer. Upon receipt of written approval of the plan from the soil and water conservation district, and after the City building official determines that the plan conforms to this article, the City shall issue a grading permit to the applicant.

21.204.2 If the erosion and sediment control plan does not conform with the requirements of this article, the plan shall be disapproved, the city shall deny issuance of the grading permit, and written notification of denial of the permit, indicating the reason or reasons for plan disapproval, shall be forwarded to the applicant within ten (10) days after denial.

21.204.3 A decision on all erosion and sediment control plans shall be rendered within thirty (30) days from the date of submittal to the city. If at the end of the thirty-day period, a decision has not been rendered, the plan shall be deemed approved, and a grading permit issued on demand.

21.204.4 If an erosion and sediment control plan is disapproved and the grading permit denied, the applicant may elect to correct the indicated deficiencies in conformance with the provisions of this article and resubmit the application and plan. No additional application fee shall be assessed for such resubmission. (Ord. of 7-10-84, § 1 (21-7))

Sec. 21.205 Appeals.

Any person aggrieved by the decision of the City building official and/or the soil and water conservation district may appeal to the Forest Acres City Council within thirty (30) days. (Ord. of 7-10-84, § 1[21-8])

Sec. 21.206 Other authorizations or requirements.

Where any other authorization, bonds or other sureties are required by applicable laws, regulations, ordinances or decisions of the City pertaining to any part of the proposed work to be done under the erosion and sediment control plan, the applicant shall, upon request, furnish the City with satisfactory evidence that such requirements have been met before the commencement of work under an approved plan and grading permit. (Ord. of 7-10-84, § 1[(21-9)])

Sec. 21.207 Extension of time.

If the applicant is unable to implement the erosion control measures within the time specified in the approved plan, the applicant may, prior to the expiration of such time, present in writing a request to the City for an extension of time to implement erosion control measures, setting forth the reasons for the requested extension. The City shall approve or deny the request for an extension of time subject to such additional erosion and sediment control measures as may be reasonably required. (Ord. of 7-10-84, § 1 [21-10])

Sec. 21.208 Responsibility of applicant.

The applicant shall be responsible for carrying out the proposed work in accordance with the approved erosion and sediment control plan and grading permit, and in compliance with the requirements of this article. (Ord. of 7-10-84, § 1 [21-11])

Sec. 21.209 Guidelines for preparation of erosion and sediment control plans.

Erosion and sediment control plans shall be prepared according to the following guidelines, as applicable, prior to submission to the City. Plans shall include appropriate measures and practices for erosion and sediment control, installed in a timely sequence during the development process, and maintained to ensure their proper functioning.

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(a) Select land where the drainage pattern, topography and soils are favorable for the intended use. Tracts of land vary in suitability for different uses. Consider the major characteristics of the land area and the kinds of soil in identifying and evaluating potential erosion and sediment problems, and in selecting appropriate control measures and practices.

(b) Expose the smallest practical area for the least possible time during development.

(c) When feasible, retain and protect natural vegetation. Save topsoil, where practical, for replacing on graded areas.

(d) Use temporary plant cover, mulching, and/or structures to control runoff and protect areas subject to erosion during construction. See appendix (at the end of this article).

(e) Provide for handling the increased runoff caused by changed soil and surface conditions. Emphasis should be placed on conservation of existing on-site soil. Effective means include the use of diversion ditches, grassed or surfaced waterways and outlets, enlarged and protected drainage channels, grade control structures, and effective use of street gutters and storm sewers. All runoff water must be diverted away from all fill slopes or conveyed down the slope in a pipe or hard-surfaced flume. Water discharge is to be in a protected channel or waterway. Pipe outlet must be protected to reduce velocity of water. Adjacent landowners must be protected from damage by discharge of storm water. Criteria for the above is found in Soil Conservation Service (SCS) Handbook, *Erosion and Sediment Control in Developing Areas*. All plans are to meet requirements contained therein.

(f) Use sediment basins or other forms of silt traps, where practical, to remove heavy sediment loads from runoff waters leaving the disturbed area.

(g) Install the permanent vegetative cover and the long-term erosion protection measures or structures as soon as practical in the development process. See appendix (at the end of this article).

(Ord. of 7-10-84, § 1 [21-12])

Sec. 21.210 Contents of plan and application.

The erosion and sediment control plan and application for grading permit shall include, but not be limited to, the following data as applicable:

(a) A vicinity map sufficient to locate the site and to show the relationship of the site to its general surroundings at a scale of not less than one (1) mile to one (1) inch.

(b) A site plan, drawn to a scale of not less than two hundred (200) feet to one (1) inch, and supporting specifications and schedules showing:

(1) The boundary lines of the site on which the work is to be performed, including the approximate acreage of the site.

(2) Existing contours with intervals of not more than five (5) feet.

(3) Proposed physical improvements on the site, including present development and future utilization, if known.

(4) All drainage provisions, flood protection provisions, erosion and sediment control measures, vegetative practices, or other protective devices to be utilized in connection with, or as a part of, the proposed work.

(5) Provisions for erosion control during construction (temporary) and during the life of the facility (permanent). Such provisions shall include a timing schedule and sequence of operations indicating

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the anticipated starting and completion dates of the particular development sequence, and the estimated time of exposure of each disturbed area prior to completion of effective erosion and sediment control measures. Specifications accompanying the plan shall include, as appropriate, seeding mixes and application rates, type of sod, seedbed preparation, lime, and fertilizer application, mulching and other related data.

(6) A complete and adequate grading plan for borrow pits and material processing facilities, where applicable, including provisions for adequate drainage in such areas.

(7) A general description of the predominant soil types on the site.

(8) The name and address of the owner, developer, and petitioner, and the individual responsible for satisfactory completion of the work described in the plan, if different from the above.

(9) Title, scale, north arrow, date, and name of the individual or organization preparing the plan, with seal when applicable.

(10) The plan and application shall be supported by such supplemental reports, specifications, data, and additional information as the City may reasonably require, including but not limited to, finished contours, elevations, dimensions, locations, slopes, storm drainage computations, and field investigation reports on soils, drainage and flooding.

(c) Applicant's certification statement:

"I (We) hereby certify that all clearing, grading, construction and/or development will be done pursuant to this plan."

Date

Permit Applicant

(d) Design certification statement:

"I hereby certify that this plan is designed to contain silt on the property concerned to the maximum extent feasible. Provisions for erosion and sediment control are in accordance with the City of Forest Acres Erosion and Sediment Control Ordinance."

Date

Registered Professional Engineer, Professional Soil
Conservationist, or Registered Landscape Architect

(Ord. of 7-10-84, § 1 [21-13])

Sec. 21.211 Inspection.

The City building official, or his designated representative shall periodically inspect the work done under the approved plan and grading permit, as deemed advisable. Upon completion of such work, he shall make a final inspection; and, if the work has been completed in accordance with the plan and permit, a letter of satisfactory completion shall be issued to the applicant.

(Ord. of 7-10-84 § 1 [21-14])

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Sec. 21.212 Enforcement.

If the applicant fails to conform to the approved plan, the City of Forest Acres building official may:

- (a) direct conformance to the plan via a written order;
- (b) issue a written order to suspend work;
- (c) revoke the permit issued;
- (d) seek redress through legal action;
- (e) withhold the release of permanent electric power to the site.

(Ord. of 7-10-84, § 1 [21-15])

Sec. 21.213 Violations and penalties.

Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than thirty (30) days or fined not more than five hundred dollars (\$500.00), or both. (Ord. of 7-10-84, 1[21-16]; Ord. No. 93-354, § 1, 8-10-93; Ord. No. 93-364, § 1, 10-19-93)

Sec. 21.214 Relationship with other laws, regulations, and ordinances

Whenever the provisions of this article impose more restrictive standards than are required in or under any other law, regulation or ordinance, the requirements contained in this article shall prevail. Whenever the provisions of any other law, regulation or ordinance require more restrictive standards than are required in this article, the requirements of such law, regulation or ordinance shall prevail. (Ord. of 7-10-84, § 1[(21-17)])

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APPENDIX

Vegetation Plan: Alternatives:

I. Summer

Fertilization

1,000 pounds of 10-10-10 per acre;
Two-ton lime per acre.

Permanent cover

Bahia grass

Pounds per acre, alone.....40
Pounds per acre, with mixture.....30

Bermuda grass, (hulled)

Pounds per acre, alone..... 8
Pounds per acre, with mixture..... 4

Bermuda sprigs, bushels per acre broadcast.....75

Sericea lespedeza (sacrificed)

Pounds per acre alone.....40
Pounds per acre in mixtures40

Lovegrass, weeping

Pounds per acre2
Plant in mixtures only

Temporary summer cover

Lespedeza, annual

Pounds per acre alone..... 40
Pounds per acre in mixture..... 7
Do not plant on sandy soils

Brown top millet

Pounds per acre alone..... 40
Pounds per acre in mixtures 10

II. Winter

A. Winter permanent soils.

- (1) Tall meadow fescue 40 pounds per acre from 1 September to 15 November only on fertile sandy clay or soils.
- (2) Plantings from 1 September to 15 February on sand must be temporary winter cover and then seeded to a permanent summer covers.

B. Winter temporary

Rye Grass, pounds per acre alone..... 50
Oats, pounds per acre alone 130
Rye, Pounds per acre alone..... 60
Pounds per acre in mixture 10

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Other plantings or seedlings as contained in the critical area stabilization section of SCS Handbook, *Erosion and Sediment Control in Developing Areas*, may be used provided all applicable specifications contained in said handbook are complied with. (Ord. of 7-10-84, § 1 [app.])

Sec. 21-215. Water Quality Buffer Requirements.

(a) **Purpose and applicability.** It is the intent of the City to establish minimal acceptable requirements for the design of buffers to protect the streams, wetlands, and floodplains of the City; to protect the water quality of watercourses, reservoirs, lakes, and other significant water resources; to protect riparian and aquatic ecosystems; and to provide for the environmentally sound use of the city's land resources.

(1) **Purpose.** A water quality buffer is an area of original or re-established vegetation that borders streams, rivers, ponds, lakes, wetlands, and seeps. Buffers are most effective when stormwater runoff is flowing into and through the buffer zone as shallow sheet flow, rather than concentrated flow such as channels, gullies, or wet weather conveyances. Therefore, it is critical that design of all development include management practices, to the maximum extent practical, that will result in stormwater runoff flowing into the buffer zone as shallow sheet flow. Water quality buffers provide numerous environmental protection and resource management benefits including:

- a. Restoring and maintaining the chemical, physical and biological integrity of the water resources,
- b. Removing pollutants delivered in urban stormwater,
- c. Reducing erosion and controlling sedimentation,
- d. Stabilizing stream banks,
- e. Providing infiltration of stormwater runoff,
- f. Maintaining base flow of streams,
- g. Contributing to the organic matter that is a source of food and energy for the aquatic ecosystem,
- h. Providing tree canopy to shade streams and promote desirable aquatic organisms,
- i. Providing riparian wildlife habitat, and
- j. Furnishing scenic value and recreational opportunity.

(2) **Applicability.** Water quality buffers are required along all perennial and intermittent streams, waterways, shorelines, and wetlands according to a USACE jurisdictional determination, to be submitted from the developer and approved by the Zoning Administrator or the designee of the Zoning Administrator (collectively the "Zoning Administrator") or as provided in an Intergovernmental Agreement. In addition, water quality buffers may be required to protect waters (such as isolated wetlands) pursuant to the S.C. Pollution Control Act, as determined by the Zoning Administrator.

(3) **This Section shall apply to the following:**

- a. All proposed development except for that development which meets the criteria for an exemption as set forth in subsection (b) and/or a waiver as set out in subsection (k).
- b. All surface mining operations to include active surface mining operations which are operating in compliance with an approved DEHC surface mining permit. A copy of the approved surface mining permit shall be provided to the Zoning Administrator.
- c. The construction of agricultural structures as provided by Richland County.
- d. These requirements shall, except as provided in subsections (b) Exceptions and (k) Waivers, apply to all parcels of land, structures and activities which are causing or contributing to:
 1. Pollution, including non-point pollution, of the waters of the City,
 2. Erosion or sedimentation of stream channels, or
 3. Degradation of aquatic or riparian habitat.

(b) **Exemptions.** The water quality buffer requirements shall not apply to the following:

- (1) Ephemeral streams, ditches, manmade ponds, and lakes, which are outside of natural hydrologic connectivity.
- (2) Any existing structure or structure under construction located within the buffer area, provided the landowner can document prior existence.
- (3) The addition or expansion to an existing structure, provided it does not result in an increase in the total impervious area within the buffer area.
- (4) Activities associated with emergency operations, such as hazardous materials removal, flood or fire control, evacuations, and storm damage clean up.
- (5) Single-family parcels of land, which exist as individual lots that are two (2) acres or less and are not part of a new subdivision development.
- (6) Entitled Property. Any property that has been subject to: (i) commencement of construction of a building or of any portion of a potable water distribution or transportation system, a sanitary sewer distribution or transportation

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system, a storm drainage system or a public road; or (ii) commencement of grading or other land disturbance activities in conformance with a valid permit; or (iii) the issuance of a permit to commence any of the foregoing activities; or (iv) approval of subdivision of the property, of planned development district zoning for the property, or of a sketch plan for development of the property. If any of the foregoing has occurred with respect to any property and such property was subsequently subdivided, or in the future is subdivided, by an approved subdivision plat, then all subdivided parcels that were part of the original property shall be considered Entitled Property. Provided, however, this exemption shall no longer be in effect after January 19, 2017. All entitled property shall comply with stormwater regulations that were in effect prior to January 19, 2010.

If any portion of a parcel proposed for development lies within an area designated on an officially adopted Conservation Easement as a proposed trail or greenway, the developer shall construct the designated improvements in accordance with county standards and dedicate such land to the City or its designee.

(c) *Stream Buffers.*

(1) Stream buffers shall be considered a “no disturb zone” along jurisdictional lines. Vegetation cannot be disturbed, removed, or replanted unless a buffer restoration plan has been approved by the Zoning Administrator. Subsection (g) provides requirements to expand the buffer widths depending on slopes, water pollution hazards, or other uses that may contribute to water quality degradation. The buffer width shall be calculated as follows:

a. Along jurisdictional perennial streams identified by the USACE, not associated with a floodplain or wetlands, the buffer shall be at least fifty (50) feet perpendicular from the jurisdictional line on each side of the waterway.

b. In areas where a floodway profile has been computed along a perennial stream (AE Zones) as part of an approved flood study, the buffer area shall be equal to the width of the floodway, but never less than fifty (50) feet.

c. In areas where a floodway profile has not been computed along a perennial stream (A Zones) the developer shall perform a flood study, determine the floodway, and follow the buffer requirements outlined above. As an alternative to preparing the flood study, the buffer limits shall extend to the delineated flood plain limits.

d. Along jurisdictional intermittent streams identified by the USACE, the buffer shall be at least fifty (50) feet perpendicular from the jurisdictional line on each side of the waterway. If these streams have associated floodway as described above, the same requirements would apply to have a total width of fifty (50) feet.

e. For delineated wetland areas associated with perennial streams, the buffer shall be at least fifty (50) feet perpendicular beyond the wetland edge. This buffer width is independent of any wetland offset requirements of the USACE.

f. For delineated wetland areas associated with intermittent streams, the buffer shall be at least fifty (50) feet perpendicular beyond the wetland edge. This buffer width is independent of any wetland offset requirements of the USACE.

g. For wetland areas not associated with perennial, intermittent streams, or floodway, the buffer shall be the extent of the wetland area plus an additional fifty (50) feet perpendicular beyond the wetland edge.

(2) Stream Buffer Management and Maintenance. The function of the stream buffer is to protect the physical and ecological integrity of the waterway, to reduce flooding potential, and to filter runoff from all development. The objective of a stream buffer is undisturbed native vegetation.

a. Management of the stream buffer includes specific limitations on alteration of the natural conditions. The following practices and activities are restricted within stream buffers, except with prior approval by the Zoning Administrator:

1. Clearing or grubbing of existing vegetation,
2. Clear cutting of vegetation,
3. Soil disturbance by grading, stripping, or other practices,
4. Filling or dumping,
5. Use, storage, or application of pesticides, herbicides, and fertilizers,
6. Conversion of vegetation from native to exotic species.
7. Motor vehicles are not permitted in stream buffers except during the installation of certain utilities permitted in the buffer zone or bank stabilization.

b. The following structures, practices, and activities are permitted in the stream buffer, subject to prior approval of the Zoning Administrator, and when specific design or maintenance features are adhered to:

1. Stream crossings and utilities:
 - [a] An applicant shall demonstrate that stream crossings are minimized;
 - [b] The right of way should be the minimum width needed to allow for maintenance access and installation;
 - [c] The angle of a crossing shall be as nearly perpendicular to the stream or buffer as practical in order to minimize clearing requirements; and
 - [d] The minimum number of crossings should be used within each development, and no more than one

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crossing is allowed for every one thousand (1,000) linear feet of buffer zone unless the applicant demonstrates to the Zoning Administrator the need for additional crossings. Where possible, the design of roadways and lots within a development should be aligned such that all streams are either to the rear or the side of individual lots, never along the front.

2. Transportation rights-of-way, pedestrian crossings, public access, boat ramps, docks, fishing platforms, unpaved paths (i.e., trails and greenways), and stream bank stabilization efforts.

3. Utilities are allowed; and shall be installed a minimum distance of twenty-five (25) feet measured perpendicular from the jurisdictional line within the buffer area.

c. To maintain the functional value of the stream buffer, indigenous vegetation may be removed as follows:

1. Dead, diseased, or dying trees that are in danger of falling and causing damage to dwellings or other structures may be removed with approval from the Zoning Administrator;

2. Debris in the buffer area that is caused by storm damage may be removed; and

3. Invasive plant species may be removed if they are replaced by native species that are equally effective in retarding runoff, preventing erosion, and filtering non-point source pollution from runoff. A buffer restoration plan for removal of invasive species must be approved by the Zoning Administrator.

(d) *Shoreline Buffers.*

(1) Shoreline buffers shall be considered an area of managed vegetation adjacent to shorelines with hydrologic connectivity (stream leading into/out of the pond/lake or obvious spring input). The shoreline buffer width shall be fifty (50) feet perpendicular from the jurisdictional line. For ponds and lakes, the buffer shall be a minimum of fifty (50) feet from the jurisdictional line.

(2) Shoreline Buffer Management and Maintenance. The function of the shoreline buffer is to protect the physical and ecological integrity of the water body by providing a functional distance to reduce flooding potential, reduce erosion, sedimentation, and filter runoff between development and the water body.

a. Management of the shoreline buffer includes specific limitations on alteration of the natural conditions. The following structures, practices and activities are restricted in the shoreline buffer unless prior approval is granted by the Zoning Administrator:

1. Septic systems;

2. Permanent structures;

3. Impervious cover, except for paths;

4. Soil disturbance by grading, stripping or other practice;

5. Filling or dumping;

6. Stormwater management facilities; and

7. Use, application, or storage of pesticides or herbicides except for the spot spraying of noxious weeds or other non-native species consistent with approved City or Richland County recommendations.

b. The following structures, practices, or activities are permitted in the shoreline buffer, subject to the prior approval of the Zoning Administrator:

1. Biking or hiking paths;

2. Recreational uses as approved by the Zoning Administrator; and

3. Limited tree or underbrush clearing with approval from the Zoning Administrator.

(e) *Water Quality Buffer Plat Requirements.* All preliminary, bonded, and final plats prepared for recording and all right-of-way-plats shall clearly:

(1) Show the extent of any stream or shoreline buffer on the subject property by metes and bounds;

(2) Label the stream and shoreline buffer;

(3) Provide a note to reference all buffers stating: "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the Zoning Administrator";

(4) Provide a note to reference any protective covenants governing all buffer areas stating: "Any buffer shown on the plat is subject to protective covenants which may be found in the land records and which restrict disturbance and use of these areas";

(5) If the buffer area will not be part of an individual lot, then ownership must be stated by identifying who is the responsible party; and

(6) Provide the location of permanent boundary marker signs.

(f) *Design Requirements.*

(1) The buffer plan must be submitted in conjunction with the sediment and erosion control plan, Storm Water Pollution Protection Plan (SWPPP) document, and all applicable calculations for a land disturbance permit.

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(2) It is recommended that the buffer be marked off with a warning barrier (orange safety fence) to show that no disturbance is allowed in the buffer area.

(3) The following steps shall be taken during the site plan development and site construction process to protect water quality buffers during construction:

a. Water quality buffers must be clearly identified on all stormwater management plans and construction drawings and marked with the statement “Water Quality Buffer. Do Not Disturb”.

b. Water quality buffers cannot be encroached upon or disturbed during project construction, unless in accordance with Subsection (b), Subsection (k) or unless being established, restored, or enhanced in accordance with an approved Buffer Enhancement Plan.

c. Water quality buffers must be clearly marked with a warning barrier before the preconstruction conference. The marking shall be maintained until completion of construction activities. All contractors and others working on the construction site must be made aware of the existence of the buffer(s) and the restrictions on disturbing the buffer(s).

d. All areas of the water quality buffer, including stream banks, must be left in the existing condition upon completion of construction activities. Should construction activities associated with development cause degradation to stream banks, all eroding, bare or unstable stream banks shall be restored to existing conditions.

e. If any trees can be removed, the tree location shall be shown, and a note shall be provided stating that the tree must be hand cleared (See Tree protection Sec 21.152).

f. The location of all buffer signage must be clearly shown on plans.

g. A narrative stating the extent of the buffer areas, including any allowed disturbance in the buffer areas, must be included with the plans.

h. A double row of silt fence shall be shown on the upstream side of applicable buffer area(s) that are adjacent to a land disturbance.

i. The stream buffer shall be shown and labeled on the engineering plans, preliminary, bonded, and final plat.

j. If the stream buffers are dedicated to the City, placed in a conservation easement, or turned over to a Homeowners Association (HOA) or remain under private ownership, the buffers shall be maintained in accordance with the maintenance and inspection requirements for permanent storm water management structures.

1. If the buffer is dedicated to the City:

[a] All property lines shall terminate at the water quality buffer.

[b] Access easements shall be a minimum twenty (20) foot wide to allow maintenance of the buffer.

Access points for these easements will be coordinated with storm drainage easements during the plan review process.

2. If placed in a conservation easement or if the easement is held by a viable third party, such as a land trust, land management company, or utility, the organization shall:

[a] Have the legal authority to accept and maintain such easements;

[b] Be bona fide and in perpetual existence; and

[c] Have conveyance instruments that contain an appropriate provision for retransfer in the event the organization becomes unable to carry-out functions.

3. If given to an HOA, the following criteria must be met:

[a] Membership in the HOA is mandatory and automatic for all homeowners for the subdivision and their successors;

[b] The HOA shall have lien authority to ensure the collection of dues from all members; and

[c] The HOA assumes the responsibility for protecting, monitoring, and maintaining the area as an undisturbed natural area, in perpetuity.

k. It is recommended that the buffer be marked off with a warning barrier (orange safety fence) to show that no disturbance is allowed in the buffer area.

(4) Shoreline buffers shall be shown and labeled on the engineering plans. Shoreline buffers shall be maintained by the owner in accordance with the maintenance and inspection requirements for permanent storm water management structures outlined in this chapter. Shoreline buffers may be placed in a conservation easement, or given to the HOA as outlined in this subsection (f)(3) j.

(g) **Water Quality Buffer Width Adjustments.** Adjustments to the buffer width shall be made for the following conditions:

(1) If streams are on a current 303d list or with an approved TMDL, the buffer area shall be increased to one hundred (100) feet. [See also Subsection (g)(8)].

(2) If water bodies are on DHEC’S Outstanding National Resource Waters (ONRW) list, the buffer area shall be increased to one hundred (100) feet. [See also Subsection (g)(8)].

(3) If there are fifteen percent (15%) to twenty-four percent (24%) slopes within the required buffer area, the buffer width must be adjusted to include an additional ten (10) feet.

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(4) If there are twenty-five percent (25%) or greater slopes within the required buffer area width, the buffer width must be adjusted to include an additional twenty-five (25) feet.

(5) If the adjacent land use involves drain fields from on-site sewage disposal and treatment systems (i.e., septic systems) the buffer area width must be adjusted to include an additional twenty-five (25) feet.

(6) If the land use or activity involves raised septic systems or junkyards, the buffer area width must be adjusted to include an additional two hundred (200) feet. [See subsection (g)(8)].

(7) If all on-site stormwater runoff is captured and routed through a permanent water quality basin, and there is no sheet flow discharging into the buffer, the buffer area may be reduced to twenty-five (25) feet. This is intended to apply in limited situations, such as small commercial developments.

(8) If the applicant satisfactorily demonstrates that there will be no degradation of the receiving water body by implementing the proposed storm water quality controls, then the established buffer may be reduced on a case-by-case basis upon approval by the Zoning Administrator.

(h) **Water Quality Buffer Averaging.** This subsection outlines the criteria for buffer averaging on new and redevelopment sites. Buffer averaging can be utilized to adjust the required buffer width, allowing some flexibility for site development. Using buffer averaging, the width of the buffer can be varied with the criteria stated below, if a minimum average width of fifty (50) feet from the jurisdictional line are maintained.

(1) Requirements and policies. The following criteria must be met to utilize buffer averaging on a development site:

a. Buffer averaging is required for water quality buffers that have stream crossings.

b. An overall average buffer width of fifty (50) feet, depending on the water quality buffer requirement, must be achieved within the boundaries of the property to be developed.

c. The average width must be calculated based upon the entire length of the stream bank or shoreline that is located within the boundaries of the property to be developed. When calculating the buffer length, the natural stream channel should be followed.

d. Stream buffer averaging shall be applied to each side of a stream independently. If the property being developed includes both sides of a stream, buffer averaging can be applied to both sides of the stream but must be applied to each side of the stream independently.

e. That portion of buffers more than one hundred (100) feet will not be credited toward the buffer averaging formula within the boundaries of the property to be developed. The total width of the buffer shall not be less than twenty-five (25) feet, or the width of the floodway at any location, except at approved stream crossings. Those areas of the buffer having a minimum width of twenty-five (25) feet (or less at approved stream crossings) can comprise no more than fifty percent (50%) of the buffer length.

(2) Areas where buffer averaging is prohibited. Buffer width averaging is prohibited when the result of averaging would allow any of the land uses listed below to exist within the pre-averaged buffer area:

a. Developments or facilities that include on-site sewage disposal and treatment systems (i.e., septic systems);

b. Commercial facilities that store and/or service motor vehicles;

c. Commercial greenhouses or landscape supply facilities;

d. Developments or facilities that have commercial or public pools;

e. Animal care facilities, kennels, and commercial/business developments or facilities that provide short-term or long-term care of animals;

f. Other land uses deemed by the Zoning Administrator to have the potential to generate higher than normal pollutant loadings.

(i) **Signage.** For subdivisions, permanent boundary marker signs are required for stream buffers prior to bonding of the subdivision and/or finalizing the subdivision with the intent to transfer property. Permanent boundary markers are required to ensure that property owners are aware of the buffer. Permanent boundary markers are recommended, but not required, in shoreline buffers. The Zoning Administrator has the authority to require the person or entity responsible for permanent maintenance of the buffer to replace boundary markers that have been removed or destroyed. The following general requirements shall apply to buffer boundary markers:

(1) Generally, buffer boundary markers shall be located on the landward edge of the buffer, and at other locations which will approximately delineate the buffer boundary. For commercial developments, markers shall be posted every one hundred (100) feet along the buffer boundary. For subdivisions where multiple lots are located along the buffer, it is recommended that a buffer boundary marker be located at the intersection of every other lot line with the landward edge of the buffer.

(2) Buffer boundary markers shall include the statement "Water Quality Buffer - Do Not Disturb".

(3) Where possible, the markers should be mounted to a tree larger than three (3) inches in diameter. Where it is not

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possible to mount the marker to a tree, a treated wood or metal signpost must be used. The post must extend below the ground surface at least twenty-four (24) inches.

- (4) The boundary markers must be mounted between four (4) and six (6) feet above the ground surface.
- (5) The boundary markers must be at least twelve by eighteen inches (12"x 18").

(j) **Buffer Restoration and Enhancement Plans.** Buffer restoration is required when a buffer is disturbed without prior approval from the Zoning Administrator. A developer or property owner may also wish to enhance a buffer to bring it closer to an optimal, undisturbed native forest condition. Prior to reestablishing or planting the buffer, a restoration or enhancement plan must be submitted to and approved by the Zoning Administrator. Buffer restoration and/or enhancement plans must include the following:

(1) A drawing or plan that shows the location of the buffer in relation to the existing or planned development and to the buffered waterway; the disturbance limits for the planned buffer restoration; direction of flow of runoff from the site and flow within the water feature; erosion prevention and sediment control measures to be installed to protect the waterway; any existing or proposed stream crossings; existing or proposed stream bank stabilization measures; access to a water source for the purposes of watering vegetation; and other pertinent information. For large scale restoration and enhancement projects the plan(s) must be stamped by a registered landscape architect.

(2) A visual plan and a narrative that describe the vegetation plan for the buffer: stream buffers must be planted with native trees, shrubs, and grasses that will not be mowed. Suitable native plants can be chosen from the recommended plant species, as listed in the "Stormwater Design Manual". Species of plants other than those listed on the pre-approved list shall be approved by the Zoning Administrator prior to planting.

(k) **Waivers.**

(1) No waiver shall be granted to alter a buffer established pursuant to this section unless the Zoning Administrator determines that a hardship exists, and relief meets the general purpose and intent of this Section. Within Water Quality Protection Areas, no waiver shall be granted unless the applicant demonstrates that alternative protection measures can be provided that exceed the protection afforded by the established buffer. In no case will the buffer be reduced to less than twenty-five (25) feet from the jurisdictional line.

(2) In granting a request for a waiver, the Zoning Administrator may require site design, landscape planting, fencing, the placement of signs, and the establishment of water quality best management practices to reduce adverse impacts on water quality, streams, wetlands, and floodplains.

(3) Waiver requests shall only be considered if a request meets any of the criteria listed below.

a. The project involves construction of:

1. One single-family home for residential use by the owner of the property; and
2. The property has an unusual shape or topography and there is no opportunity to develop under any reasonable design configuration.

b. The project involves the construction or repair of a structure which, by its nature, must be located within the buffer:

1. Dams;
2. Docks, and boat launches;
3. Stabilization areas of public access to water;
4. Buffer intrusion is necessary to provide access to the property; or
5. Project will:
 - [a] Require a Wetland Permit from USACE for impacts to jurisdictional wetlands; and
 - [b] The USACE has approved a mitigation plan; and
 - [c] Implementation of the plan in a 404-permit condition.

(4) Buffer Waiver Submittal Requirements.

a. The applicant shall submit a written request for a waiver to the Zoning Administrator. The request shall include specific reasons justifying the waiver and any other information necessary to evaluate the proposed waiver request. The Zoning Administrator may require an alternative analysis that clearly demonstrates that no other feasible alternative exist and that minimal impact will occur as a result of the project or development.

b. The Zoning Administrator shall decide and decision concerning the waiver request. Any appeal shall be filed and heard by the Zoning Board of Appeals as set forth in sections 21-236 through 21-243.

(Ordinance No. 2015-4, 6-9-2015, added section 21-215 Water Quality Buffer Requirements)

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Secs. 21.216--21.220 Reserved

ARTICLE XIX BUILDING PERMITS, CERTIFICATES OF OCCUPANCY, AND ENFORCEMENT

Sec. 21.221 Zoning Administrator and building official.

Any interpretations of provisions of this chapter shall be performed by the zoning administrator, who shall also have the duty of referring variance requests and administrative appeals to the zoning board of appeals. The zoning administrator shall also be empowered to perform duties specified elsewhere in this chapter.

The building official as designated by the zoning administrator shall have the authority to issue and monitor progress on building permits. The building official shall also be responsible for the issuance of certificates of occupancy and shall maintain records of all issued building permits and certificates of occupancy. (Ord. No. 86-180, § 18-1, 6-10-86)

Sec. 21.222 Building permit required.

It shall be unlawful to commence clearing, grading, excavation or filling of any lot for the construction of any building or to commence construction of any building or to commence the moving or alteration of any building or to commence the development of land for a use not requiring a building until the building official has issued a building permit for such work. (Ord. No. 86-180, § 18-2, 6-10-86)

Sec. 21.223 Application for building permit.

(a) In applying to the building official for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size and location of the lot to be built upon and the shape, size, height, use and location of the buildings, if any, the setback lines of buildings on adjoining lots, off-street parking space, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(b) If the proposed excavation, filling, or construction, as set forth in the application, are in conformity with the provisions of this chapter and other city, county, state or federal regulations, then in force, the building official shall issue a building permit upon payment of any required fees. If a building permit is denied, the building official shall state such refusal in writing specifying the reason(s) for denial.

(c) Reserved.

(d) Before commencing clearing, grading, excavation or construction, the building permit (or copy) shall be placed conspicuously near the front property line herein described for the duration of the excavation or construction and in such a way that it is protected from the weather.

(Ord. No. 86-180, § 18-3, 6-10-86)

Sec. 21.224 Construction progress.

Any building permit shall become invalid unless the work authorized by it has been commenced within six (6) months of the date of issue of the permit, or if the work authorized by it is suspended or abandoned for a period of one (1) year. (Ord. No. 86-180, § 18-4, 6-10-86)

Sec. 21.225 Certificate of occupancy required.

(a) A certificate of occupancy issued by the building official is required in advance of the occupancy or use of:

- (1) any building, structure, land, or premises;
- (2) any building or structure hereafter erected or moved;

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- (3) any building hereafter altered, to affect the front, side or rear yards thereof, or its height;
- (4) any building, structure, or premises in which there is a change of the type of occupancy or use.

(b) Within three (3) days after the application for a certificate of occupancy and payment of any required fees, the building official shall sign and issue a certificate of occupancy if the proposed use of land or building, as stated on the certificate of occupancy and signed by the owner or his appointed agent, is found to conform to the applicable provisions of this chapter, and if the building, as finally constructed, complies with the plans submitted for the building permit.

(Ord. No. 86-180, § 18-5, 6-10-86)

Sec. 21.226 Denial of certificate of occupancy.

A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter, and all building codes enforced by the City and unless the building, as finally constructed, complies with the sketch or plan upon which the building permit was issued. The building official shall state in writing the reasons for denying such certificate of occupancy. (Ord. No. 86-180, § 18-6, 6-10-86)

Sec. 21.227 Records of applications and certificate.

Records of applications for building permits, records of plats and plans in connection with the permits, and records of all occupancy certificates and denials shall be kept on file in the office of the building official and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

(Ord. No. 86-180, § 18-7, 6-10-86)

Sec. 21.228 Penalties for violation.

21.228.1 Any person violating, by act or omission, any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for not more than thirty (30) days, or both, at the discretion of the court.

21.228.2 Where such an act or omission is continued in violation of the provisions of these regulations after notice of such violation by the zoning administrator or building official, each day during which such act or omission continues shall be deemed a separate violation.

21.228.3 The owner or tenant of any building, structure, premises or part thereof, and any architect, surveyor, builder, engineer, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(Ord. No. 86-180, § 18-8, 6-10-86; Ord. No. 93-354, § 1, 8-10-93; Ord. No. 93-364, § 1, 10-19-93)

Sec. 21.229 Remedies.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the zoning administrator, building official, or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violations, in addition to other remedies, may institute injunction or other appropriate action in proceeding to prevent the violation in the case of such building, structure or land. (Ord. No. 86-180, § 18-9, 6-10-86)

Secs. 21-230--21-235 Reserved.

ARTICLE XX ZONING BOARD OF APPEALS

Sec. 21.236 Establishment, membership and proceedings of the board.

A zoning board of appeals is hereby established which shall consist of seven (7) members who are residents of

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the city and appointed by the city council. The term of office of the members of the board shall be three (3) years provided, however, that the initial board of appeals established under this chapter shall be appointed with terms as follows: Three (3) to serve for one (1) year; three (3) to serve for two (2) years; and one (1) for three (3) years; and their successors shall serve for three (3) years or until their respective successors are appointed. Members may be removed for cause by city council upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Members shall not hold any other public office in the city.

21.236.1 Proceedings of the board of appeals. The board shall elect one of its members chairman, who shall serve for one (1) year or until he is re-elected, or his successor is elected and qualified. The board shall appoint a secretary. The board shall adopt rules in accordance with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the zoning administrator and shall be a public record.

21.236.2 Hearings, appeals and notices:

(1) Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the zoning administrator or building official. Such appeal shall be taken within thirty (30) days by filing with the zoning administrator from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.

(2) The board of appeals shall fix a reasonable time for hearing the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

21.236.3 Stay of proceedings: An appeal stays all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of appeals after notice of appeal is filed that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the zoning administrator from whom the appeal is taken and due cause shown.

(Ord. No. 86-180, § 19-1, 6-10-86; Ord. No. 90-311, § 1, 7-10-90)

Sec. 21.237 Powers and duties of the board of appeals.

The board of appeals shall have the following powers and duties:

(1) Administrative review: To hear and decide appeals when it is alleged that there is error in any order, requirement, decision or determination made by the building official in the enforcement of this chapter.

(2) Variances:

a. The board of appeals may authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement to the provisions of this chapter would result in unnecessary hardship.

b. Procedures: A variance from the terms of this chapter shall not be granted by the board of Appeals unless and until a written application for a variance is submitted demonstrating:

1. That there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;

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2. that the application of this chapter to this particular piece of property would create an unnecessary hardship;
3. that such conditions are peculiar to the particular piece of property involved;
4. that relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter or the comprehensive plan; provided, however, no variance may be granted for a use of land or building or structure that is prohibited in each district by this chapter; and,
5. that no nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

c. Public Hearing: A public hearing shall be held at which time any party may appear in person or by agent or attorney.

d. Notice: Notice of public hearing shall be posted on the property for which variance is sought and shall be published at least fifteen (15) days prior to the public hearing in a newspaper of general circulation in the area in which the property is located.

e. In granting any variance, the board of appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under section 21.228.

f. With respect to uses of land, buildings and other structures, this chapter is declared to be a definition of the public interest by the city council, and the spirit of this chapter will not be observed by any variance which permits a use not generally permitted in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district. Therefore, under no circumstances shall the board of appeals grant a variance to permit a use not generally permitted in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

g. Board findings:

1. The board of appeals shall make findings that the requirements of section 21.236.2 (1) were met by the applicant for a variance.
2. The board of appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
3. The board of appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(3) Special exceptions

a. The board of appeals shall hear and decide only the applications for special exceptions as specifically authorized to pass upon by terms of this chapter; decide the questions as are involved in determining whether special exceptions should be granted; prescribe appropriate conditions and safeguards in conformity with this chapter; and deny special exceptions when not in harmony with the intent and purpose of this chapter.

b. Procedures in consideration of special exception applications.

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1. A written application for a special exception shall be submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.
 2. Notice of public hearing shall be posted on the property for which special exception is sought in the manner as set forth in section 21.275 and shall be published at least fifteen (15) days prior to the public hearing in a newspaper of general circulation in the City of Forest Acres.
 3. A public hearing shall be held at which time any party may appear in person, or by agent or attorney.
 4. The board of appeals shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception and that such exception will not adversely affect the public interest.
 5. The regulations of this chapter setting forth specific standards to be met prior to the establishment of any special exception shall be binding upon the board of appeals.
 6. The board of appeals may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both.
- c. Criteria for special exceptions. In addition to definitive standards in this chapter, the board of appeals shall consider the following:
1. traffic impact;
 2. vehicle and pedestrian safety;
 3. potential impact of noise, lights, fumes, or obstruction of air flow or view on adjoining property(s);
 4. adverse impact of the proposed use on the aesthetic character of the environs, to include possible need for screening from view;
 5. orientation and spacing of improvements or buildings; and
 6. height of the structure.
- d. Effect of failure to meet conditions.
1. Violations of conditions and safeguards prescribed in conformity with this chapter when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter, punishable under the penalties established herein.
 2. Failure to begin or complete an action for which a special exception is required, within the time limit specified when such time limit is made a part of the terms under which the special exception is granted, shall void the special exception.

Sec. 21-238 Appeals from the board of appeals.

Any person or persons jointly or severally aggrieved by any decision of the board of appeals, or any taxpayer or any officer, department, board, or bureau of the city, may present to the circuit court a petition, duly verified, setting forth that a decision of the board of appeals illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision. (Ord. No. 86-180, §19-3, 6-10-86)

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Sec. 21.239 Functions of zoning administrator, board of appeals, city council and courts on interpretation, administration, and appeal.

21.239.1 It is the intent of this chapter that all questions of administration and enforcement shall first be presented to the zoning administrator, and that such questions shall be presented to the board of appeals only upon reference by, or appeal from, the building official, and that recourse from the decisions of the board of appeals shall be to the courts as provided by law.

21.239.2 It is further the intent of this chapter that the function of the city council under this chapter shall not include hearing and deciding questions of interpretations and enforcement which may arise, but that the city council shall have only the responsibility for acting on proposals for amendment or repeal of this chapter, and for establishing a schedule of fees and charges.

21.239.3 Actions of board concerning appeals: In exercising the powers set forth above, the board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the building official from whom the appeal is taken.

(Ord. No. 86-180, § 19-4, 6-10-86)

Secs. 21.240--21.243 Reserved.

ARTICLE XXI COMMUNICATION TOWERS

Sec. 21.244 Definition

Communication tower is a tower or other structure that supports one (1) or more antennae utilized for radio or television broadcasting or for two-way radio, television, or telephone communication, but does not include any structure, or device that is less than ten (10) feet in height as measured from the base.

Sec. 21.245 Requirements.

The requirements that must be met consist of:

21.245.1 Height. Free-standing communication towers shall have a maximum height of one hundred sixty (160) feet. Towers located on buildings shall have a maximum height of twenty (20) feet above the roof line of the building.

21.245.2 Setback.

1. No communication tower shall be located within fifty (50) feet (as measured from the base of the tower) of a residential zoning district or within seventy-five (75) feet of a public right-of-way.

2. For communication towers over seventy-five (75) feet in height but less than one hundred twenty-five (125) feet in height, the fifty-foot setback from any dwelling located in a residential zoning district or seventy-five (75) foot setback from a public right-of-way, shall be increased by one (1) foot per one (1) foot of tower height as measured from the base of the tower, over seventy-five (75) feet.

3. For communication towers greater than one hundred twenty-five (125) feet in height, the setback from any dwelling located in a residential zoning district or public right-of-way shall increase by two (2) feet per one (1) foot of tower height in excess of one hundred twenty-five (125) feet, as measured from the base of the tower; such setback requirements are in addition to the setback requirements set forth in 1 and 2 above.

4. The setback requirements provided in section 21.244.2 (2 and 3) may be reduced to the minimum set forth in 21.244.2 (1) at the discretion of the board upon receipt of a written zoning waiver executed

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by the owner(s) of dwellings located within the setback requirements as established herein.

21.245.3 Landscaping and fencing. Eight-foot-high fencing shall be provided around the tower and any associated building. Outside of the fencing, at least one (1) row of evergreen shrubs forming a continuous hedge at least five (5) feet in height within individual plantings spaced no more than five (5) feet apart.

21.245.4 Illumination. No illumination is permitted except to the extent required by applicable federal or state statute or regulation.

21.245.5 Signage. No signage is permitted except as is required by applicable state or federal law, rule or regulation; signs for the purpose of identification warning, emergency function or contact may be placed as required by standard industry practice.

21.245.6 Abandonment. A tower that is no longer actively utilized for communication purposes must be removed within one hundred twenty (120) days of the date taken out of active service.

21.245.7 Collocation. The communication tower applicant shall provide satisfactory evidence that alternative towers, buildings, or other structures are not available for use within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria or provide a location free of interference from other communication towers. Further, such applicant must submit documentation citing specific reasons that it is not technically feasible to collocate the antenna on the closest existing or proposed tower whether inside or outside the city limits.

21.245.8 Amateur Radio Operators. Communication towers erected and maintained for the sole purpose of amateur radio operation by an amateur radio operator duly licensed by the Federal Communications Commission shall be exempt from the requirement of this section provided that any amateur radio tower shall: (1) not exceed a maximum freestanding height of eighty (80') feet or if located on a building will not exceed a maximum of twenty (20') feet above the roof line of the building and (2) shall not be located within fifty (50') from a public right-of-way.

Sec. 21.246 Special exception criteria.

1. In addition to the criteria for special exceptions set forth in section 21.237, the zoning board of appeals shall, in considering applications for special exceptions relating to communication towers, under the following factors:

(a) the proposed structure will not endanger the health and safety of residents, employees, or travelers, including, but not limited to, the likelihood of the failure of such structures;

(b) the proposed tower is in an area where it will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties with additional consideration for properties designated as historic either locally or by listing in the National Register of Historic Places;

(c) the proposed tower is not located within two thousand (2,000) feet of another tower; and

(d) the proposed user has attempted to collocate on existing communication towers and is willing to allow other users to collocate on the proposed tower in the future subject to engineering capabilities of the structure.

2. A site plan, elevation drawing(s), photographs and other appropriate documentation must be submitted with the request for special exception which provide the following information:

(a) site plan must include the location of tower(s), guy anchors (if any), transmission building, and other accessory uses, parking access, fences, adjacent land use, landscaping and required buffering;

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(b) elevation drawings must clearly show the design of the tower and materials to be used;

(c) photographs must show the proposed site and the immediate area. Submittal of other detailed information, such as topography and aerial view, which supports the request are encouraged at the option of the applicant.

Secs. 21.247--21.249 Reserved

Section 21.248 Standards for Placement of Small Wireless Facilities in Covered Areas

Sec. 21.248.1. Definitions.

“Antenna” means communication equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services.

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

“Applicant” means any person who submits an application to the City and is a Wireless Services Provider or a Wireless Infrastructure Provider.

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

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

“City-Owned Pole” means (i) a Utility Pole owned or operated by the City in Covered Areas, including a Utility Pole that provides lighting or traffic control functions, or other law enforcement functions, including light poles, traffic signals, and structures for signage, and (ii) a pole or similar structure owned or operated by the City in a Covered Area that supports only Wireless Facilities. The term does not include a Utility Pole owned or operated by and accounted for as an asset of a municipal electric utility.

“Collocate” means to install, mount, maintain, modify, operate, or replace one or more Wireless Facilities on, under, within, or adjacent to an existing Wireless Support Structure or Utility Pole located in Covered Areas within the jurisdiction of the City. **“Collocation”** has a corresponding meaning.

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

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

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

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

“Fee” means a one-time charge.

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

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

“Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

“Rate” means a recurring charge.

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

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

“Transmission Pole” means a pole or similar structure that is used in whole or in part to carry electric transmission (as opposed to distribution) lines.

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

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

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

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

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

“Wireless Services Provider” means a Person who provides Wireless Services.

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

Section 21.248.2. Purpose and Scope.

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

(b) It is the intent of this Ordinance to establish uniform standards including, but not limited to:

- (i) Prevention of interference with the use of streets, sidewalks, alleys, parkways, traffic light poles or other light poles, and other public ways and places;
- (ii) Prevention of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (iii) Prevention of interference with other facilities and operations of facilities lawfully located in Covered Areas or public property;
- (iv) Preservation of the character of neighborhoods where facilities are installed;
- (v) Preservation of the character of historic structures, or historic neighborhoods, including but not limited to such structures or neighborhoods listed on the National Register of Historic Places, National Trust for Historic Preservation, or locally designated Historic Districts; and,
- (vi) Facilitation of the rapid deployment of Small Wireless Facilities to provide the citizens with the benefits of advanced Wireless Services.

Sec. 21.248.3. Permitted Use; Application Process and Fees.

- (a) **Permitted Use and Consent.** Collocation of a Small Wireless Facility on an existing Utility Pole or Wireless Support Structure, or a new or modified Utility Pole or Wireless Support Structure installed in a Covered Area shall be a permitted use, except in supplemental review districts where such facilities are a conditional use, subject to administrative review, conditions and other requirements in Section 5. In accord with Article VIII, Section 15 of the State Constitution and related municipal code and

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ordinance provisions, the City consents to the use of Public Rights-of-Way by permit holders acting in compliance with this Ordinance.

(b) **Permit Required.** No person shall place a Small Wireless Facility in a Covered Area without first filing a Small Wireless Facility Application and obtaining a permit, except as otherwise provided in this Ordinance.

(c) **Permit Applications.** All Small Wireless Facility Applications filed pursuant to this Ordinance shall be on a form, paper or electronic, as required by the City. The Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page of such materials accordingly, and the City shall endeavor to protect materials so designated from public disclosure to the fullest extent permitted by state law.

(d) **Application Requirements.** The Small Wireless Facility permit Application shall be made by the Applicant, or its duly authorized representative as noted in a notarized statement from a Person with the Applicant with authority to make such an authorization, and shall contain the following:

- (i) The Applicant’s name, address, telephone number and e-mail address;
- (ii) Facility owner’s name, address, telephone number and email address, if different from Applicant;
- (iii) Intended facility use owner operated or owner leased capacity;
- (iv) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;
- (v) A general description of the proposed scope of work for the Collocation of the Small Wireless Facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters, including but not limited to sub-surface utilities, likely to be affected or impacted by the work proposed;
- (vi) Identification of any consultant that is acting on behalf of the Applicant and that is authorized to speak with the City, or a designee of the City, on the area of consultation for the Applicant even if the Applicant cannot be available;
- (vii) Verification from an appropriate representative of the Applicant that the Small Wireless Facility shall comply with all Applicable Codes;
- (viii) Verification of payment of the annual municipal consent or administrative fee for telecommunications companies to use Public Rights-of-Ways pursuant to S.C. Code § 58-9-2230;
- (ix) Verification of local business license, if applicable;
- (x) Evidence the Applicant is duly authorized to do business in South Carolina;
- (xi) Evidence the Applicant has received any necessary certificate of public convenience and necessity or other required authority from the South Carolina Public Service Commission or the Federal Communications Commission or evidence that it is not required;
- (xii) A copy of an approved South Carolina Department of Transportation (SCDOT) encroachment permit and all documents required by SCDOT as part of the encroachment permit application, if the proposed location is within a SCDOT Right-of-Way; and,
- (xiii) If the proposed location is outside of a SCDOT Right-of-Way, a statement that the Applicant has a lease, attachment agreement or other authorization from the owner of the Utility Pole or structure proposed for Collocation.

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- (e) **Routine Maintenance and Replacement.** An Application shall not be required for:
- (i) Routine maintenance;
 - (ii) The replacement of a Small Wireless Facility with another Small Wireless Facility that is substantially similar or smaller in size, weight, and height; or
 - (iii) The installation, placement, maintenance, operation, or replacement of Micro Wireless Facilities that are strung on cables between existing Utility Poles and/or Wireless Support Structures in compliance with the National Electrical Safety Code by a Wireless Services Provider or a Wireless Infrastructure Provider that is authorized to occupy the Public Rights-of-Way and that is remitting a consent, franchise, or administrative Fee pursuant to S.C. Code § 58-9-2230.
- (f) **Information Updates.** Any amendment to information contained in a permit Application shall be submitted in writing to the City within ten (10) business days after the change necessitating the amendment.
- (g) **Consolidated Application.** An Applicant seeking to Collocate multiple Small Wireless Facilities may, at the Applicant's discretion, file a consolidated Application and receive a single permit for up to twenty (20) Small Wireless Facilities. Provided, however, the City's denial of any site or sites within a single Application shall not affect other sites submitted in the same Application. The City shall grant a permit for all sites in a single Application that it does not deny subject to the requirements of this Section.
- (h) **Application Fees.** Unless otherwise provided by law, and except as to telecommunication companies exempted pursuant to S.C. Code § 58-9-2230, all Applications for permits pursuant to this Ordinance shall be accompanied by a Fee of \$300.00 for the first five Small Wireless Facility on existing poles in the same application and \$50.00 for each additional Small Wireless Facility on existing poles in the same application; \$250.00 for each Small Wireless Facility replacement pole; and \$1,000.00 for each Small Wireless Facility new pole. For clarity, any Applicant that pays either a franchise, consent Fee, or administrative Fee pursuant to the requirements of S.C. Code § 58-9-2230 shall not be required to pay any building permit Fee, zoning permit Fee, encroachment Fee, degradation Fee, or any other Fee assessed on a telecommunications provider for its occupation of or work within the ROW.
- (i) **Interference with Public Safety Equipment.** A Small Wireless Facility shall be operated and maintained in a manner that does not interfere with public safety (police, traffic control, fire, and emergency services) equipment.

Sec. 21.248.4. Action on Permit Application.

- (a) **Review of Small Wireless Facility Applications.** The City shall review the Application for a Small Wireless Facility permit for conformity with applicable requirements of this Ordinance, and shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:
- (i) Within ten (10) days of receiving an Application, the City must determine and notify the Applicant whether the Application is complete; or if an Application is incomplete, the City must specifically identify the missing information.
 - (ii) Make its final decision to approve or deny the Application within sixty (60) days of submission of a completed Application.
 - (iii) Notify the Applicant in writing of its final decision, and if the Application is denied, specify the basis for a denial, including citations to federal, state or local code provisions and/or statutes on which

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the denial was based.

(iv) Notwithstanding an initial denial, the Applicant may cure the deficiencies identified by the City and resubmit the Application within thirty (30) days of the denial, and the City shall approve or deny the revised Application within thirty (30) days of receipt. The subsequent review by the City shall be limited to the deficiencies cited in the original denial.

(b) **Review Deadline.** If the City fails to act on an eligible Application within the sixty (60) day review period (or within the thirty (30) day review period for an amended Application), and the Applicant has provided written notice to the City after forty-five days from receipt of the Application but 10 days prior to the end of the 60 day period, that the time period for acting would lapse 10 days prior to the end of the 60 day period, the Application would then be deemed approved.

(c) **Review of Eligible Facilities Requests.** Notwithstanding any other provisions of this Ordinance, the City shall approve and may not deny Applications that constitute eligible facilities requests for modification of an eligible support structure that does not substantially change the physical dimensions of such structure as provided in 47 CFR 1.40001, within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

(d) **Compensation.** Subject to the limitations set forth in Section 3(h) herein, every permit shall include as a condition the Applicant's agreement to pay such lawful franchise Fees, business license taxes, administrative Fees and consent Fees as are permitted under applicable South Carolina and federal law. The Applicant shall also pay all applicable ad valorem taxes, service Fees, sales taxes, or other taxes and Fees as may now or hereafter be lawfully imposed on other businesses within the City. The city shall notify the Applicant of any taxes and fees due. The failure of the Applicant, or its assigns, to pay any such taxes and fees, after 15 days written notice from the City of the failure to make payment, shall result in the suspension of all permits.

Sec. 21.248.5. Requirements for Small Wireless Facilities in Covered Areas.

(a) **Administrative Review.** The City shall perform an administrative review of permit Applications including the location or installation of new, modified, or replacement Utility Poles and/or Wireless Support Structures and the attachment of Wireless Facilities and equipment on Utility Poles or Wireless Support Structures. Review factors, in addition to location, shall include the size, shape, color, texture, and materials of the structures and attachments.

(i) The City may require a proposed Wireless Facility be designed to not be significantly more readily apparent or plainly visible (to a reasonable person of ordinary sensibilities) from Covered Areas than existing utility structures, poles and equipment located within five hundred (500) linear feet on the same Covered Area as the subject Utility Pole or Wireless Support Structure.

(ii) Where Small Wireless Facilities are determined to be appropriate, the use of reasonable stealth and concealment treatments, low profile equipment and control boxes, and screening may be required to avoid significant negative impacts on the character and visual aesthetics of the area. However, such requirements may be waived by the City upon a showing that the particular location of a Small Wireless Facility does not warrant stealth or concealment treatments or imposes an excessive expense. The waiver shall be granted or denied within forty-five (45) days after the date of the request.

(iii) Small Wireless Facilities requiring the placement of new poles in residential districts shall be in front of the shared "side" property line between adjoining properties.

(iv) Prior to the placement of a new pole, the applicant shall demonstrate in writing that no opportunities

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for collocation on the existing pole(s) within other Small Wireless Facilities exist.

(v) Supplemental review districts identified in Section 21.248.5(c) and listed in Appendix A may be subject to a higher level of review.

(b) **Maximum Size of Permitted Use.**

(i) The height of an Antenna of a Small Wireless Facility shall be limited to the greater of ten (10) feet above (a) the height of an existing or modified Utility Pole or Wireless Support Structure; or (b) the height of a new Utility Pole or Wireless Support Structure as provided in (ii) below.

(ii) The height of a new or modified Utility Pole, or Wireless Support Structure is limited to the greater of (a) the tallest Utility Pole, excluding Transmission Poles, or Wireless Support Structure located in the same Covered Area, measured from grade, in place within five hundred (500) linear feet on the same Covered Area as the subject Utility Pole or Wireless Support Structure as of the effective date of this Ordinance; or (b) in the absence of any such Utility Pole or Wireless Support Structure, either (i) forty (40) feet in any area zoned exclusively for single family residential use, unless a waiver is granted for good cause shown, or (ii) fifty (50) feet in any other area, but in no event shall exceed a height of 50 feet.

(iii) Any associated equipment attached to or connected to any pole shall not exceed 28 cubic feet.

(iv) Collocation is not allowed on a Decorative Pole less than twenty (20) feet in height.

(c) **Supplemental Review Districts.** Collocated Small Wireless Facilities and new or modified Utility Poles or Wireless Support Structures located in supplemental review districts shall be a conditional use and subject to the design and aesthetic requirements and review processes for structures specified in this Ordinance establishing the supplemental review district(s) in addition to the requirement of this Ordinance, provided that the City will work in good faith with the Applicant to accommodate the installation of Collocated Small Wireless Facilities and new or modified Utility Poles or Wireless Support Structures in supplemental review districts to the fullest extent practicable. The City reserves its right to maintain and implement the following types of supplemental review districts.

(i) **Underground Districts.** A Wireless Services Provider or a Wireless Infrastructure Provider shall comply with nondiscriminatory requirements that prohibit electric utilities, telecommunications, or cable providers from installing above-ground structures in the Covered Area in these districts. Nothing in this section shall prohibit the use or replacement of existing Utility Poles or Wireless Support Structures in Underground Districts for the Collocation of Small Wireless Facilities subject to administrative review by the zoning administrator, appropriate design and concealment and a finding that such use does not increase the height by more than three (3) feet.

(ii) **Historic and Design Districts.** As a condition for approval of new Small Wireless Facilities or new Wireless Support Structure in a Historic District or a Design District, the City may require that a Wireless Services Provider or a Wireless Infrastructure Provider comply with the design and aesthetic standards of the Historic District or Design District to minimize the impact to the aesthetics in a Historic District or on a Design District's Decorative Poles. If design and concealment treatments are determined on review by the City to be insufficient to mitigate harm to the Historic District or Design District, the Application may be denied.

This section may not be construed to limit a municipality's authority to enforce historic preservation zoning regulations

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consistent with the preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), or the National Historic Preservation Act of 1966 (54 U.S.C. Section 300101 et seq.), and the regulations adopted to implement those laws.

(d) **Appeals, Special Exceptions and Variance Requirements.**

Appeals of administrative decisions and requests for special exceptions and variances from the provisions of this Ordinance, when strict application would result in an unnecessary hardship or in the inability to deploy needed Small Wireless Facilities, shall be heard and decided by the Board of Zoning Appeals or equivalent board for architectural, design or historical district reviews. An applicant seeking a Special Exception to construct a new Decorative Pole, Utility Pole or other Wireless Support Structure to Collocate a Small Wireless Facility in an Underground District shall demonstrate, including certification through an engineer, that it has diligently attempted to locate the proposed Decorative Pole, Utility Pole, Wireless Support Structure, or Small Wireless Facility outside of the Underground District and that placement of the Decorative Pole, Utility Pole, Wireless Support Structure, or Small Wireless Facility within the Underground District is necessary to provide the needed wireless coverage or capacity, and one or more of the following conditions exist supporting a Special Exception:

- (i) No existing Utility Pole or Wireless Support Structure is located within the location search radius or to the extent a Utility Pole or Wireless Support Structure is located within the search radius, such Utility Pole or Wireless Support Structure:
 - a. Is not available for Collocation under commercially reasonable rates, terms, and conditions;
 - b. Cannot accommodate the Collocation of the Small Wireless Facility and meet the technical requirements necessary to deliver adequate wireless service coverage or capacity; or
 - c. Would require modifications exceeding the three (3) feet height limitation imposed in section 21.248.5(c)(i).
- (ii) The only available option to deliver adequate wireless service coverage or capacity in the search radius requires modifications to an existing Utility Pole or Wireless Support Structure exceeding the three (3) feet height limitation imposed in section 21.248.5(c)(i) or the installation of a new Utility Pole or Wireless Support Structure for Collocation of a Small Wireless Facility, or
- (iii) The applicant has demonstrated other circumstances that, in the reasonable discretion of the [board, etc.], warrant a special exception or variance.

The Applicant shall abide by the design, stealth and concealment treatments imposed as conditions of the special exception.

(e) **Existing Supplemental Review Districts.** Nothing in this Ordinance shall prohibit or otherwise limit the City from establishing additional supplemental review districts, provided however, that facilities and structures for which a permit was approved or deemed approved pursuant to this Ordinance prior to the establishment of the additional supplemental review district remain subject to the provisions of this Ordinance, including routine maintenance and replacement of those facilities and structures as set out in Section 21.248.3(e)(i) and (ii) of this Ordinance, and not to any provisions otherwise applicable to the additional supplemental review district. If a Wireless Services Provider or a Wireless Infrastructure Provider voluntarily replaces such facilities in a manner that does not comply with Section 21.248.3(e)(ii) of this Ordinance, or if a Wireless Services Provider or a Wireless Infrastructure Provider voluntarily relocates such facilities, such replacement or relocation is subject to the then-existing provisions and requirements of the

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additional supplemental review district.

(f) **Repair of Damage.** A Wireless Services Provider or a Wireless Infrastructure Provider shall repair all damage to a City Right-of-Way caused by the activities of the Wireless Services Provider or the Wireless Infrastructure Provider, while occupying, installing, repairing, or maintaining Wireless Facilities, Wireless Support Structures, City Utility Poles, or Utility Poles and to return the Right-of-Way to its functional equivalence before the damage. If the Wireless Services Provider or the Wireless Infrastructure Provider fails to make the repairs required by the City within forty-five (45) days after written notice, unless the City and the Wireless Services Provider or the Wireless Infrastructure Provider agree in writing to a longer time period, the City may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs and/or cancel any permit granted by the City. The City may maintain an action to recover the costs of the repairs.

Sec. 21.248.6. *Effect of Permit.*

(a) **Authority Granted: No Property Right or Other Interest Created.** A permit from the City authorizes an Applicant to undertake only certain activities in accordance with the Ordinance and does not create a property right or grant any authority whatsoever to the Applicant to impinge upon the rights of others who may already have an interest in the Covered Area.

(b) **Duration.** Unless construction has begun and is diligently pursued to completion at that point, no permit for construction issued under this Ordinance shall be valid for a period longer than twelve (12) months unless both City and Applicant agree to a reasonable extension and all required Fees are paid for the term regardless of construction. The inability of the Applicant to obtain electrical power or backhaul transport services to serve the Wireless Facility such that it is operational within the twelve (12) months due to the action or inaction of third-party utility providers shall not result in the invalidity of the permit.

Sec. 21.248.7. *Removal, Relocation or Modification of a Small Wireless Facility in the ROW.*

(a) **Notice.** Within ninety (90) days following written notice from the City, a Wireless Services Provider or a Wireless Infrastructure Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Wireless Facilities or Wireless Support Structures within the Rights-of-Way whenever the City, in its reasonable discretion, has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the Rights-of-Way.

(b) **Emergency Removal or Relocation of Facilities.** The City retains the right to cut or move any Wireless Facility or Wireless Support Structure located within its Rights-of-Way as the City, in its reasonable discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the Wireless Services Provider or the Wireless Infrastructure Provider and provide opportunity to move its own Wireless Facilities or Wireless Support Structure prior to the City cutting or removing a Wireless Facility or Wireless Support Structure and the City shall notify the Wireless Services Provider or the Wireless Infrastructure Provider after cutting or removing a Wireless Facility.

(c) **Abandonment of Facilities.** Upon abandonment of a Wireless Facility or Wireless Support Structure within the City Rights-of-Way, the Wireless Services Provider or the Wireless Infrastructure Provider shall notify the City within ninety (90) days of such abandonment. Following receipt of such notice the City may direct the Wireless

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Services Provider or the Wireless Infrastructure Provider to remove all or any portion of the Wireless Facility or Wireless Support Structure if the City, in its sole discretion, determines that such removal will be in the best interests of the public health, safety, and welfare.

(d) **Abandonment by Inaction.** At any point when a Wireless Services Provider or a Wireless Infrastructure Provider fails to pay any required Fee, or annual payment to the City, and fails to respond within sixty (60) days to a written inquiry from the City as to whether the Wireless Services Provider or the Wireless Infrastructure Provider intends to continue to operate a Wireless Facility or Wireless Support Structure, for whatever reason, the Wireless Facility shall be deemed abandoned, any permit suspended, and the City may, at its sole option, remove all or any portion of the Wireless Facility or Wireless Support Structure, or take other action as authorized by law, including recovery of actual costs incurred in removing the Wireless Facility or Wireless Support Structure.

Sec. 21.248.8. Attachment to City-Owned Utility Poles in the Covered Areas.

(a) **Annual Rate.** The rate to place a Small Wireless Facility on a City-Owned Pole in Covered Areas shall be one hundred fifty (\$150.00) dollars per year per wooden pole or two hundred (\$200.00) dollars per year for all other poles. This rate is in addition to reimbursement to the City for any expenses for make-ready work. The City reserves the right to require a pole attachment agreement to further define the terms and conditions of attachments to City-Owned Poles.

(b) **Cease Payment.** A Wireless Services Provider or a Wireless Infrastructure Provider is authorized to remove its facilities at any time from a City-Owned Pole in Covered Areas and cease paying the annual rate to the City as of the next due date for payment following the removal.

(c) **Make-Ready.** For City-owned Utility Poles in Covered Areas, the Applicant shall reimburse the City for expenses for any reasonable make-ready work. The City shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested Small Wireless Facility, including pole replacement if necessary, within sixty (60) days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within sixty (60) days of written acceptance of the good faith estimate by the Wireless Services Provider or the Wireless Infrastructure Provider.

Sec. 21.248.9. Severability.

In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the Ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

(Ord. No. 20-21 §, 11-10-20 created article)

ARTICLE XXII ADULT OR SEXUALLY ORIENTED BUSINESSES

Sec. 21.250 Definitions

Adult arcade means any place to which the public is permitted or invited wherein coin operated or slug operated

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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 (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "certain sexual activities" or "specified anatomical areas".

Adult bookstore or adult video store means a commercial establishment which, as one of its business purposes, offers for sale, rental, use or viewing any one or more of the following:

- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- (b) 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 a adult bookstore or adult video store. Such other business purposes will not serve to except such commercial establishment from being categorized as an adult bookstore or adult video store so long as any business purpose is the offering for sale or rental for any consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas"; or

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which features or allows:

- (a) Persons who appear in semi-nude; or
- (b) live performances which are characterized by persons appearing semi-nude; or
- (c) 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
- (d) it is further provided that nudity or state of nudity is specifically prohibited and that no physical contact whatsoever exists between the performers and the patrons.

Adult motion picture theater means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which features live performances characterized by persons appearing semi-nude.

Establishment means and includes one (1) of the following:

- (a) the opening or commencement of any sexually oriented business as a new business;
- (b) the conversion of an existing business, whether a sexually oriented business, to any sexually oriented business;
- (c) the additions of any sexually oriented business to any other existing sexually oriented business;
- (d) the relocation of any sexually oriented business.

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

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Nudity or state of nudity means actual nudity or the effect of what appears to be or the semblance of human bare buttocks, anus, male genitals, female genitals, or female breasts.

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

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

Semi-nude means a state of dress in which clothing covers only the genitals, pubic region, anus, and areolae of the female breast; the genital area and anus covered by a commercially obtainable bikini bottom.

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, adult theater, or nude model studio, or any other type of operation engaging in adult or sexually oriented activities not specifically set forth in this section, or any type of business defined in this section engaging in adult or sexually oriented activities not included in the definitions set out in this section, or activities limited by the definitions set out in this section. The quantity or duration of the sexually oriented material being immaterial.

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, buttocks, or anus.

Specified sexual activities means and includes any of the following:

- (a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- (b) sex acts, normal or perverted, actual, or simulated, including intercourse, oral copulation, or sodomy;
- (c) masturbation, actual or simulated; or
- (d) excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

Substantial enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25) percent, as the floor areas exist on the date of adoption of Ordinance No. 97-519 (October 28, 1997.)

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

- (a) the sale, lease, or sublease of the business;
- (b) The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange, or similar means; or
- (c) 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.

Sec. 21.251 Classification. Sexually oriented businesses are classified as follows:

1. adult arcades;
2. adult bookstores or adult video stores;
3. adult cabarets;

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4. adult motion picture theaters;
5. adult theaters;
6. nude model studios.

Sec. 21.252 Permit.

1. An application for permit must be made on a form provided by the city. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including the 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 six (6) inches.
2. The applicants 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.
3. If a person who wishes to operate a sexually oriented business is an individual, such person 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 ten (10) percent or greater interest in the business must sign the application for a permit as applicant(s). If a corporation is listed as owner of a sexually oriented business, each individual having ten (10) percent, or greater interest in the corporation must sign the application for permit as applicant(s).
4. The fact that an applicant (s) possesses other types of state, county, or city permits and/or licenses does not exempt the applicant(s) from the requirement of obtaining a sexually oriented business permit.
5. All applicants must consent to and authorize a criminal records check.

Sec. 21.253 Issuance of permit and fee.

1. The city administrator shall approve the issuance of a permit to an applicant(s) within thirty (30) days after receipt of a properly completed application absent a finding of one or more of the following to be true:
 - (a) an applicant is under eighteen, (18) years of age;
 - (b) an applicant or applicant's spouse is overdue in payment(s) to the city for taxes, fees, fines, or penalties assessed against or imposed upon the applicant or spouse in relation to a sexually oriented business;
 - (c) 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.
 - (d) an applicant is residing with a person who has been denied a permit by the city to operate a sexually oriented business within the preceding twelve (12) months.
 - (e) 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.
 - (f) the permit fee required by this article has not been paid.

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(g) an applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.

(h) an applicant has been convicted of a sex offense or crime punishable by a fine of one thousand dollars (\$1,000.00) or more or imprisonment for a period of sixty (60) days or more.

2. 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.

3. The annual fee for a sexually oriented business permit is five hundred dollars(\$500.00).

Sec. 21.254 Inspection.

The applicant(s)/permittee(s) shall permit representatives of the police department, zoning department, or other city departments or agencies, or other county or state agencies, acting on behalf of the city or on their behalf, 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.

Sec. 21.255 Expiration of permit.

1. Each permit shall expire one (1) 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 thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected except for good cause shown.

2. When the city 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 city administrator finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit.

Sec. 21.256 Suspension of permit.

The city administrator may suspend a permit for a period not to exceed thirty (30) days if the city determines that a permittee or an employee of a permittee has:

1. violated or is not in compliance with any subsection of this article;
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.

Sec. 21.257 Revocation of permit.

1. The city administrator shall revoke a permit if:

- (a) a cause for suspension in section 21.256 occurs and the permit has been suspended within the preceding twelve (12) months for willful and knowing violation of this ordinance;
- (b) an applicant/permittee knowingly gave false or misleading material information in the application;
- (c) a permittee or an employee has knowingly allowed possession, use, or sale of controlled substance on the premises;

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- (d) a permittee or an employee knowingly allowed prostitution on the premises;
- (e) a permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
- (f) 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;
- (g) a permittee is delinquent in payments to the city, county, or state for any taxes or fees past due related to the sexually oriented business.

2. The revocation of a permit shall continue for a period of not less than one (1) year, and the permittee shall not be issued a sexually oriented permit for any other location for one (1) year from the date revocation became effective.

Sec. 21.258 Transfer of permit.

A permittee(s) shall neither transfer a permit to another, nor shall a permittee(s) operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

Sec. 21.259 Location of sexually oriented business.

1. No sexually oriented business shall be operated within nine hundred (900) feet of:

- (a) a church, synagogue, temple, or place of worship;
- (b) a public or private elementary or secondary school;
- (c) a public park;
- (d) the property line of a lot devoted to residential use;
- (e) the boundary line of any property zoned R-1, R-2, R-2a, R-3, P-1, or P-2, or PDD Residential;
- (f) another sexually oriented business;
- (g) a day care center or preschool.

2. All measurements 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, prohibited district, or residential lot.

3. The distance between any two (2) 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.

4. Any sexually oriented business lawfully operating on the effective date of Ordinance No. 97-519 (October 28, 1997) that is in violation of Sections 21.259 (1), (2), and (3) shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (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 (2) or more sexually oriented businesses are within one thousand (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(es) is nonconforming.

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Sec. 21.260 Regulations for exhibition of sexually explicit films or videos.

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

- (a) 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 thirty-two (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 an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some 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 (6) inches. The city administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that the configuration of the premises has not been altered since it was prepared.
- (b) The application shall be sworn to be true and correct by the applicant(s).
- (c) It is the duty of the permittee(s), owner(s) and operator(s) of the premises to ensure that at least one employee is on duty and situated in each manager's station. No change in the configuration or location of the manager's station may be made without the prior approval of the city administrator.
- (d) 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 have two (2) or more manager's stations designated, 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 (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (e) It shall be the duty of the permittee(s), owner(s) and operator(s), 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 (d) remains unobstructed by any walls, merchandise, display racks or other materials at all times and in every booth or room in which viewing of films or videos, as set forth in section 21.260.1, is taking place, the bottom of the door must be at least eighteen (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 section.
- (f) No viewing room may be occupied by more than one (1) person at any time.
- (g) 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 five-foot candle as measured at floor level.
- (h) It shall be the duty of the permittee(s), owner(s) and any agents and employees present in the premises to ensure that the visibility and illumination described above, is always maintained that any patron is present in the premises.

Sec. 21.261 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

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supported entirely or partly by taxation;

2. By a private college or university which maintains and operates education programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; and

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.

Sec. 21.262 Violations.

Any violations of this section or failure to comply with any of the requirements hereof shall be classified as a misdemeanor and shall be punishable by a fine and/or imprisonment as set forth in Section 1-8 of the Code. In addition, any person causing or permitting the operation, establishment, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business; causes or permits the operation, establishing, 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; or operate a sexually oriented business without a valid permit issued by the city for this particular type of business shall be guilty of a misdemeanor and punishable as set out herein.

Secs. 21.263-269 Reserved.

ARTICLE XXIII AMENDMENTS

Sec. 21.270 Procedure.

In amending the text of this chapter or in amending the zoning map, the procedure shall be as prescribed in this article. (Ord. No. 86-180, § 21-1, 6-10-86)

Sec. 21.271 Initiation of proposals for amendments.

Any individual, corporation or agency, public or private, may initiate a proposal for an amendment. Such request shall be submitted in writing to the building official, along with payment of a zoning amendment fee, which may be established by the city council. (Ord. No. 86-180, § 20-2, 6-10-86)

Sec. 21-272. Minimum land area requirements for change in a zoning district or creation of new zoning district.

No request from any party, other than city council subject to recommended by the planning commission, for a change in any zoning district or creation of a new separate zoning district shall be considered or created which involves an area of less than two (2) acres, except for the following exceptions:

- (1) The extension of the boundaries of an existing zoning district;
- (2) The addition of a C-1 zoning district to an existing C-2 or C-2a zoning district;
- (3) The addition of a C-1, C-2 or C-2a zoning district to an existing C-3 zoning district;
- (4) The addition of a C-1, C-2 or C-2a or C-3 zoning district to an existing C-4 zoning district; and
- (5) P-1 zoning district not less than one (1) acre.
- (6) The addition of an R-1a zoning district to an existing R-3 zoning district.

(Ord. No. 86-180, §20-3, 6-10-86; Ord. No. 96-452, §1, 8-13-96; Ord. No. 09-05, §21-272(1)-(4), 3-10-09; Ord. No. 09-10, §21-272(3)-(5), 7-14-09; Ord. No. 21-6, §21-272 (6), 3-9-21)

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Sec. 21.273 Planning commission study and report to the city council.

All proposed amendments shall be submitted to the City Administrator, who shall then refer the proposals for amendment to the planning commission. The Planning Commission shall have thirty (30) days within which to submit a report and recommendation to the city council. Such recommendation shall be advisory only. If the Planning Commission does not submit its report within the prescribed time, it is deemed to have approved the change or amendment. City Council may proceed to act on the proposed amendment. (Ord. No. 86-180, § 20-4, 6-10-86, Ord. No. 2017-4, § 21.273, 11-14-17)

Sec. 21.274 Public hearing on proposed amendment.

Before enacting an amendment to this chapter, the city council shall hold a public hearing thereon as required by section 6-7-30, 1976 Code of Laws of South Carolina, following the procedures thereby. (Ord. No. 86-180, § 20-5, 6-10-86)

Sec. 21.275 Posting of property.

When a proposed amendment affects the district classification of particular pieces of property, the Building Official shall cause to be conspicuously located on or adjacent to the property affected with at least one (1) such notice being visible from each public thoroughfare that abuts the property. Such notice shall be posted at least fifteen (15) days prior to the hearing and shall indicate the nature of the change proposed, identification of the property affected, and time, date and place of the hearing.

At least ten (10) days' notice and an opportunity to comment on the proposed change must be given to the owner(s) of the adjoining property and other interested members of the public. (Ord. No. 86-180, § 20-6, 6-10-86, Ord. No. 2017-4, § 21.273, 11-14-17)

Sec. 21.276 Reconsideration of proposed amendment.

Action shall not be initiated for a zoning amendment affecting the same parcel of property within twelve (12) months after the date of final decision by the city council on the rezoning request or date of withdrawal of the case by the applicant. (Ord. No. 86-180, §20-7, 6-10-86)

Secs. 21.277--21.280. Reserved.

ARTICLE XXIV FEES AND CHARGES

Sec. 21.281 Schedule of fees and charges.

The city council may establish a schedule of fees, charges and expenses and a collection procedure for zoning permits, certificates of zoning compliance, appeals, amendments, and other matters pertaining to these regulations. This schedule of fees shall be posted in the office of the building official and may be altered or amended only by the city council.

(Ord. No. 86-180, § 21-1, 6-10-86)

Sec. 21.282 No action until fees paid.

No permit, certificate or variance shall be issued or granted unless and until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken on proposed amendments or on proceedings before the board of appeals unless and until applicable charges and fees have been paid in full. (Ord. No. 86-180, § 20-4, 6-10-86)

Secs. 21.283--285. Reserved.

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ARTICLE XXV LEGAL STATUS

Sec. 21.286 Separability.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. (Ord. No. 86-180, § 21-1, 6-10-86)

Sec. 21.287 Conflicting ordinances repealed.

Any other ordinances, regulations or resolutions, or any portions thereof, which are inconsistent with the provisions herein contained, are hereby repealed. (Ord. No. 86-180, § 22-2, 6-10-86)

Sec. 21.288 Effective date.

This chapter shall take effect and be in force on January 1, 2000. (Ord. No. 86-180, § 22-3, 6-10-86)

Sec. 21.289 Adoption clause.

The foregoing zoning regulations were duly adopted by the Mayor and Council of the City of Forest Acres, South Carolina, in meeting duly assembled, on the 20th day of December 1999. This Chapter 21 of the Code of Ordinances of the City of Forest Acres supersedes all previous zoning ordinance text provisions of the City of Forest Acres adopted on the 10th day of June 1986 and all prior amendments thereto. (Ord. No. 86-180, § 22-4, 6-10-86)

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Appendix A

TREE PROTECTION CONSTRUCTION STANDARDS

The following standards shall apply to trees proposed to be preserved.

(1) Critical Root Zone.

To protect the tree and root zone, a critical root zone shall be established around each tree or group of trees to be retained prior to any land disturbance.

(a) Layout of the project site utility and grading plans shall avoid soil disturbance within in the critical root zone. Trenching shall not be allowed within the critical root zone, unless prior approval is received from the City building official.

(b) Construction site activities, including but not limited to parking, materials storage, concrete washout, and burn hole placement, shall not be allowed within the critical root zone.

(c) Root disturbance due to cuts or fill shall not be allowed within the critical root zone. All exposed roots one (1) inch and greater in diameter at the edge of the Tree Protection Area shall be pruned with a clean-cut flush to the soil edge.

(d) Soil compaction shall not be allowed within critical root zone.

(e) Erosion and sedimentation control measures shall be installed in a manner designed to prevent the accumulation of sediment within the critical root zone.

(2) Protective Barriers.

Tree protection devices shall be installed as shown on the sketch plans or otherwise surround the critical root zone.

(a) All tree protection fencing shall be installed prior to and maintained throughout the land disturbing and construction process and shall not be removed until final landscaping is installed.

(b) Tree protection fencing shall consist of chain link, orange laminated plastic, wooden post and two rail fencing, or other equivalent restraining material.

(3) Signage:

Posting "Tree Save Area" signs is recommended in addition to the required tree protection fencing. Signs requesting subcontractor cooperation and compliance with the tree protection standards are recommended for site entrances.

(4) Pruning:

Pruning of tree limbs to provide clearance for equipment and materials or for any other reason shall be done in accordance with standard arboricultural practices standards (ANSI A300 (Part 1)-2001 Pruning).

Appendix B

TREE PROTECTION AND PLANTING PLAN REQUIREMENTS

Tree Protection and Planting Plan Required - All applications for building development permits shall be accompanied by a Tree Protection and Planting Plan drawn to a standard scale and size which includes the following:

(1) A critical root zone plan for all significant trees to be preserved.

(2) A planting plan for all trees required to be planted under any of the provisions of this Ordinance on all property. This plan shall be approved prior to construction where street trees may be affected.

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(3) Tree replacement and protection - When trees retained or planted as required by this Ordinance die or are removed for any reason, except in single family residential lots, they must be replaced during the next suitable planting season in the same manner, quantity and size. Trees shall be allowed to grow to their natural height and form.

(4) Topping of any tree significant shall not be permitted.

Appendix C

TREE PLANTING STANDARDS

The following standards shall apply to all trees and shrubs proposed to be planted.

(1) Plant Material Specifications.

- (a) All plant material shall meet the most current version of American Standard of Nursery Stock standards.
- (d) Trees selected for planting must be free from injury, pests, disease, nutritional disorders, or root defects, and must be of good vigor in order to assure a reasonable expectation of survivability.
- (c) Large Maturing Tree species shall have a caliper of at least three (3) inches immediately after planting with a single trunk whose canopy dimensions have the potential to reach at least 45 feet tall and 25 feet wide at maturity. Suitable for areas with more than 200 square feet of total planting area, in a planting strip at least seven (7) feet wide, or in a place at least six (6) lateral feet from pavement or wall (See Appendix D: Recommended Large Maturing Tree Planting Lists for suitable species choices).
- (d) Medium Maturing Tree species shall have a caliper of at least two and a half (2 ½) inches immediately after planting with a single trunk whose canopy dimensions have the potential to reach at least 25 feet tall and 20 feet wide at maturity. Suitable for areas with 100 to 200 square feet of total planting space, or in a planting strip at least five (5) lateral feet wide, or in a place at least four (4) lateral feet from pavement or wall (See Appendix D: Recommended Medium Maturing Tree Planting Lists for suitable species choices).
- (e) Small Maturing Tree species shall have a caliper of at least two (2) inches immediately after planting with a single trunk or multi-stem whose canopy dimensions have the potential to reach at least 15 feet tall and 15 feet wide at maturity. Suitable for areas under utility lines, or in areas with less than 100 square feet of total planting area, or in a planting strip at least four (4) feet wide, or in a place at least two (2) lateral feet from pavement or wall (See Appendix D: Recommended Small Maturing Tree Planting Lists for suitable species choices).
- (f) No Large or Medium Maturing Tree species shall be planted within twenty (20) lateral feet of any utility easement.
- (g) All plantings that die or are destroyed must be replaced, during the next suitable planting season.

(2) Planting Specifications.

Plantings shall be installed to current nursery industry standards.

- (a) The dimensions of the planting hole shall be a minimum of two (2) times the width of and no deeper than the tree root ball or container.
- (b) The planting hole sidewalls shall be scored or roughened to eliminate the smooth, slick surface caused by

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the shovel or auger.

(c) If containerized material is to be planted, any circling roots shall be cut by slicing the root ball vertically from top to bottom in two to three well-spaced lines around the root ball with a sharp knife.

(d) The root ball shall rest on undisturbed soil in the planting hole with the top of the root ball level with the natural ground level or slightly raised (not to exceed a height of two (2) inches above the natural ground level).

(e) If balled and burlaped plant material is used, all straps and ties shall be removed and discarded, the top one-half (1/2) of all of the burlap shall be removed and discarded, and the top one-third (1/3) of the wire basket shall be removed and discarded.

(f) No tree shall be planted with the top of the root ball below natural ground level.

(g) The soil used to backfill around the root ball shall be native to the site, thoroughly watered after planting, and free of rocks, trash, and any construction debris.

(h) Organic mulch shall be evenly distributed over the planting area to a settled depth of, at least, two (2) inches. The mulch shall not touch or be pile against the tree trunk.

(i) Permanent built-in or temporary (hose, gator bag, bucket, etc.) irrigation systems shall be installed and used to ensure the plants will survive the critical establishment period.

(j) Out-of-season planting is discouraged.

Appendix D

RECOMMENDED LARGE, MEDIUM AND SMALL MATURING TREE PLANTING LIST

LARGE MATURING TREES: greater than 45 feet tall

<u>Common Name</u>	<u>Scientific Name</u>
Ash, green	<i>(Fraxinus pennsylvanica)</i>
Beech, American	<i>(Fagus grandifolia)</i>
Blackgum	<i>(Nyssa sylvatica)</i>
Cryptomeria, Japanese	<i>(Cryptomeria japonica)</i>
Cypress, Bald	<i>(Taxodium distichum)</i>
Cypress, Pond	<i>(Taxodium ascendens)</i>
Dawn redwood	<i>(Metasequoia glyptostroboides)</i>
Ginkgo	<i>(Ginkgo biloba)</i>
Katsura tree	<i>(Cercidiphyllum japonicum)</i>
Loblolly bay	<i>(Gordonia lasianthus)</i>
Magnolia, Southern	<i>(Magnolia grandiflora)</i>
Oak, Live	<i>(Quercus virginiana)</i>
Oak, Scarlet	<i>(Quercus coccinea)</i>
Oak, Shumard	<i>(Quercus shumardii)</i>
Oak, Southern red	<i>(Quercus falcata)</i>
Oak, White	<i>(Quercus alba)</i>
Oak, Swamp chestnut	<i>(Quercus michauxii)</i>
Pine, longleaf	<i>(Pinus taeda)</i>
Sweetgum	<i>(Liquidambar styraciflua)</i>
Sycamore, American	<i>(Platanus occidentalis)</i>
Tulip poplar	<i>(Liriodendron tulipifera)</i>

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Zelkova, Japanese *(Zelkova serrata)*

MEDIUM MATURING TREES: 25 ft – 50 ft. tall

<u>Common Name</u>	<u>Scientific Name</u>
Chinese pistache	<i>(Pistacia chinensis)</i>
Crapemyrtle	<i>(Lagerstroemia faurei and hybrids)</i>
Elm, Chinese	<i>(Ulmus parvifolia)</i>
Goldenrain tree	<i>(Koelreuteria paniculata)</i>
Holly, American	<i>(Ilex opaca)</i>
Hophornbean, American	<i>(Ostrya virginiana)</i>
Hornbean, American	<i>(Carpinus caroliniana)</i>
Horbean, European	<i>(Carpinus betulus)</i>
Magnolia, sweetbay	<i>(Magnolia virginiana)</i>
Maple, hedge	<i>(Acer campestre)</i>
Maple, trident	<i>(Acer buergerianum)</i>
Oak, Chinese evergreen	<i>(Quercus myrsinifolia)</i>
Oak, overcup	<i>(Quercus lyrata)</i>
Persian perrotia	<i>(Parrotia persica)</i>
Redcedar, Eastern	<i>(Juniperus virginiana)</i>
Sassafras	<i>(Sassafras albidum)</i>
Silverbell, Carolina	<i>(Halesia Carolina)</i>
Stewardia, tall	<i>(Styrax japonicus)</i>
Yellowwood, American	<i>(Cladastris kentukea)</i>

SMALL MATURING TREES: 15 ft. to 25 ft. tall

<u>Common Name</u>	<u>Scientific Name</u>
Buckeye, red	<i>(Aesculus parvia)</i>
Chastetree	<i>(Vitex agnus-castus)</i>
Cherry, Okame	<i>(Prunus x incamp 'Okame')</i>
Chinese Flame tree	<i>(K. bipinnata)</i>
Crapemyrtle	<i>(Lagerstroemia indica and hybrids)</i>
Crabapple	<i>(Malus spp.)</i>
Dogwood, flowering	<i>(Cornus florida)</i>
Dogwood, Kousa	<i>(Cornus kousa)</i>
Fingetree	<i>(Chionanthus virginicus)</i>
Fringetree, Chinese	<i>(Chionanthus retusus)</i>
Holly, Foster's	<i>(Ilex x attenuate 'Fosteri')</i>
Holly, yaupon	<i>(Ilex vomitoria)</i>
Maple, Amur	<i>(Acer ginnala)</i>
Magnolia, star	<i>(Magnolia stellata)</i>
Magnolia, Little Gem	<i>(Magnolia grandiflora 'Little Gem')</i>
Redbud, Eastern	<i>(Cercis canadensis)</i>
Redbud, Oklahoma	<i>(Cercis reniformis)</i>
Redbud, Chinese	<i>(Cercis chinensis)</i>
Washington hawthorn	<i>(Crataegus phaenopyrum)</i>
Waxmyrtle	<i>(Myrica cerifera)</i>

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TREES TO AVOID

Bradford pear

(Pyrus calleriana 'Bradford')

Chinaberry

Hybrid poplars and willows

(Populus and Salix hybrids)

Mimosa

(Albizia julibissin)

Royal Paulownia

Silver maple

(Acer saccharinum)

Tallowtree

Tree-of-Heaven

White pine

(Pinus strobus)