

CHAPTER 153: ZONING CODE

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AUTHORITY AND PURPOSE

§ 153.001 ZONING ORDINANCE PUBLISHED SEPARATELY.

The zoning ordinance shall be published in a separate volume, a copy of which shall be filed with the County Clerk to Council.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.002 AUTHORITY.

This chapter is adopted pursuant to authority granted in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, S.C. Code §§ 6-29-310 *et seq.*

(Ord. 06-11-16, passed 9-21-2016)

§ 153.003 TITLE.

This chapter may be cited as Newberry County zoning ordinance, or zoning ordinance.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.004 PURPOSE.

The purpose of this chapter is to implement the land use element of the comprehensive plan and to promote the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare of Newberry County.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.005 OFFICIAL ZONING MAP.

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

(Ord. 06-11-16, passed 9-21-2016)

§ 153.006 AMENDMENTS TO THE OFFICIAL ZONING MAP.

Amendments to the official zoning map shall be adopted as provided for by §153.054 Amendments. Promptly after the adoption of an amendment the Zoning Administrator or his designee shall alter or cause to be altered the official zoning map to indicate the amendment and the effective date of the map amendment.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.007 SEVERABILITY.

Should any specific section, standard or provision of this chapter, including any zoning district boundary that now exists or may exist in the future, be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the chapter as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.008 RELATION TO OTHER ORDINANCES.

If the provisions of this chapter conflict with the provisions of any other validly enforceable ordinance(s), the most stringent provisions shall control.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.009 REPEAL OF CONFLICTING ORDINANCES.

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

(Ord. 06-11-16, passed 9-21-2016)

§ 153.010 EFFECTIVE DATE.

These regulations shall become effective upon the date of their adoption by the County Council of Newberry County.

(Ord. 06-11-16, passed 9-21-2016)

APPLICABILITY AND CONFORMITY

§ 153.017 JURISDICTION.

The provisions of this chapter shall apply to all land and improvements within the unincorporated area of Newberry County, South Carolina.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.018 GENERAL APPLICABILITY.

No building, structure, sign, or land shall be used, graded, excavated, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, removed, enlarged, or structurally altered; nor shall any changed use be established for any building, structure, or land, unless in conformity with the general provisions of this chapter and the specific provisions for the district in which it is located, except as otherwise provided by these regulations.

(A) Within each zoning district, the regulations set forth in this zoning ordinance shall apply uniformly to each class or kind of structure or land.

(B) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.019 CONFORMITY.

(A) *Scope of regulations.* Except as specifically provided in this zoning ordinance, no building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any use be established or changed for any building, structure, or land, unless in conformity with the requirements of this chapter.

(B) *Other laws.* No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any use be established or changed for any building, structure, or land, unless in conformity with county, state and federal laws pertaining to such. Nothing herein shall require the County to check for conformity with the laws of other jurisdictions prior to issuing a local approval; however, demonstration of compliance may be required as part of the permit approval process. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards shall govern.

(Ord. 06-11-16, passed 9-21-2016)

GENERAL REGULATIONS

§ 153.026 APPLICATION OF DEED RESTRICTIONS.

Unless deed restrictions, covenants, or other contracts directly involve the county as a party in interest, the county shall have no administrative responsibility or authority for enforcing the deed restrictions or covenants.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.027 STREET ACCESS REQUIRED.

Except as otherwise specifically provided, no building shall be located, used, or occupied on a lot without direct vehicular and pedestrian access to a public street, or a private street that meets the applicable requirements of Chapter 154 of the Newberry County Code of Ordinances. Direct access may be by either a private drive directly to the street or by a perpetual easement.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.028 ERECTION OF STRUCTURES ONLY ON LOTS OF RECORD.

Any new structure erected after the effective date of this chapter shall be erected only on a lot of record.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.029 REDUCTION OF LOT AREA PROHIBITED.

(A) No yard or lot existing on the effective date of this chapter shall be reduced in dimension or area below the applicable district minimum requirements.

(B) New lots or yards shall meet the applicable district minimum requirements.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.030 NONCONFORMITIES.

(A) *In general.*

(1) Nonconformities as defined in this section are declared to be incompatible with permitted uses in the districts established by this chapter. It is the intent of this section to allow nonconformities to continue until they are removed, but not to encourage their proliferation.

(2) Any parcel of land, use of land, easement, building or structure lawfully existing on the date of any text change in this chapter, or on the date of a zoning map change that does not conform to the use or dimensional requirements of the district in which it is located may be continued and maintained in accordance with the provisions of this section and other applicable provisions of this chapter.

(3) A nonconformity shall not be changed to any other nonconformity unless the Board of Zoning Appeals finds that the new proposed nonconformity is more in character with the uses and development patterns in the zoning district in which it is located. In approving such a request, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with the purpose of this section.

(4) A nonconformity shall only be extended, enlarged, or intensified in conformity with this section.

(5) Nonconforming off-premises advertising signs may be rebuilt provided all structural requirements detailed in this section are met.

(B) *Nonconforming lots.*

(1) *Vacant lots.* Vacant lots for which plats or deeds have been recorded in the Office of the Clerk of Court for Newberry County, which fail to comply with the minimum area or other dimensional requirements of the districts in which they are located may be used for any of the uses permitted in the district in which it is located, provided that:

(a) Where the lot area is not more than 20% below the minimum specified in this chapter, and other dimensional requirements are otherwise complied with, the Zoning Administrator is authorized to issue a certificate of zoning compliance.

(b) Where the lot area is more than 20% below the minimum specified in this chapter, or other dimensional requirements cannot be met, the Board of Zoning Appeals may, in its discretion, approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.

(2) *Recombination of nonconforming vacant lots.* When the owner of a nonconforming vacant lot also owns land adjacent to the nonconforming lot, and the adjacent land or portion thereof can be combined with the nonconforming vacant lot to create a conforming lot or a more conforming lot (without creating other nonconformities), such owner shall, before selling or beginning any construction thereon, so combine the nonconforming lot and the adjacent land to create such lot.

(3) *Nonconforming occupied lots.* Nonconforming lots occupied by buildings or structures that fail to comply with the dimensional requirements for the district in which they are located may continue to be used, provided the specific nonconformity is not increased. The minimum yard requirements of this chapter shall not be construed as prohibiting the conversion of an existing building that does not meet the minimum yard requirements to another permitted use, so long as no further encroachment is made into the required yards.

(C) *Nonconforming uses.*

(1) Nonconforming uses of land or structures may continue only in accordance with the provisions of this section.

(2) A nonconforming use shall not be expanded. Expansion shall include an intensification of use, a physical expansion that results in increased capacity or activity associated with the use, an extension of the hours of operation or number of days of activity and any similar change in activity or location. A nonconforming use of land outside a building shall not be extended, enlarged, or intensified on additional land after the effective date of this chapter.

(3) A nonconforming use shall not be moved from one location on a site to another location on the same site unless the property owner can demonstrate to the satisfaction of the Zoning Administrator that the relocation of the use will not increase the impacts of such use on the public, will not adversely affect adjacent properties, and will not have the effect of making the nonconformity more permanent.

(4) A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.

(5) Where a nonconforming use is discontinued or abandoned for a period of 180 days, then the use shall not be re-established or resumed and any subsequent use of the land or structure shall conform to the requirements of these regulations; provided, however, that commercial and industrial businesses established at the time this chapter is adopted or amended are exempt from this provision. Owners of manufactured homes that have been abandoned for a period not less than 6 months, and which are older than June 15, 1976, shall remove them permanently from all land/lots of Newberry County unless the owner can demonstrate to the satisfaction of the Board of Zoning Appeals that they will take significant steps to bring the unit into compliance with this chapter.

(6) No structural changes shall be made in any structure occupied by a nonconforming use except as follows:

(a) Those structural changes ordered by an authorized official in order to ensure the safety of the structure shall be permitted.

(b) Maintenance and repairs to keep a structure in sound condition shall be permitted.

(c) Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.

(d) An existing nonconforming residential structure may be enlarged or altered provided that no additional dwelling units result. Any such enlargement or alterations shall be in compliance with all yard requirements of the district and/or use.

(e) The structure and its accompanying use may be moved to another location on the lot so long as the structure meets all applicable requirements of the district.

(f) Any nonconforming use may be extended throughout any parts of a structure that were manifestly arranged or designed for the use at the time of adoption or amendment of this chapter.

(D) *Nonconforming structures.*

(1) A nonconforming structure, devoted to a use permitted in the zoning district in which it is located, may continue in accordance with the provisions of this section.

(2) Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure.

(3) Enlargement of a nonconforming structure for its current use on any property less than 2 acres in size may be allowed, provided that the following conditions shall apply:

- (a) The original lot size must not be increased in order to accommodate the enlargement.
 - (b) The enlargement must not create or require additional on-site parking, and must not intensify the nonconforming use such that it creates peripheral off-site parking needs.
 - (c) The enlargement must not create additional noise, exterior lighting, or odor.
 - (d) The enlargement must not be accompanied by or made in conjunction with changes in operating hours.
 - (e) The enlargement must not create or be accompanied by changes in dimensions for lot access or signage.
 - (f) The enlargement must not violate yard or setback requirements for the existing district.
- (4) Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
- (5) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.
- (6) A nonconforming structure may be rebuilt, altered, or repaired in its pre-existing location after sustaining damage other than demolition, provided, however, that the structure is not expanded beyond the previous square footage unless in compliance with all other provisions of this section. A manufactured home may be replaced on the same lot with one that meets HUD standards and is of equal or larger square footage, provided that the unit must be replaced within 6 months of the destruction or removal.
- (7) A nonconforming structure shall not be demolished and rebuilt as a nonconforming structure.
- (8) Nonconforming signs, if present anywhere on the site, shall be removed prior to issuance of a change of use permit, issuance of a grading permit, or commencement of new construction on the site.
- (E) Additional requirement for nonconforming accessory uses and structures. No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, discontinuance, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.
- (F) Additional requirements for nonconforming manufactured home parks.
- (1) Nonconforming manufactured home parks may not be expanded or increased in size which shall include adding spaces to the park;
- (2) When a site at a nonconforming manufactured home park is vacated, another manufactured home may not be placed on that site;
- (G) Changes of tenancy and/or ownership. There may be a change in tenancy or ownership of an existing nonconforming use or structure provided there is no change in the nature or character of such nonconforming use or structure except as provided herein and all other applicable requirements of this chapter are met (e.g., parking, screening, landscaping, etc.).
- (H) *Temporary nonconformances.* A temporary use permit may be issued by the Zoning Administrator for an appropriate period of time not to exceed a 12-month period for nonconforming structures such as manufactured homes, modular units, and storage containers incidental to building construction or land development, provided that the owner of the temporary nonconforming use agrees to remove the temporary nonconforming use upon expiration of the permit. The temporary use permit may be renewed by the Zoning Administrator for 1 additional 12-month period or for a total of 24 months for both permit and extension combined, whichever is greater.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.031 LOT COVERAGE.

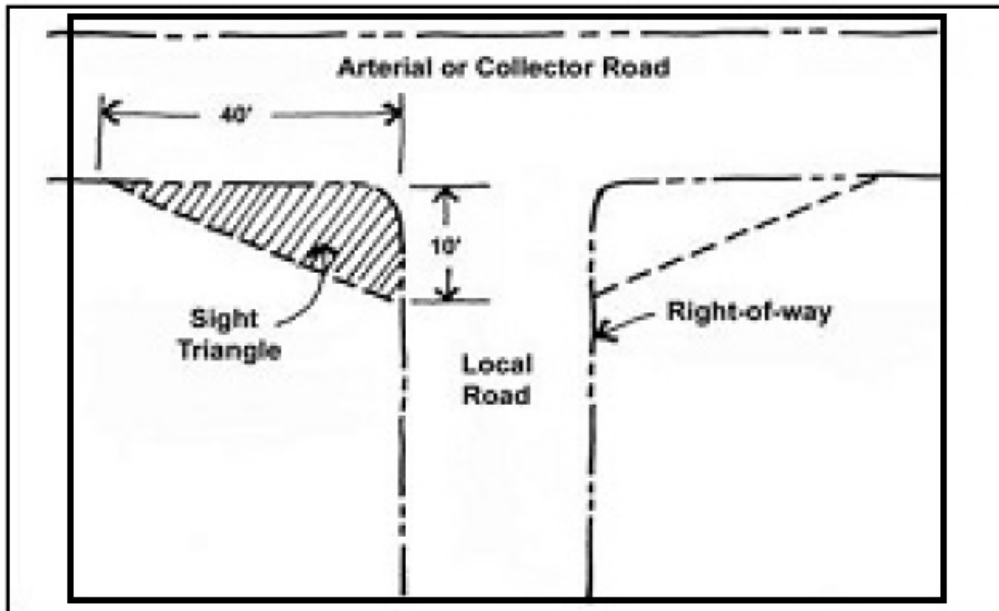
Any terrace, balcony, breezeway, porch, or portion thereof, or any solar collection device or related apparatus not included as floor area of the building shall not be included in computing lot coverage.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.032 VISIBILITY REQUIREMENTS, SIGHT TRIANGLE.

No planting shall be placed or maintained and no fence, building, wall or other structure or obstruction shall be constructed or placed in such a manner as to obstruct visibility between a height of 3 feet and 10 feet measured from the upper face of the nearest curb or pavement within any required sight triangle.

(A) *Street intersections, corner lots.* Sight triangles shall be maintained at all street intersections (corner lots). These sight triangles shall be defined as a triangle bounded on 2 sides by the edge of pavement or curb of the streets and on the third side by a straight line connecting the endpoints of the other 2 sides. Along major roads, including arterial and collector roads, the length of the side of the sight triangle parallel to the road shall be at least 40 feet. Along all other roads, the length of the side of the sight triangle parallel to the road shall be at least 10 feet.



Sight Triangle Diagram

(B) *Driveways.* Sight triangles shall be maintained where driveways intersect streets. These sight triangles shall be defined as a 10 by 10 foot triangle bounded on 1 side by the edge of pavement or curb of the street, 1 side by the edge of driveway, and on the third side by a straight line connecting the endpoints of the other 2 sides. In the event that a driveway crosses a sidewalk, then the edge of sidewalk furthest from the street shall be used as a side in place of edge of pavement or curb.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.033 FENCES AND WALLS.

(A) *In general.* The following standards shall apply to all fences and walls in all zoning districts unless otherwise noted.

- (1) Fences and walls shall be maintained in good order by the owner.
- (2) Fences shall not contain advertising, signs, or logos on the exterior of the fence unless deemed necessary by the Zoning Administrator.
- (3) Fences and walls shall be installed and maintained so as not to interfere with the sight distance requirements of this chapter or the sight distance needs of drivers in parking areas, at entrance and exit locations, and at street intersections.
- (4) Fences and walls shall be constructed such that the "finished" part of the fence or wall is located to the exterior of the property.
- (5) Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the Building Code, soil erosion and sedimentation requirements, or tree conservation requirements.

(B) *Material and design.* The following standards shall apply to all fences and walls in all zoning districts, unless otherwise noted.

- (1) Fences and walls within a development must be compatible in design, materials, and construction.
- (2) Walls and fences shall be constructed of masonry, stone, wood, vinyl or similar material commonly used for fence construction.
- (3) Walls and fences used for required screening shall be similar in composition and appearance as the principal building. Such walls and fences shall be opaque or shall be of a design approved by the Zoning Administrator, and must meet the requirements of § 153.183 - Screening.

(C) *Maintenance and safety.* Walls and fences shall be erected and maintained in a safe manner. Walls and fences not erected or maintained in a safe manner through neglect, lack of repair, manner of construction, method of placement, or otherwise deemed unsafe by the county shall be repaired, replaced, or removed by the owner. Fences shall be maintained by the property owner.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.034 LIGHT AND GLARE.

(A) *Applicability.* The provisions of this section shall apply to any and all exterior artificial light sources not otherwise having specific regulations.

(B) *Exemptions.* The following are exempted from the requirements of this section.

(1) Lighting fixtures and standards required by federal, state, county or city agencies, including street lights within public rights-of-way.

(2) Outdoor lighting fixtures used or required by law enforcement, fire and emergency services, transportation or similar governmental agencies to perform emergency or construction repair work, or to perform nighttime road construction on major thoroughfares.

(C) *Lighting.* Exterior lighting of buildings, properties, developments, signs or other features, and for any use, including, but not limited to, residential, commercial and industrial uses, shall meet the following requirements.

(1) All exterior light fixtures shall be fully shielded and installed in such a way that no light spills over onto adjacent properties or rights-of-way.

(2) Because of their unique requirement for nighttime visibility and their limited hours of operation, stadiums, ball fields, playing fields and tennis courts are exempted from the general standards of this section. However, lighting for these outdoor recreational uses shall be shielded to minimize light and glare trespass onto adjacent and nearby properties.

(3) No flashing lights shall be permitted.

(4) No installation or erection of any lighting which may be confused with warning signals, emergency signals or traffic signals shall be permitted.

(D) *Glare.* There shall be no direct or reflected glare, whether from floodlights, high temperature processing, combustion, welding, or otherwise, so as to be visible at the property line or right-of-way.

(1) *Safety hazard.* Any artificial light source which creates glare observable within the normal range of vision from any public walk or thoroughfare under normal weather conditions is considered a safety hazard and is prohibited.

(2) *Nuisance.* Any artificial light source which creates glare observable within the normal range of vision, under normal weather conditions, from any property other than the property where the light source is located is considered a nuisance and is prohibited.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.035 PARKING OF COMMERCIAL VEHICLES.

To preserve the integrity of county roads, the following conditions shall apply to the overnight or regular parking of commercial vehicles weighing more than 10 tons within the County.

(A) No commercial vehicle shall be permitted to park on any county road right-of-way.

(Ord. 06-11-16, passed 9-21-2016)

ADMINISTRATION AND ENFORCEMENT

§ 153.046 ZONING ADMINISTRATOR.

(A) This zoning ordinance shall be administered and enforced by the Zoning Administrator who shall have all powers and duties authorized by statute and ordinance for a Zoning Administrator.

(B) The duties of the Zoning Administrator shall include:

(1) Interpretation of terms and provisions of this chapter;

(2) Administration of this chapter by the issuance of zoning permits and certificates of compliance, including the collection of authorized fees;

(3) Review and issuance of administrative waivers per the requirements of §153.051.

(4) Processing applications for appeals to the Board of Zoning Appeals from the decision of the Zoning Administrator, variances, and special exceptions;

(5) Preparation of the record for appeal to the circuit court from the decisions of the Board of Zoning Appeals;

(6) Maintenance of the official zoning map, amendments to the zoning ordinance, and all public records related to zoning and planning;

(7) Administration and enforcement of the zoning ordinance, and investigation and resolution of zoning complaints;

(8) Serve as staff and provide administrative assistance to the Board of Zoning Appeals and the Joint Planning Commission with regard to their functions under this chapter; and

(9) Any other duties as may be authorized by this chapter.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.047 COUNTY ADMINISTRATOR.

The County Administrator shall appoint the Zoning Administrator and shall have the authority to exercise any and all duties and authorities assigned to such.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.048 ELECTED AND APPOINTED BOARDS AND COMMISSIONS.

(A) *County Council.* The County Council shall have the following duties related to this chapter:

(1) To review and from time to time initiate changes to this chapter.

(2) To decide upon any application or request for amendment to this chapter or the official zoning maps.

(3) To take any other action not otherwise delegated to staff, the Joint Planning Commission or the Board of Zoning Appeals as the County Council may deem desirable and necessary to implement the provisions of this chapter.

(B) *Joint Planning Commission.* The Joint Planning Commission, as established in §§33.15 through 33.21 of the Newberry County Code of Ordinances, shall have certain duties related to this chapter including, but not limited to, the following:

(1) To review and from time to time initiate changes to this chapter.

(2) To review and make recommendations on applications for changes to this chapter or the zoning maps.

(C) *Board of Zoning Appeals.*

(1) *Board established.* A Board of Zoning Appeals is hereby established which shall consist of 7 members appointed by County Council. Members shall serve a 4-year staggered term to coincide with the terms of the council member making the appointment. A vacancy shall be filled for the unexpired term in the same manner as the original appointment. Members of the Board may be removed by Council for cause.

(2) *Elections and appointments.* The Board shall elect or re-elect 1 of its members as Chairperson for a term of 1 year. The Board may elect other officers as provided by its rules of procedure. The Board shall appoint a Secretary who may be an officer of the county approved by the County Administrator.

(3) *Rules of procedure.* The Board shall adopt rules of procedure and bylaws for the conduct of its meetings and hearings in accordance with S.C. Code § 6-29-790.

(4) *Quorum.* A quorum shall be required to take any official action. A majority of the Board members shall constitute a quorum.

(5) *Meetings.* Meetings of the Board shall be held at the call of the Chairperson or at such times as the Board may determine. Public notice of all hearings shall be published in a newspaper of general circulation in the county. Furthermore, notices for meetings involving variances or special exceptions as well as appeals from a determination of the Zoning Administrator that have a site specific effect on a particular piece of property, shall be posted on or adjacent to property affected with at least 1 notice visible from each public street abutting the property, and shall be sent by first class mail to all adjacent property owners and the applicant. The Chairperson may administer oaths and compel attendance of witnesses by subpoena. The Board shall keep minutes of its proceedings, showing the vote of each member of each question, or if absent or failing to vote by reason of conflict, and shall keep records of its examinations and other official actions filed in the Office of the Secretary of the Board as public records.

(6) *Powers and duties.* The Board of Zoning Appeals has the following powers and duties.

(a) *Appeal from Zoning Administrator.* Any person aggrieved by any order, requirement, decision, or determination made by the Zoning Administrator pertaining to this chapter may appeal that decision to the Board of Zoning Appeals. Such an appeal must be made in writing on a form provided by the Zoning Administrator within 15 days after actual notice of the order, requirement, decision, or determination. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after notice of appeal shall have been filed with him, that by reason of facts stated in the appeal a stay would, in his opinion, cause imminent peril to life or property. The Board may affirm or reverse, wholly or in part, or may modify the decision by a written order separately stating findings of fact and conclusions of law.

(b) *Variances.* The Board may grant variances from the terms of this chapter according to the standards and procedures prescribed in § 153.052 Variances.

(c) *Special exceptions.* The Board may permit uses by special exception subject to the terms and conditions set forth for such uses by this chapter.

(7) *Decisions of the Board of Zoning Appeals.*

(a) In exercising the above powers, the concurring vote of the majority of the members present shall be required to reverse or affirm, wholly or in part, or modify any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, and to that end, shall have the powers of the officer from whom the appeal is taken and may direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and, in case of contempt, may certify such fact to the circuit court having jurisdiction.

(b) All final decisions and orders of the Board must be in writing and be permanently filed in the Newberry County Planning and Zoning Department as public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board, and must be delivered to the parties of interest by certified mail or in person with verification of receipt.

(8) Appeals from a Decision of the Board of Zoning Appeals. A person who may have a substantial interest in any decision of the Board of Zoning Appeals, or an officer or agent of the county authorized by County Council, may appeal to circuit court in and for Newberry County by filing with the Clerk of Court a petition in writing setting forth plainly, fully and distinctly why the decision is contrary to law. The appeal must be filed with the Clerk of Court and Secretary of the Board within 30 days after the decision of the Board is mailed. Within 30 days after receipt of the notice of filing a petition, the Zoning Administrator or Secretary of the Board, with assistance of the County Attorney, shall file with the Clerk of Court a certified copy of the Board proceedings, including a transcript of evidence and findings and conclusions of the Board. Alternatively, a property owner whose land is the subject of a decision of the Board of Zoning Appeals may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with S.C. Code §§ 6-29-825 through 6-29-850.

(Ord. 06-11-16, passed 9-21-2016)

Cross-reference:

For Board of Zoning Appeals virtual/electronic meetings, see §§33.22 through 33.24

§ 153.049 ZONING PERMITS.

(A) *Permit required.* No building or land shall hereafter be used or occupied, and no building, sign, or structure shall be erected, moved, expanded, altered, or demolished without a zoning permit issued by the Zoning Administrator. No permit shall be issued by the Zoning Administrator except for a use which is in conformity with the provision of this chapter or for a use authorized by order of the Board of Zoning Appeals.

(B) *Purpose of the permit.* The process of applying for and receiving a zoning permit serves to determine that the work and use as planned will meet the requirements of the zoning ordinance if conducted and completed according to the description provided by the applicant in the permit application. A zoning permit shall be required prior to issuance of building permits or any other work on or use of the land as described in division (A) above.

(C) *Fees for permits.* A fee established by regulation of County Council shall be paid for each zoning permit or certificate of zoning compliance issued by the Zoning Administrator.

(D) *Application requirements for permits.*

(1) Applications for zoning permits shall be accompanied by a site plan drawn to scale of all included parcels showing, at a minimum, the dimensions and shape of all parcels drawn to scale. A copy of the most recently recorded plat of the included properties drawn to scale with parcel dimensions is also required.

(2) The application shall include any other information as may be required by the Zoning Administrator to determine conformance with this chapter, including, but not limited to, existing or proposed buildings or alterations, existing or proposed uses of buildings and land, number of families, housekeeping units, rental units, existing conditions on adjacent property. Application requirements may be found on the County's website or obtained from the Zoning Administrator.

(3) The copy of the site plan shall be returned to the applicant with the signed approval or disapproval of the Zoning Administrator noted on the zoning permit application at the time of issuance.

(E) *Expiration of permits.* If the work described in a zoning permit has not begun within 6 months from the date of the permit and no valid building permit is outstanding for the work authorized by the zoning permit, or within the time specified by a special exception, the permit shall expire and be null and void. Once a zoning permit has expired, construction on the property in question cannot proceed until a new zoning permit has been issued.

(F) *Right of appeal.* If a request for a zoning permit from the Zoning Administrator is disapproved or if a ruling of the Zoning Administrator is questioned, the aggrieved party may appeal such ruling to the Board of Zoning Appeals in accordance with § 153.048(C)(6)(a).

(Ord. 06-11-16, passed 9-21-2016)

§ 153.050 CERTIFICATES OF ZONING COMPLIANCE.

(A) *Certificates required.* It shall be unlawful for any person to use, occupy, or permit the use or occupancy of any building or property created, erected, changed, converted, altered, or enlarged, in whole or in part, until a certificate of

zoning compliance has been issued by the Zoning Administrator stating the proposed use conforms to the requirements of this chapter.

(B) *Purpose of the certificate of zoning compliance.* The process of requesting and receiving a certificate of zoning compliance serves to determine that the work as completed and the use as established does, at the time the certificate is issued, meet the requirements of the zoning ordinance.

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

(Ord. 06-11-16, passed 9-21-2016; Am. Ord. 12-23-18, passed 2-6-2019)

§ 153.051 ADMINISTRATIVE WAIVERS.

A zoning permit or certificate of zoning compliance may be issued for otherwise permitted uses by the Zoning Administrator without an application for a variance to the Board of Zoning Appeals under the following conditions:

(A) If a setback waiver of less than 18 inches is desired:

- (1) The adjoining property owner affected certifies in writing his or her agreement to the requested waiver; and
- (2) The adjoining property is vacant and undeveloped, or there exists double the required setback between all buildings on the adjoining property and the immediately adjoining property lines to the property whose owner is requesting the waiver.

(B) If a minimum lot width waiver of less than 3% of the required lot width is desired:

- (1) The waiver request is for only 1 new lot on any present lot of record;
- (2) The waiver request is for a platted subdivision containing not more than 2 planned lots in total, 1 of which will meet the required lot width;
- (3) The adjoining property owners affected certify in writing their agreement to the requested waiver; and
- (4) The adjoining properties are vacant or there exists double the required lot width on both adjoining properties.

(C) If a minimum lot size waiver of less than 5% of the required lot size is desired:

- (1) The waiver request is for only 1 new lot on any present lot of record;
- (2) The waiver request is for a platted subdivision containing not more than 2 potentially planned lots in total, all but 1 of which will meet the required lot width;
- (3) The adjoining property owners affected certify in writing their agreement to the requested waiver; and
- (4) The adjoining properties are vacant or there exists double the required lot size on both adjoining properties.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.052 VARIANCES.

(A) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter, the Board of Zoning Appeals shall have the power to vary or modify any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of the land so the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

(B) Anyone requesting a variance shall file such with the Zoning Administrator on a form provided by the Zoning Administrator. Applications shall be filed at least 28 days prior to the board of zoning appeals meeting at which it will be heard. Posting and notification requirements for hearings are provide in § 153.048(C)(5). At the hearing, any party may appear in person or by agent or attorney.

(C) A variance may be granted if the Board makes and explains in a written order all of the following findings and conclusions:

- (1) There are extraordinary and exceptional conditions pertaining to a particular piece of property;
 - (2) These conditions do not generally apply to other property in the vicinity or in that district;
 - (3) Because of these conditions, the application of the chapter to a particular piece of property would effectively prohibit or unreasonably restrict use of the property;
 - (4) The authorization of the variance will not be a substantial detriment to adjacent property or to public good, and the character of the district will not be harmed by the granting of the variance; and
 - (5) The effect of the variance would not allow the establishment of a use not otherwise permitted in the zoning district; would not extend physically a nonconforming use of the land; would not change the zoning district boundaries shown on the official zoning map.
- (D) The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds

for a variance.

(E) In granting a variance, the Board may attach to it the conditions regarding the location, character, or other features of the proposed building, structure or use as the Board may consider advisable to protect establish property values in the surrounding area, or to promote the public health, safety, or general welfare.

(F) Failure to begin or complete an action for which a variance is granted within the time limit specified as a condition of the variance shall void the variance.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.053 SPECIAL EXCEPTIONS.

(A) A property owner or authorized agent may appeal to the Board of Zoning Appeals for a special exception for a use permitted by zoning district regulations as a special exception after review, subject to applicable criteria.

(B) A request for a special exception may be made by the owner of the property in question or an authorized agent of the property owner, on a form provided by the Zoning Administrator.

(C) The Board shall review the request to determine compliance with this chapter and all applicable regulations within the County's planning jurisdiction.

(D) No special exception permit shall be approved by the Board of Zoning Appeals unless the following general findings of fact are made concerning the proposed special exception:

(1) The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to the information submitted.

(2) The use complies with all regulations and standards of this chapter.

(3) The use will not substantially injure the value of adjoining properties, or the use is a public necessity.

(4) The location and character of the use, if developed according to the information as submitted and approved, will be in harmony with the area in which it is to be located.

(5) The use will not create traffic impacts that will endanger public safety, or create or contribute to congestion.

(6) The use will not create noise, light, glare, odor, or obstruction of air flow on adjoining properties.

(7) That the proposed use will not be in conflict with but will further the objectives of the Newberry County Comprehensive Plan for the area in which it is located.

(E) In considering special exceptions, the Board may prescribe appropriate requirements and additional conditions deemed necessary to remove danger to health and safety, relieve or reduce adverse impact of a special exception, and to protect adjacent properties and the character of the area.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.054 AMENDMENTS.

(A) *Authority.* This chapter, including the official zoning map, may be amended from time to time by the County Council as herein specified, but no amendment shall become effective unless it shall have first been submitted to the Planning Commission for review and recommendation.

(B) *Initiation of amendment.*

(1) An amendment to the official zoning map may be initiated by adopted motion of County Council, adopted motion of the Joint Planning Commission, the Zoning Administrator, the owner of the property affected, or an authorized agent with written authorization from the property owner.

(2) A request for a zoning map amendment by a property owner or their agent shall be initiated by submittal of a completed application form provided by the Zoning Administrator, accompanied by a copy of the most recently recorded plat for each included parcel and any other relevant supporting information for inclusion in the agenda packet for the Joint Planning Commission, and a filing fee established by resolution of County Council.

(3) An amendment to the zoning ordinance text may be initiated by adopted motion of County Council or adopted motion of the Joint Planning Commission. Any citizen may make a request for a text amendment to either body. Should the Council or Commission choose to act on such request, it shall direct the Zoning Administrator to study the request and present a recommendation at their next regular meeting. At that time, if the Council or Commission chooses to pursue the amendment, it shall direct the Zoning Administrator to prepare the amendment for their consideration at a later meeting.

(4) An identical amendment to the district designation of the same or a portion of the same property for which a rezoning has been denied shall not be initiated more often than once in each 12-month period after denial unless the Joint Planning Commission determines either:

(a) There has been a substantial change in the character of the area; or

(b) Evidence or factors exist which were not considered in the previous deliberations which might substantially alter the basis for the Joint Planning Commission recommendation.

(5) A complete application for amendment must be received at least 2 weeks prior to the Joint Planning Commission meeting in order to be considered at the meeting.

(C) *Minimum district size.* No amendment shall be initiated which would create a new zoning district with an area of less than 2 acres; except that the minimum area for a PDD (Planned Development District) district shall be 10 acres. The minimum requirement does not apply to extension of an existing district, or addition of any commercial or industrial district to any other commercial or industrial district.

(D) *Amendment procedure.* The following procedural steps are required for adoption of a text or map amendment; amendments shall be initiated pursuant to division (B).

(1) Amendment ordinance shall be prepared in written form required by County Code.

(2) The proposed amendment shall be referred to Joint Planning Commission for review and recommendation.

(3) Property owners whose land is the subject of a proposed amendment shall be allowed to present oral or written comments to the Joint Planning Commission. If oral or written comments are to be presented by the property owner, the Commission shall give other interested members of the public, including adjoining property owners, 10-days' notice and allow them to comment in the same manner.

(4) Joint Planning Commission review shall include a determination of whether the proposed amendment is in conformity with the Newberry County Comprehensive Plan.

(5) The Joint Planning Commission shall file with County Council its report and recommendation on the proposed amendment within 30 days after receipt. If the Commission does not make a recommendation to approve, approve with conditions, deny, or defer a decision on a proposed amendment within 30 calendar days after the petition has been referred to it, then the Commission shall be considered to have recommended approval of the proposed amendment.

(6) Notice of a public hearing before County Council shall be published in a newspaper of general circulation in the County at least 15 days prior to hearing.

(7) Notices of public hearing shall be posted on or adjacent to property to be rezoned at least 15 days prior to the hearing, with 1 notice visible from each street bordering the property. Posted notices shall contain letters not less than 1 inch in height.

(8) Notice of public hearing shall be mailed at least 15 days prior to the hearing to adjacent landowners and groups which have filed a written request for notices.

(9) County Council may introduce an amendment ordinance for first reading and hold a public hearing on the same date. Joint Planning Commission recommendation shall be reviewed and considered.

(10) County Council, after receiving the recommendation of the Joint Planning Commission, shall within a reasonable time either reject the proposed amendment or approve the proposed amendment, with or without modifications, or defer action until it has time to consider any new evidence. County Council may adopt or reject the amendment ordinance per the requirements of § 31.57 of the Newberry County Code of Ordinances. Map amendments may be adopted or rejected for all or any portion of the property; however, a zoning district designation which was not included in the public notices shall not be adopted. An amendment may be withdrawn in writing by the initiator at any time prior to final action by County Council. A withdrawn amendment is not subject to the 12-month limitation in division (B)(4).

(11) Following action by County Council, any necessary changes per the amendment shall be made to the copy of the zoning ordinance maintained by Zoning Administrator and in the official copy of the County Code maintained by the County Clerk to Council. All adopted map amendments shall be reflected on the official zoning map.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.055 ENFORCEMENT.

(A) *Penalties generally.* Where any building, structure or sign is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure, sign or land is or is proposed to be used in violation of this chapter, the Zoning Administrator may in accordance with the provisions of S.C. Code § 56-7-80, as amended, issue an ordinance summons, or institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate the violation or to prevent the occupancy of the building, structure or land. Each day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues shall be deemed a separate offense.

(B) *Specific remedies.* Specific remedies for the violation of any provision of this chapter include the following:

(1) *Permit revocation.* The Zoning Administrator may revoke any zoning permit issued by staff after written notification to the permit holder when violations of this chapter have occurred, when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or site plan, or a permit has been mistakenly issued in violation of this chapter.

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

(3) *Withholding of permits.* The Zoning Administrator shall deny a zoning permit for any use or work which fails to comply with this chapter. The Zoning Administrator or other appropriate official shall withhold all other county permits for work which violates this chapter.

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

(5) *Criminal penalties.* Any person violating any provision of this chapter shall upon conviction be guilty of a misdemeanor and shall be fined as determined by the court for each offense.

(6) *Injunction.* Enforcement of the provisions of this chapter may also be achieved by injunction. When a violation occurs, the Zoning Administrator may, either before or after the institution of other authorized action, apply to the appropriate division of court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

(7) *Order of abatement.* In addition to an injunction, the Zoning Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

- (a) Buildings or other structures on the property be closed, demolished, or removed;
- (b) Fixtures, furniture or other moveable property be moved or removed entirely;
- (c) Improvements, alterations, modifications or repairs be made; or
- (d) Any other action be taken that is necessary to bring the property into compliance with this chapter.

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

(D) *Ordinance summons.* The Zoning Administrator is authorized to issue an ordinance summons pursuant to county code provisions for violations of this chapter.

(Ord. 06-11-16, passed 9-21-2016)

ZONING DISTRICT REGULATIONS

§ 153.067 ESTABLISHMENT OF ZONING DISTRICTS.

The following zoning districts are hereby established.

District	Primary Uses	Minimum Residential Lot Size*
District	Primary Uses	Minimum Residential Lot Size*
<i>Primary Zoning Districts</i>		
R2	Rural	1 acre
RS	Single-Family Residential	20,000 sq. ft.
RSV	Single-Family Residential	20,000 sq. ft.
RSM	Single-Family Residential	15,000 sq. ft.
RG	General Residential	10,000 sq. ft.
LC	Limited Commercial	None
GC	General Commercial	None
IND	Industrial	None
PDD	Planned Development District	None
<i>Overlay Districts</i>		
CPO	Corridor Protection Overlay District	None
AP	Airport Overlay District	None
* Or per applicable SC DHEC requirements		

(Ord. 06-11-16, passed 9-21-2016)

§ 153.068 PURPOSE OF DISTRICTS.

(A) *Generally.*

(1) The zoning districts established in this chapter are for the purposes of guiding development in accordance with existing and future needs and promoting public health, safety, morals, convenience, order, appearance, prosperity, and general welfare, and all of the purposes set forth in S.C. Code §§ 6-29-710 *et seq.* This section sets forth the general purposes of the various zoning districts, however the specific regulations relating to permitted uses, conditional uses, and special exceptions are set forth in § 153.073 - Zoning District Table of Permitted uses, §§153.088 *et seq.* - Conditional Uses, and §§ 153.136 *et seq.* - Special Exceptions.

(2) The residential district regulations are designed to encourage a stable and healthy environment for residential purposes and to discourage encroachment by commercial, industrial, or other uses adversely affecting the residential character of the district. Any reference to residential districts in this chapter includes only the RS, RSV, RSM and RG districts.

(B) *Primary zoning districts.* Each primary use district serves a different purpose and imposes its own set of requirements and restrictions on the use of land in addition to the general requirements and restrictions imposed on all land or uses within the county.

(1) *R2 - Rural District.* The district is intended to be rural in nature, allowing low density residential uses including manufactured housing on individual properties, as well as home occupations, family day care, agriculture, forestry, hunting, and religious uses, but also accommodating complementary and associated uses such as recreation, government services, and appropriate service, commercial and industrial uses.

(2) *RS - Single-Family Residential District.* The RS District is intended to be residential with single-family, site-built dwellings and low population densities. Compatible uses such as home occupations, K-12 education, limited recreation, and religious uses are also allowed. Manufactured homes and businesses are not permitted.

(3) *RSV - Single-Family Residential District.* The RSV District is intended to be residential with detached single-family, site-built dwellings, typically in platted subdivisions, with low population densities. Compatible uses such as home occupations, K-12 education, limited recreation, religious uses, and limited use of recreational vehicles on a temporary basis for recreation are also allowed. Manufactured homes are not permitted.

(4) *RSM - Single-Family Residential District.* The RSM District is intended to be residential with detached single-family dwellings, including manufactured homes on individual properties, and low population densities. Compatible uses such as home occupations, K-12 education, and limited recreation and religious uses are also allowed.

(5) *RG - General Residential District.* The RG District is intended to accommodate a wide range of residential uses including detached single-family (site-built and manufactured homes), duplexes, multi-family, townhouses, and patio homes at higher population densities. Compatible uses such as home occupations, K-12 education, day care, recreation, and religious uses are also allowed. Manufactured home parks may be permitted as a special exception.

(6) *LC - Limited Commercial District.* The LC District is intended to accommodate a range of residential and lower intensity non-residential uses including office, institutional, single-family and multi-family residential, healthcare, food service, accommodations, and neighborhood commercial and service uses. The district is generally characterized by a mixture of residential and business uses along major thoroughfares.

(7) *GC - General Commercial District.* The GC District is intended to accommodate a variety of general commercial and non-residential uses characterized primarily by retail, including shopping centers; wholesale; offices; educational institutions; healthcare, including hospitals; arts and entertainment; and service establishments in commercially-oriented areas.

(8) *IND - Industrial District.* The IND District is established to accommodate a wide variety of industrial uses involving research, manufacturing, processing, assembly, warehouses, and mining.

(9) *PDD - Planned Development District.* PDDs are individually designated by Council by zoning amendment, for which an approved development plan constitutes the district regulations. The district is intended to use the factors of efficiency, economy, flexibility, creative site design, improved appearance, mixture of uses, and maximize benefits from open space, safe and efficient vehicular and pedestrian access in a development characterized by a unified site design for mixed uses. A Planned Development District must include a mixture of residential and non-residential uses, and may be proposed in any part of the county.

(C) *Overlay Districts.* Overlay districts are established to provide for certain additional requirements or to establish special development requirements for permitted uses. Where overlay districts exist and there is a conflict between the requirements specified between the overlay and the underlying (primary) district, the standards of the overlay district shall prevail. Otherwise, the standards of the underlying (primary) district shall also be in effect for any area additional zoned as an overlay district.

(1) *CPO - Corridor Protection Overlay District.* The corridor protection overlay district is designed to preserve and enhance the overall visual appearance and quality of important roadway corridors within the county in order to preserve property values, promote economic development, and protect the image of Newberry County.

(2) *AP - Airport Land Use and Height Restriction Overlay District.* The purpose of the Airport Land Use and Height Restriction Overlay District (Airport Overlay District) is to promote compatibility between airport operations and neighboring

land uses and to protect public health and safety by preventing the establishment of obstructions and hazards to aircraft in the vicinity of the Newberry County Airport.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.069 DISTRICT BOUNDARIES ON OFFICIAL ZONING MAP.

The boundaries of the zoning districts established by this chapter are hereby established on a map or maps entitled official zoning map of Newberry County, SC, which map or maps is declared to be a part of this zoning ordinance.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.070 OFFICIAL ZONING MAP.

The official zoning map shall be maintained by the Zoning Administrator. All zoning district boundaries shall be clearly shown on the Zoning Map, and amendments shall be recorded as soon as practicable after adoption. The official Zoning Map shall be available for public inspection in the Office of the Zoning Administrator. The official zoning map and any amendments adopted by County Council shall constitute the final authority for determination of zoning district boundaries. It shall be unlawful for any person to make unauthorized changes to the official zoning map.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.071 INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

(A) *Generally.* Where uncertainty exists as to the boundaries of any zoning district, the following general rules of interpretation shall apply. It is the duty of the Zoning Administrator to interpret the location of zoning district boundaries. An appeal from an interpretation of finding of the Zoning Administrator may be taken to the Board of Zoning Appeals as specified in § 153.048(C)(6)(a).

(B) *General rules of interpretation.*

(1) District boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow the center lines.

(2) District boundaries indicated as approximately following platted property lines shall be construed as following the property lines.

(3) District boundaries indicated as approximately following county limits shall be construed as following the county limits.

(4) District boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(5) District boundaries indicated as following center lines of stream beds or other bodies of water shall be construed to follow the center lines.

(6) Supplementary flood plain and floodway boundaries indicated as following the U.S. Army Corps of Engineers 100-year flood plain line or the floodway line shall be construed to follow such lines.

(7) District boundaries indicated as approximately parallel to, or extensions of, features indicated in this section shall be so construed and at the distance therefrom as indicated on the official zoning map. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(8) Where a district boundary line as appearing on the official zoning map divides a lot in single ownership at the time of adoption of this chapter or subsequent amendment into 2 different zoning districts, the district least restrictive in the opinion of the owner shall be deemed to apply to the whole thereof. Provided, however, that in no case shall a zoning district boundary line dividing the lot be extended into either district in excess of 50 feet beyond the district boundary line dividing the lot.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.072 LOT DIVIDED BY ZONING DISTRICT BOUNDARIES.

No structure or accessory use may be placed, structurally altered, or have a change in use where the structure or use is or would be included within 2 or more zoning districts unless the structure or use conforms to the requirements of all applicable districts.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.073 ZONING DISTRICT TABLE OF PERMITTED USES.

(A) *Establishment of table.* The uses permitted in the residential, mixed use and non-residential zoning districts established by § 153.067 are set forth in the table of permitted uses provided in division (D).

(B) *Determination of use category.*

(1) The North American Industry Classification System (NAICS), 2017, as amended, is the basis for determining the

use of property permitted in the various zoning districts. The Zoning Administrator shall make a determination as to whether or not any proposed use is permitted within the County's zoning jurisdiction based on the uses listed in division (D) of this section. Whenever it is not clear whether a proposed use is or is not permitted, the Zoning Administrator shall consult the 2017 North American Industrial Classification System (NAICS) to help make a determination. Any use not specifically listed in this section and any proposed use not substantially similar to a listed use as determined by the Zoning Administrator after consultation with the County Administrator and County Attorney shall be deemed to be prohibited.

(2) Uses not listed in the NAICS codes are identified by the symbol "NA" (Not Applicable) in the NAICS column.

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

(4) Where the symbol "C" is shown, the use to which it refers is conditionally permitted in the indicated district, subject to applicable conditions and requirements provided in §§ 153.088 *et seq.* Conditional uses are subject to all other applicable regulations of this zoning ordinance.

(5) Where the symbol "SE" is shown, the use to which it refers may be permitted only if reviewed and approved as a special exception, in accordance with the special exception provisions in §§ 153.136 - Special Exceptions and upon compliance with the general conditions provided in that section. Special exception uses are subject to all other applicable regulations of this zoning ordinance.

(6) Where a dash (-) is shown on the table, the use to which it refers is not permitted in the indicated district.

(C) *Determination of principal use.* When multiple principal uses are proposed for a development site, each principal use shall be classified separately by the Zoning Administrator and shall be subject to all applicable regulations for that use.

(D) *Zoning district table of permitted uses.*

ZONING DISTRICT TABLE OF PERMITTED USES										
Description of Use	2017 NAICS	R2	RS	RSV	RSM	RG	LC	GC	IND	C/SE Reference
ZONING DISTRICT TABLE OF PERMITTED USES										
Description of Use	2017 NAICS	R2	RS	RSV	RSM	RG	LC	GC	IND	C/SE Reference
RESIDENTIAL										
Cluster Development, Single-Family	NA	C	C	C	C	C	-	-	-	§ 153.090
Dwelling, Above Non-residential Use	NA	C	-	-	-	-	C	C	-	§ 153.091
Dwelling, Duplex	NA	P	-	-	-	P	P	-	-	
Dwelling, Multi-Family	NA	-	-	-	-	SE	-	-	-	§ 153.138
Dwelling, Single-Family Attached - Patio Home - Townhouse	NA	-	-	-	-	C	-	-	-	§ 153.092
Dwelling, Single-Family Detached	NA	P	P	P	P	P	P	-	-	
Dwelling, Zero Lot Line	NA	-	-	-	C	C	C	-	-	§ 153.093
Equestrian Subdivision Development	NA	C	-	-	-	-	-	-	-	§ 153.094
Manufactured Home (built after June 15, 1976) on individual property	NA	P	-	-	P	P	-	-	-	
Manufactured Home Park	531190	-	-	-	-	SE	-	-	-	§ 153.139
Mobile Home (built before June 15, 1976)	NA	-	-	-	-	-	-	-	-	
Rooming and Boarding House	721310	P	-	-	-	-	P	P	-	
ACCESSORY USES TO RESIDENTIAL USES										

Barns, Silos, Outbuildings for Agricultural Use and Equipment	NA	P	-	-	-	-	-	-	-	
Boat Dock, Private	NA	P	P	P	P	P	P	-	-	
Boat Dock, Community (non-commercial)	NA	P	P	P	P	P	P	-	-	
Domestic Animal Shelters	NA	P	P	P	P	P	P	-	-	
Family Day Care Home	624410	C	C	-	C	C	C	-	-	§ 153.095
Garage Apartment, Accessory to Single-family Dwelling	NA	P	C	C	C	C	-	-	-	§ 153.096
Garage for Motor Vehicle, Private	NA	P	P	P	P	P	P	-	-	
Garden and Greenhouse, Private (non-commercial)	NA	P	P	P	P	P	P	-	-	
Home Occupation	NA	C	C	C	C	C	C	-	-	§ 153.097
Horse Stables, Horses for Personal Recreational Use	NA	P	C	C	C	C	P	-	-	§ 153.098
Junked Vehicle Storage	NA	C	C	C	C	C	C	C	C	§ 153.099
Open Parking Area for 1 Commercial Motor Vehicle per DU	NA	P	-	-	P	P	P	-	-	
Private Swimming Pool with Deck, Bath House or Cabana	NA	P	P	P	P	P	P	-	-	
Private Tennis Court, picnic facilities, Other Outdoor Recreation	NA	P	P	P	P	P	P	-	-	
Private Residential Community Recreation, Community Center, Common Area, or Storage Area (within residential community)	NA	P	P	P	P	P	P	-	-	
Structure for Storage of Building or Lot Maintenance Equipment	NA	P	P	P	P	P	P	-	-	
EDUCATION										
College or University	6113	C	-	-	-	-	P	P	-	§ 153.089
Community or Junior College	6112	C	-	-	-	-	P	P	-	§ 153.089
Elementary, Intermediate or Middle School, Public and Private	6111	P	P	-	P	P	P	P	-	
Kindergarten, Public and Private	6111	P	P	-	P	P	P	P	-	
Other Schools and Places of Instruction	6116	C	-	-	-	-	P	P	-	§ 153.089
Preschool	624410	P	P	-	P	P	P	P	-	
Professional School	6114	C	-	-	-	-	-	P	-	§ 153.089
High School, Public and Private	6111	P	P	-	P	P	P	P	-	
Vocational, Technical and Trade School	6115	C	-	-	-	-	-	P	P	§ 153.089
HEALTH CARE AND SOCIAL SERVICES										
Ambulance and EMS Services	62191 0	C	-	-	-	-	P	P	-	§ 153.089
Community Care and Assisted Living Facilities for the Elderly	62331 4	C	-	-	-	-	P	P	-	§ 153.089

Day Care Centers, Child and Adult	624410	C	C	-	C	C	C	C	-	§ 153.089
	624120									§ 153.100
Home Health Care services	6216	C	-	-	-	-	P	P	-	§ 153.089
Hospital, General	6221	C	-	-	-	-	-	C	-	§ 153.089
										§ 153.101
Hospital, Psychiatric and Substance Abuse	6222	C	-	-	-	-	-	C	-	§ 153.089
										§ 153.101
Hospital, Other Specialty	6223	C	-	-	-	-	-	C	-	§ 153.089
										§ 153.101
Laboratory, Medical and Diagnostic	6215	C	-	-	-	-	-	P	-	§ 153.089
Nursing Home	6231	C	-	-	-	-	C	C	-	§ 153.089
										§ 153.102
Other Ambulatory Health Care Services	6219	C	-	-	-	-	P	P	-	§ 153.089
Outpatient Care Centers	6214	C	-	-	-	-	P	P	-	§ 153.089
Physician, Dentist, Other Health Care Practitioner Office	6211									
	6212	C	-	-	-	-	P	P	-	§ 153.089
	6213									
Social Services and Assistance	624	C	-	-	-	-	P	P	-	§ 153.089
GOVERNMENT										
Correctional Institution, County	922140	C	-	-	-	-	-	P	-	§ 153.089
Correctional Institution, Other	922140	SE	-	-	-	-	-	SE	-	§ 153.137
										§ 153.140
Executive, Legislative, General Government	921 926	C	-	-	-	-	P	P	P	§ 153.089
Fire Services	92216 0	C	-	-	-	-	P	P	P	§ 153.089
Judicial Building	922110	C	-	-	-	-	P	P	P	§ 153.089
	922130									
Police Services	922120	C	-	-	-	-	P	P	P	§ 153.089
Post Office	491	P	-	-	-	-	P	P	P	
ARTS, ENTERTAINMENT AND RECREATION										
Amusement Arcade	713120	-	-	-	-	-	-	P	-	
Amusement Ride	713990	-	-	-	-	-	-	P	-	
Art Gallery	712110	-	-	-	-	-	P	P	-	
Artists, Writers and Performers	7115	-	-	-	-	-	P	P	-	
Ball Field	713990	P	-	-	-	-	-	-	-	
Botanical Garden	712130	P	-	-	-	-	P	P	-	
Bowling Center	713950	-	-	-	-	-	-	P	-	
Campground & RV Parks, Commercial	7212	SE	-	-	-	-	-	-	-	§ 153.139
										§ 153.141
Dance Studio	713990	C	-	-	-	-	P	P	-	§ 153.089

Driving Range, Standalone	713990	P	-	-	-	-	-	-	-	
Fairs	711310	C	-	-	-	-	-	-	C	§ 153.103
Fishing, Hunting and Trapping	114	P	-	-	-	-	-	-		
Fitness and Recreational Sports Center	713940	C	-	-	-	-	-	P	-	§ 153.089
Golf Course	713910	P	P	P	P	P	-	-	-	
Hunting Preserve	114210	P	-	-	-	-	-	-	-	
Marina, Public	713930	P	-	-	-	-	-	C	-	§ 153.104
Miniature Golf	713990	C	-	-	-	-	-	P	-	§ 153.089
Museum	712110	C	-	-	-	-	-	P	-	§ 153.089
Nature Park	712190	P	-	-	-	-	P	P	-	
Park with Playground	713990	P	P	P	P	P	-	-	-	
Park and Recreation Facilities	713940 713990	P	-	-	-	-	-	-	-	
Performing Arts Facilities	7111	-	-	-	-	-	-	SE	-	§ 153.089 § 153.142
Racetracks	711212	SE	-	-	-	-	-	-	SE	§ 153.089 § 153.142
Recreational Day Camp	611620	C	-	-	-	-	-	-	-	§ 153.105
Shooting or Archery Range	713990	C	-	-	-	-	-	-	-	§ 153.105
Spectator Sport Complex	71121	SE	-	-	-	-	-	-	SE	§ 153.137 § 153.142
Stadium	711310	-	-	-	-	-	-	-	SE	§ 153.089 § 153.142
Swimming	713940	P	P	P	P	P	P	-	-	
Tennis	713940	P	P	P	P	P	P	-	-	
Zoo	712130	SE	-	-	-	-	-	-	SE	§ 153.137 § 153.143

RELIGIOUS AND RELATED USES

Educational Building, Religious (not including Preschool, School or Daycare uses)	8131	P	P	P	P	P	P	P	-	
Parsonage or Parish House, Accessory to Religious Use	NA	P	-	-	-	-	P	P	-	
Places of Worship	8131	P	P	P	P	P	P	P	P	
Recreation Facility, Accessory to Religious Use	8131	P	-	-	-	-	P	P	-	
Religious Organizations	8131	P	P	P	P	P	P	P	-	

CIVIL AND SOCIAL ORGANIZATIONS

Clubs, Civic and Social	8134	-	C	-	-	-	-	P	-	§ 153.089
Clubs, Civic and Social - no alcohol sales	8134	P	-	-	-	-	P	P	-	

ACCOMMODATION AND FOOD SERVICES

Bed & Breakfast Inn	721191	C	-	-	-	-	P	P	-	§ 153.089
Brewpub	7225 312120	C	-	-	-	-	P	P	-	§ 153.089
Drinking Places, Bars	7224	C	-	-	-	-	P	P	-	§ 153.089
Hotels and Motels	72111	C	-	-	-	-	-	P	-	§ 153.089
Mobile Food Trucks and Trailers	722330	C	-	-	-	-	C	C	C	§ 153.128
Restaurant and other eating places	7225	C	-	-	-	-	P	P	-	§ 153.089
Special Food Service	7223	C	-	-	-	-	P	P	-	§ 153.089
OTHER SERVICES										
Administrative and Support Services	561	C	-	-	-	-	P	P	-	§ 153.089
Automotive Service, Repair and Maintenance	8111	C	-	-	-	-	P	P	-	§ 153.089
Car Wash	811192	C	-	-	-	-	P	P	-	§ 153.089
Carpet and Upholstery Cleaning	561740	C	-	-	-	-	P	P	-	§ 153.089
Cemetery	812220	C	-	-	-	-	C	-	-	§ 153.125
Dry Cleaning and Laundry	8123	C	-	-	-	-	P	P	-	§ 153.089
Funeral Home, Crematories	812210 812220	C	-	-	-	-	P	P	-	§ 153.089
Grant Making and Giving Services	8132	C	-	-	-	-	P	P	-	§ 153.089
Kennel, Other Pet Care Services	812910	C	-	-	-	-	C	C	-	§ 153.089 § 153.106
Landscaping Service	561730	C	-	-	-	-	-	-	-	§ 153.089
Large Animal Processing	311611	C	-	-	-	-	-	-	-	§ 153.089 § 153.126
Personal Care Services (including Barber & Beauty shops, Nail Salons, Day Spas), excluding Tattoo Parlors and Sexually Oriented Businesses (NAICS 812199)	8121	C	-	-	-	-	P	P	-	§ 153.089
Repair, Electronic and Precision Equipment, Commercial and Industrial Machinery and Equipment	8112 8113	C	-	-	-	-	P	P	-	§ 153.089
Repair, Personal and Household Goods	8114	C	-	-	-	-	P	P	-	§ 153.089
Sexually Oriented Business	812199	-	-	-	-	-	-	SE	-	§ 153.144
Social Advocacy, Business, Professional and Similar Organizations	8133 8139	C	-	-	-	-	P	P	-	§ 153.089
Tattoo or Body Piercing Establishment	812199	-	-	-	-	-	-	P	-	
Taxidermy	711510	C	-	-	-	-	-	C	-	§ 153.089 § 153.127
Wedding Event Venue	812990	C	-	-	-	-	-	-	-	§ 153.089
COMMERCIAL - RETAIL										

Automotive Parts, Accessories and Tire Stores	4413	C	-	-	-	-	-	P	-	§ 153.089
Bakery	445291	C	-	-	-	-	P	P	-	§ 153.089
Beer, Wine and Liquor Store	4453	C	-	-	-	-	-	P	-	§ 153.089
Building Materials and Supplies	4441	C	-	-	-	-	-	P	-	§ 153.089
Clothing and Accessories Store	448	C	-	-	-	-	P	P	-	§ 153.089
Convenience Store with fuel pumps	447110	C	-	-	-	-	P	P	-	§ 153.089
Convenience store, without fuel pumps	445120	C	-	-	-	-	P	P	-	§ 153.089
Courier Services	492	C	-	-	-	-	P	P	P	§ 153.089
Furniture, Home Furnishings, Electronics, Appliance Store	442 443	C	-	-	-	-	P	P	-	§ 153.089
Gasoline Station, without convenience store	447190	C	-	-	-	-	P	P	-	§ 153.089
General Merchandise Stores	452	C	-	-	-	-	P	P	-	§ 153.089
Grocery and Beverage Store	445	C	-	-	-	-	P	P	-	§ 153.089
Health and Personal Care Store	446	C	-	-	-	-	P	P	-	§ 153.089
Jewelry Store	448310	C	-	-	-	-	P	P	-	§ 153.089
Manufactured Home Dealer	453930	C	-	-	-	-	-	P	-	§ 153.089
Mini-warehouse and Commercial Personal Storage	531130	C	-	-	-	-	-	C	C	§ 153.089 § 153.107
Motor Vehicle Dealers	4411 4412	C	-	-	-	-	-	P	-	§ 153.089
Non-store Retailers	454	C	-	-	-	-	P	P	-	§ 153.089
Nursery, Lawn/Garden Equipment and Supplies, Farm Supplies	4442	C	-	-	-	-	P	P	-	§ 153.089
Roadside Fruit and Vegetable Markets	445230	P	-	-	-	-	P	P	-	
Sporting Goods, Hobby, Music, Book Store	451	C	-	-	-	-	P	P	-	§ 153.089
Store Retailers, Other Miscellaneous (excluding NAICS 453930 - Manufactured Home Dealer)	453	C	-	-	-	-	P	P	-	§ 153.089
Vending Machine Operators	4542	C	-	-	-	-	P	P	-	§ 153.089
COMMERCIAL - WHOLESALE										
Chemical and Allied Products, Wholesale	424690	-	-	-	-	-	-	-	SE	§ 153.145
Durable and Nondurable Goods, Wholesale Trade (excluding NAICS 424690, 42393, 424710, 423140)	42	C	-	-	-	-	-	P	-	§ 153.089
Petroleum Bulk Stations and Terminals, Wholesale	424710	-	-	-	-	-	-	-	SE	§ 153.145
Salvage and Scrap Operations; Recyclable Materials Merchant, Wholesale; Used Motor Vehicles Parts, Wholesale; Junkyards	42393 0 423140	SE	-	-	-	-	-	-	SE	§ 153.137 § 153.146

INFORMATION										
Broadcasting and Telecommunication (except NAICS 5172 communications towers)	515 517	C	-	-	-	-	P	P	-	§ 153.089
Information and Data Processing	518 519	C	-	-	-	-	P	P	-	§ 153.089
Motion Picture Production (except 512131 and 512132)	5121	C	-	-	-	-	-	-	P	§ 153.089
Movie Theater (not drive-in)	512131	C	-	-	-	-	P	P	-	§ 153.089
Movie Theater (drive-in)	512132	SE	-	-	-	-	-	-	-	§ 153.137 § 153.147
Newspaper and Software Communications and publishing	511	C	-	-	-	-	P	P	P	§ 153.089
Communication Tower, Cell and Antennas	517312	C	SE	SE	SE	SE	C	C	C	§ 153.108 § 153.148
PROFESSIONAL AND OFFICE										
Contractors, All Types	23	C	-	-	-	-	-	-	P	§ 153.089
Finance and Insurance	52	C	-	-	-	-	P	P	-	§ 153.089
Pawn Shops	531	C	-	-	-	-	P	P	-	§ 153.089
Professional, Scientific and Technical Services and Offices (excluding NAICS 54194 Veterinary Services)	54	C	-	-	-	-	P	P	-	§ 153.089
Real Estate, Sales and Leasing	531	C	-	-	-	-	P	P	-	§ 153.089
Rental and Leasing	532	C	-	-	-	-	P	P	-	§ 153.089
Veterinary Services	541940	C	-	-	-	-	C	C	-	§ 153.089 § 153.109
INDUSTRIAL - PROCESSING, MANUFACTURING, WAREHOUSING, DISTRIBUTION										
Fuel dealer	454310	-	-	-	-	-	-	-	P	
Manufacturing, Limited, combination of structures is 3,000 sq. ft. or less	3112, 3114, 3115, 3118, 3119, 3121, 315, 3162, 3169, 323, 327110, 327999, 332, 333314, 334, 336991, 337, 339	C	-	-	-	-	-	-	P	§ 153.089
Manufacturing, Limited, combination of structures exceeds 3,000 sq. ft.	3112, 3114, 3115, 3118, 3119, 3121, 315, 3162, 3169, 323, 327111, 327999, 332, 333314, 334, 336991, 337, 339	SE	-	-	-	-	-	-	P	§ 153.137
Manufacturing, All Types (excluding NAICS 324 and 32592)	31, 32, 33	-	-	-	-	-	-	-	P	
Manufacturing, Petroleum & Coal Products	324	-	-	-	-	-	-	-	SE	§ 153.149
Manufacturing, Explosives	325920	-	-	-	-	-	-	-	SE	§ 153.149
Warehousing and Storage	493	C	-	-	-	-	-	C	P	§ 153.089 § 153.110
TRANSPORTATION										

Air Transportation, Public (including NAICS 48111 Air Traffic Control)	4811	-	-	-	-	-	-	-	C	§ 153.111
Air Transportation, Private (including associated hangers and runways)	48121	C	-	-	-	-	-	-	C	§ 153.112
Air Transportation Support	4881	-	-	-	-	-	-	-	C	§ 153.111
Bus and Rail Terminals	488490 488210	-	-	-	-	-	-	C	P	§ 153.113
Transit and Ground Passenger Transportation	485	-	-	-	-	-	-	P	P	
Transportation Support Activities (excluding NAICS 4881, 488490, 488210)	488	C	-	-	-	-	-	P	P	§ 153.089
UTILITIES AND INFRASTRUCTURE										
Compost Facilities	562219	C	-	-	-	-	-	-	-	§ 153.089
Electric Power Generation, not including solar farm (NAICS 221114)	22111	C	-	-	-	-	-	-	P	§ 153.089
Landfill, Class One and Two	562212	SE	-	-	-	-	-	-	-	§ 153.137 § 153.150
Renewable Power Generation, Non-commercial, not including solar farm (NAICS 221114)	NA	C	-	-	-	-	-	-	P	§ 153.089
Sewage Treatment Facilities	22132	C	-	-	-	-	-	-	P	§ 153.089
Solar Farm	221114	SE	-	-	-	-	-	-	C	§ 153.124 § 153.156
Waste Management and Remediation Services (excluding NAICS 562212)	562	SE	-	-	-	-	-	-	P	§ 153.137 § 153.151
Water Tower	221310	P	-	-	-	-	-	-	P	
Water Treatment Plants	221310	C	-	-	-	-	-	-	P	§ 153.089
Utility, Public Utility Office or Operations Center only	22	C	-	-	-	-	P	P	-	§ 153.089
NATURAL RESOURCES - AGRICULTURE, FORESTRY, MINING/EXTRACTIVE										
Agricultural and Forestry Support Activities	115	P	-	-	-	-	-	-	-	
Agriculture, Related Structures	111 112	P	-	-	-	-	-	-	-	
Animal Production (except as otherwise listed)	112	P	-	-	-	-	-	-	-	
Animal Slaughtering, not including poultry	311611	SE	-	-	-	-	-	-	-	§ 153.152
Concentrated Animal Feeding Operations, all except Swine	112 112112 1123	C	-	-	-	-	-	-	-	§ 153.114
Concentrated Animal Feeding Operations, Swine	1122	SE	-	-	-	-	-	-	-	§ 153.152
Aquaculture	1125	P	-	-	-	-	-	-	-	

Auctions, Livestock Wholesale	424520 424590	SE	-	-	-	-	-	-	-	§ 153.153
Cattle Ranching and Farming	112111	P	-	-	-	-	-	-	-	
Crop Production	111	P	-	-	-	-	-	-	P	
Horses and Other Equine Production	112920	P	-	-	-	-	-	-	-	
Farmer's Markets per DHEC	445230	P	-	-	-	-	-	-	-	
Forestry and Logging	113	P	-	-	-	-	-	-	P	
Mining	212	SE	-	-	-	-	-	-	SE	§ 153.154
Mining Support Activities	213	SE	-	-	-	-	-	-	SE	§ 153.154
Nursery and Tree Production (including retail of plants grown on and offsite and associated compatible products)	111421	P	-	-	-	-	-	-	-	
Poultry Hatcheries	112340	P	-	-	-	-	-	-	-	
ACCESSORY USES TO NON-RESIDENTIAL USES										
Agritourism as defined in the S.C. Code of Laws, Accessory to Agricultural Uses	NA	P	-	-	-	-	-	-	-	
Completely Enclosed Building for Storage of Supplies or Merchandise for Use in the Principal Business or Industry	NA	P	-	-	-	-	P	P	P	
Helipad, Accessory to Commercial and Industrial Uses	488119	C	-	-	-	-	-	C	C	§ 153.115
Housing, Accessory to Agricultural Use	NA	C	-	-	-	-	-	-	-	§ 153.116
Junked Vehicle Storage	NA	C	C	C	C	C	C	C	C	§ 153.099
Open Outdoor Storage	NA	C	-	-	-	-	C	C	C	§ 153.117
Shed for Storage of Building or Lot Maintenance Equipment for Nonresidential use	NA	P	-	-	-	-	P	P	P	
Solar Farm, Accessory Use	221114	-	-	-	-	-	-	-	C	§ 153.124
Storage, Transport Container	NA	C	-	-	-	-	-	C	P	§ 153.118
TEMPORARY USES										
Contractor office and equipment shed - temporary	23	C	C	C	C	C	C	C	C	§ 153.119
Manufactured Home, Emergency Housing	NA	C	C	C	C	C	-	-	-	§ 153.120
Manufactured Home, Temporary Assistance	NA	SE	SE	SE	SE	SE	-	-	-	§ 153.155
Manufactured Home, Temporary during Construction	NA	C	C	C	C	C	-	-	-	§ 153.121
Portable On-demand Container (POD), as Temporary Storage	NA	C	C	C	C	C	C	C	C	§ 153.122
Recreational Vehicle, as Temporary Accommodation	NA	C	-	C	-	-	-	-	-	§ 153.123
Recreational Vehicle, for Recreational Use Only	NA	P	P	-	P	P	-	-	-	
P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted										

§ 153.074 PDD - PLANNED DEVELOPMENT DISTRICTS.

(A) *Planned Development Districts.*

(1) Planned development districts shall permit a mixture of different types of housing with compatible commercial uses, shopping centers, office parks and other mixed use developments.

(2) Flexibility in design, character, and quality of development and preservation of natural and scenic features are made possible through the approval of a plan which describes the specific uses, densities, setbacks, and other requirements for a planned development district.

(3) The approved plan shall constitute the district regulations for a particular planned development district.

(B) *PDD Requirements.* The following regulations shall apply in all PDD districts. Whenever there is a conflict between these regulations and any other regulations in this chapter, the most stringent shall prevail.

(1) *Permitted uses in PDDs.* Any combination (mix) of uses meeting the objectives of this section may be established in a PDD upon review and approval by the Planning Commission and County Council. Once approved, these uses and no others shall be permitted. Said uses shall be identified as listed per § 153.073(D) - Zoning District Table of Permitted Uses. The list of approved uses shall be binding on the applicant and any successor in title, so long as PDD zoning applies to the land, unless otherwise amended by chapter.

(2) *Mixture of uses required.* For PDDs that are or are planned to be primarily residential, a minimum of 10% of the total gross area of the PDD must be reserved for office, retail, service, live-work units and other non-residential uses that serve the needs of project residents and others in the vicinity of the development. For PDDs that exist or are planned to be primarily non-residential, a minimum of 10% of the total gross area of the PDD must be reserved for residential uses.

(3) *Establishment of PDD Districts.*

(a) PDDs shall be established on the official zoning map by the same procedure as for amendments generally as provided in § 153.054 and in accordance with the requirements of this section.

(b) The developer/applicant shall arrange for preliminary meetings with the Zoning Administrator prior to submitting an application for rezoning.

(c) The Planning Commission will review the conceptual plan and text to ensure conformity with this section and applicable requirements of the Newberry County Subdivision Regulations, Chapter 154; to consider the comments of the staff review; and to obtain and consider public comments concerning the proposed PDD.

(d) Upon approval by County Council, the conceptual plan along with all supporting documentation and text shall constitute the PDD ordinance.

(4) *Infrastructure.* The developer is authorized to begin construction of streets and infrastructure following verification that the preliminary plat complies with all requirements specified by County Council, the Planning Commission, SC DHEC, Chapter 154 - Subdivision Regulations, and other approved conditions including recording of restrictive covenants.

(5) *Plat approval.* Preliminary and final plat approval shall also comply with Chapter 154 - Subdivision Regulations.

(6) *Mapping.* Each PDD shall be identified on the zoning map and in the zoning ordinance by a prefix and number indicating the particular district, as for example "PDD-1," together with whatever other identification appears appropriate.

(7) *Conceptual plan and text requirements.*

(a) A conceptual plan meeting the requirements for site plans contained in §153.049(D) - Application requirements for permits shall be submitted along with a conceptual land use plan for the entire site. A complete application shall also include the following:

1. Additional site plan information provided to scale including: topography, vegetation, drainage, flood plains, wetlands, waterways, landscaping, open spaces, walkways, means of ingress and egress, vehicular circulation, utility services, structures and buildings, signs and lighting, berms, buffers, setbacks, screening devices, surrounding development, and any other information that may reasonably be required for review.

2. Proposed restrictive covenants and property owners' association documents to be recorded to ensure the establishment of any property owners association required to maintain common areas and to verify that no conflicts exist between the requirements of the PDD and those contained within the restrictive covenants. Notwithstanding this provision, Newberry County has no authority or responsibility to enforce deed restrictions.

3. A preliminary development schedule for the completion of roads, infrastructure, buffer yards, and any other proposed improvements for general use.

(b) The Planning Commission may establish additional requirements for conceptual plan approval and, in special cases, may waive a particular requirement if, in the opinion of the Planning Commission, the inclusion of that requirement is not essential to a proper assessment of the project.

(8) *Minimum area required.* Minimum area requirements for establishing a PDD shall be 10 contiguous acres in all

districts.

(9) *Development standards.*

(a) *Density and height requirements.* Residential density, setbacks, impervious surface ratios, and building heights shall be based on the scale of the project in relation to its surroundings and its impact on existing and proposed support facilities. A 20-foot setback will be required along the perimeter of all property lines. The setback from any existing street shall be the lesser of 35 feet or the average setback of existing adjacent houses that front on the same street within 100 feet in either direction of the proposed building. Maximum density is 8 units per acre. Maximum impervious surface ratio is 70%.

(b) *Overall site design.* The overall site design shall be consistent and compatible with adopted plans and policies for the area in which the project is located and with adjacent residential neighborhoods and coordinated with existing infrastructure such as roads and sidewalks.

(c) *Parking and loading.* Off-street parking and loading spaces for each PDD shall comply with the requirements of §§ 153.197 *et seq.* - Parking and Loading Regulations, as applicable, for the various uses proposed for the PDD. Dense development may require supplemental parking areas or wider streets to allow on-street parking in addition to off-street parking requirements.

(d) *Buffers.* A buffer area at least 20 feet in width shall be provided along the exterior perimeter property line. Buffers are not required in the interior of the PDD.

(e) *Streets and infrastructure.* Streets within a PDD must meet the design and construction standards required by the Subdivision Regulations in Chapter 154 of the Newberry County Code of Ordinances.

(f) *Signage.* Signage permitted shall be consistent, appropriately scaled and aesthetically compatible with the proposed PDD and shall comply with the requirements of §§ 153.213 *et seq.* - Sign Regulations.

(g) *Open space.* The site design shall include designated common open space at a percentage appropriate for the size and configuration of the development. Such open space shall comply with the requirements of § 153.185 - Open Space.

(10) *Financial guarantees.* Where public improvements and/or common amenities or infrastructure are proposed, such improvements shall be installed in accordance with a development schedule to be approved as part of the PDD Plan and designed to specifications as required by Chapter 154 Subdivision Regulations. Whenever a land subdivision, as regulated by Chapter 154, is required to implement a PDD, a preliminary plat shall be prepared for review that conforms to all of the requirements of the PDD approval, including the approved conceptual plan and development schedule. No development shall take place onsite until such plat has been approved by the county.

(11) *Administrative action.* Building and zoning permits shall not be issued until the PDD is approved by County Council, and approved plats, the approved plan, and all required restrictive covenants are filed for record with the Clerk of Court for Newberry County, and all required bonds are posted with the Clerk to Council.

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

(a) *Minor changes.* Changes proposed in writing by the applicant which do not alter district boundaries and which involve revision or minor characteristics of the PDD such as revision of floor plans, facades, landscaping, drainage structures, and features which do not substantially alter the approved plan concept, anticipated offsite impacts, or violate any applicable regulations may be approved by the Zoning Administrator. The authority given to the Zoning Administrator to grant such minor changes shall be construed to be permissive and not mandatory and the Zoning Administrator may decline to allow such change. In the event this occurs, the applicant shall have the right to request a major change to the PDD as stipulated in division (b) below.

(b) *Major changes.* Changes proposed in writing by the applicant which alter district boundaries or which substantially alter the characteristics of the PDD shall be submitted under normal zoning amendment procedures applicable to establishment of the PDD.

(13) *Expiration of time limits on PDD Amendments.* The final approved plan for a PDD shall be in effect for a period of 2 years or other specified development schedule. The owner of an approved PDD may apply in writing before the end of the 2-year approval period or other specified development schedule to the Newberry County Planning Commission for an annual 1-year extension. The Planning Commission may approve applications for up to 5 annual extensions of the approval period if a timely and proper written application has been filed with the Planning Commission. If no such application is made, the approval period or extension shall expire at the end of the approval or extension period.

(14) *Failure to begin; failure to progress; failure to complete.* If the responsible party fails to begin, fails to progress, or fails to complete development as agreed in the descriptive statement, County Council may charge the developer with violation of the zoning ordinance, may rezone the property, or may take any combination of these actions. In any event, if the planned development is not initiated within 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.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.075 OVERLAY DISTRICTS.

(A) *Requirements.* The requirements of this section shall apply to the following districts established by §153.067.

(1) **CPO.** Corridor Protection Overlay District.

(2) **AP.** Airport Height and Land Use Protection Overlay District (Airport Overlay District).

(B) *Establishment.* Overlay districts shall be established on the official zoning map by the same procedure as amendments generally, as provided in § 153.054 by defining the boundaries of each district.

(C) *Permitted uses.* Within overlay districts, permitted uses are determined by the “underlying” or primary zoning district. Where such districts overlay a Residential Zoning District, for example, only those uses permitted in the Residential Zoning District shall be permitted in the overlay district, subject to the additional requirements and standards of this section.

(D) *Corridor Protection Overlay District (CPO).* The corridor protection overlay district is designed to preserve and enhance the overall visual appearance and quality of important roadway corridors within the county in order to preserve property values, promote economic development, and protect the image of Newberry County. All regulations and requirements in the underlying zoning districts still apply within the overlay district except that the following uses shall be prohibited: junkyards, landfills, salvage and scrap operations, outdoor storage of any number of junked vehicles, CAFOs, manufactured home parks, commercial campgrounds and RV parks, communications towers, and sexually-oriented businesses. Landscaped road buffers along all road corridors in the CPO are required for new and expanded industrial and commercial uses and large subdivisions as provided in § 153.182 - Buffers and § 153.184 - Landscaping.

(E) *Airport Height and Land Use Protection Overlay District (AP).* The Newberry County Airport Height and Land Use Protection Overlay District (Airport Overlay District) establishes height and land use requirements for airport safety within the vicinity of the Newberry County Airport and provides for the administration, enforcement and amendment thereof.

(1) *Authority.* These provisions are adopted under authority granted by S.C. Code §§ 55-9-240 and 55-9-260.

(2) *Jurisdiction.* This chapter shall be applicable to the area designated within Newberry County in the vicinity of the Newberry County Airport. Graphic representation of the designated area and the requirements of the Airport Land Use and Height Restriction Overlay Zone may be reviewed at the Newberry County Planning and Zoning Department.

(3) *Phrases and abbreviations.* The following phrases and abbreviations pertaining specifically to the regulation of height and land use in the Newberry County Airport Height and Land Use Protection Overlay District shall have the meanings respectively ascribed to them by this division.

AIRPORT. The Newberry County Airport (EOE).

AIRPORT COMMISSION. The Newberry County Airport Commission.

AIRPORT ELEVATION. The highest point of an airport's usable landing area measured in feet (tenths) from mean sea level.

AIRPORT OBSTRUCTION. means any living or man-made structure or tree which obstructs the aerial approaches of the airport exceeding the maximum height of structures permitted in the airport operation area or is otherwise hazardous to its use for landing or taking off.

AIRPORT OPERATION AREA. Refers to all zones established in the Airport Overlay District.

AIRPORT OVERLAY DISTRICT. The Newberry County Airport Height and Land Use Protection Overlay District.

AVIGATION EASEMENT. Ownership of the right of imposition upon such property of overflight, excessive noise, vibration, smoke, dust, vapors, and particulates due to the operation of aircraft to and from the airport. Also includes the right to remove airport obstructions on said property.

CONDITIONAL USE. The associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use, contingent upon attainment of conditions presented (refer to 'C' Conditional Uses in the Airport Overlay District Land Use Matrix Table).

DIMENSIONAL NONCONFORMITY. A situation that occurs when the lot line does not conform to the regulations applicable to the zone in which the property is located.

FAA. The Federal Aviation Administration.

FAR. Federal Aviation Regulation.

HEIGHT. The vertical distance from the ground elevation to the highest point of a structure or tree, including any appurtenance thereon expressed as feet.

HEIGHT LIMITATIONS. No structure or tree shall be erected, altered, allowed to grow or maintained in any airport surface zone, with a height in excess of the height established for such zone. An area located in more than 1 of the Airport Overlay District zones is considered to be only in the zone with the more restrictive height limitation.

LAND USE COMPATIBILITY. The use of land adjacent to the Newberry County Airport that does not endanger the health, safety, or welfare of the owners' occupants, or users of the land.

OPEN SPACE. An area, land or water, generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

PERMITTED USE. The associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use (refer to 'P' Permitted Uses in Airport Overlay District Land Use Matrix Table).

PRECISION INSTRUMENT RUNWAY. A runway end having instrument approach procedure utilizing air navigation facilities with horizontal and vertical guidance, or area type navigation equipment, for which a straight-in precision instrument approach procedure has been approved or planned.

PROHIBITED USE. The associated land use groups are at a level of intensity or density, or location, which presents a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use (refer to Uses Not Permitted 'Dash (-)' in Airport Overlay District Land Use Matrix Table).

RUNWAY END. Existing physical end of the hard-surfaced asphalt runway, having a defined coordinate and elevation.

STRUCTURE. Any object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(4) *Height restrictions and limitations.*

(a) *Height restriction zones established.* In order to carry out this chapter, certain zones are hereby created and established by FAR Part 77, which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surface, and conical surface as they apply to the Newberry County Airport, for the existing runway configurations as per the Airport Layout Plan approved by the FAA on June, 15 2012. Graphic representation of these zones is provided as designated in § 153.075(E)(2). An area located in more than 1 of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones, for both the existing and ultimate runway configurations, are hereby established and defined as follows:

1. Part 77 airspace zones:

A. *Approach zones.* The approach zones are the areas beneath the Part 77 approach surfaces, as defined by 14 C.F.R. Part 77, § 77.19(d), or in successor federal regulations.

B. *Primary zone.* The primary zone is that area of the primary surface, as defined by 14 C.F.R. Part 77, § 77.19(c), or in successor Federal regulations.

C. *Transitional zones.* The transitional zones are the areas beneath the Part 77 transitional surfaces, as defined by 14 C.F.R. Part 77, § 77.19(e), or in successor federal regulations.

D. *Horizontal zone.* The horizontal zone is the area beneath the Part 77 horizontal surfaces, as defined by 14 C.F.R. Part 77, § 77.19(a), or in successor Federal regulations.

E. *Conical zone.* The conical zone is the areas beneath the Part 77 conical surfaces, as defined by 14 C.F.R. Part 77, § 77.19(b), or in successor federal regulations.

(b) *Height limitations.* No structure or tree shall be erected, altered, allowed to grow or maintained in the height restriction zones to a height in excess of the height limit as determined by the airspace surface limitations, including dimensional and slope definitions, appearing on the maps referred to in Section 50 of this Document. The property owner of a tree, determined to be an airport hazard, shall be responsible for bringing such tree into conformance with this chapter.

(5) *Land use restrictions and limitations.*

(a) *Land use restriction zones established.* In order to carry out the requirements of this Airport Overlay District, certain zones are hereby created and established, which include land lying beneath the Airport Land Use Restriction Zones as they apply to the Newberry County Airport. Graphical representation of these zones is provided as designated in § 153.075(E)(2). An area located in more than 1 of the zones described herein is considered to be only in the zone with the more restrictive limitation. There are hereby created and established the following Airport Land Use Restriction Zones:

1. *Zone A.* Zone A is the Runway Protection Zone, as defined in the FAA Advisory Circular 150/5300-13A, Section 310, or in successor FAA advisory circulars.

2. *Zone B1.* Zone B1 is that portion of the Approach Zone, from the outer edge of Zone A to where each approach surface is 150 feet of height above their respective runway end elevations.

3. *Zone B2.* Zone B2 is that portion of the Approach Zone, from the outer edge of Zone B1 to the end of the Approach Zone, or 10,000 feet from inner edge of the Approach Zone, whichever it reaches first.

4. *Zone C.* Zone C is formed by offsetting the primary surface edge outward by 1,050 feet, and extending each of its ends to its respective runway end's approach zone, or extended and squared off at the outer edge of Zone B1, whichever that extension reaches first.

5. *Zone D.* Zone D is those areas of the Transitional and Horizontal Zones not part of Zones A, B1, B2, or C.

6. *Zone E.* Zone E is identical in area, dimensions, and location to the Conical Zone. Each zone is defined geographically for both the existing and ultimate runway configurations, as per the FAA-approved Airport Layout Plan dated June 15, 2012, and the zones are composited into the single Airport Land Use Restriction Zones map such that the most restrictive zone and criteria are applied. The order of the zones from most restrictive to least is A, B1, C, B2, D, and E.

(b) *Land use limitations.* Such applicable land use limitations are hereby established for each of the Airport Land Use Restriction Zones in order to prevent incompatible land uses which would compromise aeronautical activity at the Newberry County Airport, to protect people and property on the ground in case of an accident, to limit population and building density in the runway approach areas, to create sufficient open space, and to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Newberry County Airport, and minimize injury to the occupants of aircraft involved in accidents. The land use limitations within Zones A, B1, B2, C, D, and E as provided in § 153.075(E)(5)(c) Newberry County Airport Overlay District Land Use Matrix Table shall apply to those portions of the parcel contained within the underlying Airport Overlay District zones as indicated on the attached Newberry County Airport Land Use Restriction Zones Map.

(c) *Newberry County Airport Overlay District Land use Matrix Table.* Refer to § 153.075(E)(5)(d) for conditional uses as referenced in this table.

Newberry County Airport Overlay District - Land Use Matrix Table						
Airport Land Use Restriction Zone Designation	Zone A	Zone B1	Zone B2	Zone C	Zone D	Zone E
Newberry County Airport Overlay District - Land Use Matrix Table						
Airport Land Use Restriction Zone Designation	Zone A	Zone B1	Zone B2	Zone C	Zone D	Zone E
RESIDENTIAL						
Dwelling, Single-Family Detached	-	-	C7	-	C7	P
All Other Dwellings, including Temporary Housing	-	-	-	-	C2, C6, C7	P
PUBLIC FACILITIES - INSTITUTIONS, UTILITIES						
Auditorium, Civic-Use Convention Center, Concert Hall	-	-	-	-	C1, C2	P
Cemeteries	-	P	P	-	P	P
Churches, Day Care Centers, Libraries, Museums, Social/Civic Clubs	-	-	-	-	C1, C2	P
Convalescent Facilities, Group Homes, Nursing Homes	-	-	-	-	C2, C6, C7	P
Correctional Facilities, Hospitals, Schools	-	-	-	-	C1, C2	P
Electric Power Plants and Overhead Transmission Lines	-	C1, C2	C1, C2	-	C1, C2	C1, C2
Public Utilities (Excludes Electric Power Plants, Lines)	-	C1, C2	C1, C2	-	C1, C2	C1, C2
Recycling, Solid Waste Transfer Stations	-	C2, C3	C2, C5	C2	C2	C2
Solid-Hazardous Waste, Landfills (excludes Transfer Stations)	-	-	-	-	-	-
RECREATION AND ENTERTAINMENT						
Amusement Parks, Carnivals, Fairs, Outdoor Theaters	-	-	-	-	C6	P
Arcades, Bowling Alleys, Dance and Pool Halls, Skating Rinks	-	-	C5	-	C6	P
Athletic fields, Parks, Picnic Areas, Playgrounds	-	-	-	-	C1, C2	P
Golf Courses, Tennis Courts	-	-	P	-	P	P
Gyms, Health Spas	-	-	C5	-	C6	P
Swimming Pools, Water Park, Water Slides	-	-	P	-	P	P
COMMERCIAL - BUSINESS, RETAIL, SERVICES, OFFICES						
Aeronautical Businesses	-	-	P	P	P	P

Animal Hospital, Kennels, Pet Boarding, Veterinary Clinic	-	C3	C5	-	P	P
Appliance and Equipment Repair Facilities, Vehicle Wash	-	C3	C5	C4	P	P
Banks, Financial Institutions	-	-	C5	-	C6	P
Bed and Breakfast, Hotels, Motels	-	-	C4	-	C6	P
Broadcast Studios	-	-	P	-	P	P
Building & Lumber Materials, Vehicle Sales	-	-	C5	-	P	P
Camping Areas, RV Parks	-	-	C4	-	P	P
Convenient Stores, General Retail Stores/Complexes, Restaurants	-	-	P	-	P	P
Food and/or Beverage Sales	-	-	C5	-	P	P
Gasoline Service Stations	-	-	P	-	P	P
General Offices, Executive Offices, Research Facilities	-	C3	C5	C4	P	P
Home Improvement Centers	-	-	C5	-	C6	P
Indoor Theaters	-	-	C5	-	C6	P
Mass Transit Facility / Depot	-	-	C5	P	C6	P
Modular Self-Storage Facilities, Mini Storage Units	-	C3	C5	C2	P	P
Personal Health Clinics, Personal Care Facilities	-	-	C5	-	P	P
Shopping Malls, Shopping Centers	-	-	C5	-	C6	P
INDUSTRIAL - PROCESSING, MANUFACTURING, WAREHOUSING AND DISTRIBUTION						
Manufacturing, All Types (excluding those under Manufactured, Limited; and Petroleum and Chemical Products and Explosives)	-	-	C5	-	C6	P
Manufacturing, Limited (see Zoning District Table of Permitted Uses for NAICS references)	-	C3	C5	C4	C6	P
Manufacturing and Bulk Storage of Petroleum and Chemical Products and Explosives, Fuel Dealer	-	C3	C5	-	C6	P
NATURAL RESOURCES - AGRICULTURE, FARMING & ANIMAL KEEPING, MINING						
Animal Commodity Sales Yards, Other Animal Feed Lots, Stockyards	-	C2	C2	-	P	P
Animal Processing and Packaging	-	C2, C3	P	-	P	P
Concentrated Animal Feeding Operations (Commercial Hogs, Dairies)	-	P	P	-	P	P
Concentrated Animal Feeding Operations (Commercial Poultry)	-	P	-	-	P	P
Crop Processing and Packaging, Wineries	-	P	P	-	P	P
Crop Production - Dry and Irrigated Farming	C1, C2	P	P	C1, C2	P	P
Equestrian Facilities, Exotic Animals	-	C3	C5	-	P	P
Farmer's Markets, Roadside Stands, Truck Farming	-	C2, C3	C2, C5	-	P	P
Fish Farming, Game Preserves	-	N	C2	-	P	P
Landscape Materials, Nurseries/Greenhouses, Specialty Crops	-	P	P	-	P	P

Pasture and Rangeland Grazing	-	P	P	P	P	P
Mining - Sand, Gravel, Fill Dirt	-	-	C1, C2	-	C1, C2	C1, C2
P = Permitted C = Conditional Dash (-) = Not Permitted *						
* Note: Reference Newberry County Airport Land Use Restriction Zones Map for Location of Zones.						

(d) *Conditional uses.* For all land uses shown as conditional in §153.075(E)(6)(c) - Land Use Matrix Table, the following conditions apply, as applicable.

1. **C1.** Allowed only if use does not interfere with normal airport operations (as defined by the FAA/South Carolina Aeronautics Commission).
2. **C2.** Prohibits uses that constitute a hazard to flight, including but not limited to tall physical objects, glare, dust, or other visual or electric interference to a pilot and aircraft, and uses that may attract hazardous wildlife.
3. **C3.** Use intensity restricted to 5 or less persons per acres; or equivalent per household.
4. **C4.** Use intensity restricted to 15 or less persons per acre; or equivalent per household.
5. **C5.** Use intensity restricted to 25 or less persons per acre in structures/buildings; and 50 or less persons per acre outdoors.
6. **C6.** Use intensity restricted to 100 or less persons per acre.
7. **C7.** Residential land uses permitted, with residential fair disclosure required.

(e) *Other land use requirements.* Future applications made to Newberry County requesting approval of manmade structures, which also require filing a notice with the FAA as per 14 C.F.R. Part 77, § 77.9, or in successor federal regulations, shall first submit a FAA form 7460-1, Notice of Proposed Construction or Alteration, to the FAA for a review of impacts to airspace in the vicinity of the Airport, prior to placing of the request on the Planning Commission meeting agenda. If the FAA determines an adverse impact to the airport's airspace may occur, the FAA decision should serve as governing height limitation for such a man-made structure.

(7) *Nonconformities.*

(a) 1. *Nonconformities - regulations not retroactive.* This regulation shall not be construed to require the alteration of any lot or removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any property or structure for which the construction or alteration was started or for which a building permit was acquired prior to the effective date of this chapter.

2. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to allow the installations operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Newberry County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Newberry County Airport. Reference FAA Advisory Circular 70-7460-1K, or successor advisory circulars, for further guidance.

(b) Existing structures in Airport Overlay District. Except as specifically provided in this section, it is not permissible for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. Physical alteration of structures or the placement of new structures on open land is unlawful if they result in an increase in the total amount of space devoted to a nonconforming use or greater nonconformity with respect to land use limitation.

1. *Abandoned structures.* Whenever the Newberry County Building and Inspection Department Manager determines that a nonconforming structure has been abandoned or more than 80% torn down (or damaged more than 80% of the current county tax value), physically deteriorated, or decayed, no permit shall be granted that would allow such structure to otherwise deviate from the height and land use regulations.

2. *Temporary structures.* Temporary structures constructed or erected incidental to a development, and solely used for the designated purpose, can only remain while needed and for a maximum of 1 year.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.076 LAND DEVELOPMENT AGREEMENTS.

(A) *Findings.* The County Council finds that the General Assembly has enacted legislation known as the "South Carolina Local Government Development Agreement Act", codified as S.C. Code § 6-31-10 *et seq.*, authorizing, in certain circumstances, the execution of land development agreements to encourage comprehensive and capital facilities planning, to ensure the provision of adequate public facilities for development, to encourage the efficient use of resources, and to reduce the economic cost of development. The County Council finds and determines that land development agreements may be useful to both the private and public sector by providing certainty in zoning, by setting forth a reasonable schedule of development and by enhancing the opportunity for comprehensive, planned development, and enacts this section in

furtherance of the authority evolved upon it by the South Carolina Local Development Agreement Act.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEVELOPER. A person, including a governmental agency, who intends to undertake any development and who has a legal or equitable interest in the property to be developed.

DEVELOPMENT. The planning for or the carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into 3 or more parcels. As designated in a law or a development permit, **DEVELOPMENT** includes the planning for and all other activity customarily associated with it unless otherwise specified.

DEVELOPMENT PERMIT. Includes a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action of local government having the effect of permitting the development of property

GOVERNING BODY. The County Council of Newberry County. South Carolina.

LAND DEVELOPMENT REGULATIONS. Ordinances and regulations enacted by the governing body for the regulation of any aspect of development, including local government zoning, rezoning, sub-division, building construction, or sign regulations or any other regulation controlling the development of property.

LAWS. All ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies and rules adopted by the governing body, or its affiliated committees, boards or commissions, affecting the development of property, including laws governing permitted use of property, governing density, and governing design, improvement and construction standards and specifications.

PERSON. An individual, corporation, business or land trust, estate, partnership, association, 2 or more persons having a joint or common interest, state agency or any legal entity.

PROPERTY. All real property subject to land use regulation by the governing body, including any improvements or structures customarily regarded as part of real property.

PUBLIC FACILITIES. Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks, recreational and health systems and facilities.

ZONING ADMINISTRATOR. The person charged by the governing body with overseeing the implementation and interpretation of land development regulations pertaining to the development of property.

(C) *Application.*

(1) Any person seeking a land development agreement with the county shall make application to the Zoning Administrator or to such other person as the governing body may designate.

(2) The application shall incorporate a statement setting forth the objectives of the development and the benefits that will inure to the public as a result. The application shall include a legal description of the property subject to the agreement, which property must contain a minimum of 25 acres of highland (wetlands excluded), and the names of its legal and equitable owners; the proposed duration of the agreement, which must be consistent with South Carolina Local Government Development Agreement Act, S.C. Code § 6-31-40; the development uses permitted on the property, including population densities and building intensities and height; a description of public facilities that will service the property, including the identity of who is to construct and/or provide the facilities, the date that any new public facilities, if needed, will be constructed, and a schedule to verify that public facilities will be available concurrent with the impacts of the development; a description, where appropriate, of any reservation or dedication of land for public purposes; any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of application; a description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(3) The application shall also include the current and, if applicable, requested zoning of the property, and a site analysis, prepared by a registered engineer or surveyor, showing the location of existing manmade features where major circulation systems are proposed; general topographic information from topographic maps or other suitable maps, using a contour interval not exceeding 2 feet; and the location and description of identified cultural resources.

(4) A land use plan shall be part of the application, which shall show the location, net acreage, and gross acreage for each type of residential, office or commercial development proposed for the property, open space areas, water bodies and major circulation systems, and existing land uses adjacent to the property. The plan must also identify the type of dwelling units proposed, the minimum of lot size per dwelling unit, and minimum lot frontage requirements, and minimum setback requirements for principal buildings.

(5) With the application, any fee as County Council may from time to time establish must also be remitted.

(6) The Zoning Administrator shall review land development agreement applications, and, if necessary for a more coherent understanding of the proposed development, may request additional information. Furthermore, the Zoning Administrator shall consult with the County School District and report the School District Superintendent's findings and recommendations to the Planning Commission.

(D) *Proposed agreement.* Simultaneously, with the submission of the application, or within a reasonable time thereafter, a proposed land development agreement shall be submitted by the applicant to the Zoning Administrator. The Zoning Administrator shall review the same and consult with such other county officials or personnel he or she deems appropriate. Prior to the agreement being presented to the Planning Commission, as herein provided, the agreement must be approved as to form by the County Attorney. In the event the proposed land development agreement provides that the local governing body shall provide certain public facilities, the agreement must provide that the delivery date of such public facilities be tied to defined completion percentages or defined performance standards to be met by the developer.

(E) *Planning Commission.*

(1) After the review as set forth in division (D), the application and proposed agreement shall be forwarded to the Planning Commission. Should any issues pertaining to the agreement be unresolved, they shall be identified by the Zoning Administrator in his or her report to the Planning Commission.

(2) The Planning Commission shall conduct a public hearing on the application, giving at least 15 days' notice in a publication of general circulation in the county that a land development agreement is to be considered. The public notice must specify the location of the property subject to the land development agreement, the use(s) proposed for the property and the location where a copy of the proposed land development agreement can be obtained.

(3) At the conclusion of its public hearing, the Planning Commission shall make a recommendation to the County Council as to the propriety of the agreement. The recommendation may include suggested amendments or modifications to the agreement. At the conclusion of its public hearing, the chairman of the Planning Commission shall announce the time, date, and place when the County Council is to consider the proposed development agreement. Nothing herein shall be construed to preclude the Planning Commission from deferring action on a proposed land development agreement for the purpose of receiving clarifying information.

(F) *County Council.* Prior to authorizing the execution of a land development agreement, the County Council shall conduct a public hearing, notice of which shall be advertised in a publication of general circulation in the county at least 30 days prior to the date of the hearing. No land development agreement shall be executed until it has been accepted and approved by the governing body and an ordinance authorizing the same has been ratified.

(G) *Effective date.* No land development agreement shall be effective until such time as an ordinance authorizing its execution has been ratified by the County Council, and the same has been executed on behalf of the county by the Council chairman.

(H) *Recording.* It shall be the responsibility of the applicant, within 14 days of the land development agreement having been executed, to record the agreement with the Register of Mesne Conveyance or the Clerk of Court in the county where the property is located.

(I) *Effect of land development agreement.* A land development agreement must specify which laws in force at the time of the execution of the agreement shall apply for the term of the agreement. Subsequently enacted laws shall be applicable to property subject to a land development agreement, unless the agreement specifies otherwise, or unless, after a public hearing, the County Council determines that the application of such laws would materially alter or disrupt the development of the property as contemplated by the agreement, or as otherwise provided by the South Carolina Local Government Development Agreement Act, S. C. Code § 6-31-80(B)(1), (2), (3), (4) and (5).

(J) *Periodic review.*

(1) During the term of a land development agreement, a periodic review of the progress made thereunder shall be had by the Zoning Administrator, on at least an annual basis. At the review, the parties subject to the agreement must demonstrate good faith compliance with the terms and provisions of the development agreement, and must provide such information as the Zoning Administrator may request, and as may be otherwise provided in the agreement.

(2) If as a result of any periodic review, it appears that a person subject thereto has committed a material breach of the terms or conditions of the agreement, such circumstance shall be reported to the County Council by the Zoning Administrator.

(3) Upon receipt of such report, the County Council, or such committee to which the matter may be referred by Council, if it concurs with the Zoning Administrator's report, shall serve written notice to the applicable party, setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination of the breach, and providing the applicable party a reasonable time in which to cure the breach.

(4) If such party fails to cure the material breach within the cure period, the County Council, or the committee to which the matter has been referred, may unilaterally terminate or modify the land development agreement, provided that the Council or the committee, as appropriate, has first given the applicable party an opportunity to either rebut the finding and determination or to consent to an amended development agreement to address the concerns of the County Council or the committee with respect to its findings and determination, and has otherwise complied with the provisions of the development agreement pertaining to a material breach.

(K) *Amendments and cancellation.* Any land development agreement may be amended or cancelled by mutual consent of the parties to the agreement, or by their successors in interest.

(L) *Burdens and benefits.* All burdens of the land development agreement are binding upon, and the benefits of the land development agreement shall inure to, all successors in interest to the parties to the land development agreement.

(M) *State or federal laws or regulations.* In the event state or federal laws or regulations, enacted after a land development agreement has been executed, prevent or preclude compliance with 1 or more provisions of the development agreement, the provisions of the agreement shall be modified or suspended, as necessary, to comply with the state or federal laws or regulations.

(N) *Technical codes.* Notwithstanding anything herein to the contrary, any and all building, housing, electrical, plumbing and gas codes, now in effect or hereafter adopted by the County Council, shall apply to any properties subject to a land development agreement.

(O) *Enabling legislation.* In the event that a court of competent jurisdiction shall determine that the state act, or any part thereof, invalid or unenforceable, or in the event that the General Assembly shall amend or repeal the state act, in whole or in part, each development agreement shall be reviewed to determine if such change in the state act results in a substantial impairment of the rights or obligations of any of the parties to the development agreement. Any party whose rights or obligations under a development agreement have been substantially impaired by a change in the state act shall have the right to immediately terminate the agreement as to all parties thereto by written notice to the parties to the development agreement.

(Ord. 05-16-2022, passed 8-17-2022)

CONDITIONAL USE REGULATIONS

§ 153.088 APPLICATION OF CONDITIONAL USES.

The requirements of this subchapter shall apply to all conditional uses listed in §153.073(D) - Zoning District Table of Permitted Uses, as applicable. A request for a conditional use shall be submitted to the Zoning Administrator who shall approve the use if all the conditions and requirements herein are satisfied.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.089 RURAL DISTRICT CONDITIONAL USES.

In addition to single-family residential and agricultural uses, certain light commercial and industrial and substantially similar uses including uses in the healthcare, government, information, professional/office, transportation, and utilities use categories are considered to be appropriate for a rural area and as such may be allowed in the R2 district as listed in § 153.073(D) - Zoning District Table of Permitted Uses, provided the following conditions are met. These conditions do not apply to single-family residential and agricultural uses.

(A) Such uses may be associated with, but secondary to, a single-family residential use on the same property.

(B) Such uses must comply with conditions associated with the use, as provided in §§153.088 *et seq.* - Conditional Uses and any applicable performance or other requirement as provided in this chapter, in addition to the following conditions. Where requirements differ, the more restrictive requirement shall apply.

(C) If the single structure or combination of structures to be included in the proposed non-residential, non-agricultural use exceeds 3,000 square feet in gross floor area, it must be permitted by special exception as provided in § 153.137 - R2 Rural District Special Exceptions.

(D) Where permitted, such uses shall meet the following conditions:

(1) A buffer of at least 100 feet shall be required from adjoining property lines of existing single-family residential uses and adjacent residentially zoned properties. Such buffer shall comply with the applicable requirements for buffers provided in § 153.182. If a different buffer width is required for an individual use the larger buffer shall apply. For uses requiring a special exception permit, the Board of Zoning Appeals may require a larger buffer after finding that potential offsite impacts warrant the increase.

(2) Maneuvering of associated vehicles of any size must be accommodated by and occur on the associated property.

(3) No uncovered open storage of waste materials shall be permitted in public view.

(4) Any manufacturing process shall be completely contained inside the permitted structure(s).

(5) *Performance standards.* Such uses must comply with the following performance standards:

(a) *Light.* As required by § 153.034 - Light and Glare.

(b) *Glare.* As required by § 153.034 - Light and Glare.

(c) *Odor.* There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive to a person of normal sensibilities at the property line or right-of-way.

(d) *Vibration.* A person may not cause or permit, beyond the property line of a source, vibration of sufficient intensity to cause another person to be aware of the vibration by such direct means as sensation of touch or visual observation of moving objects. The observer shall be located at or within the property line of the receiving property when vibration determinations are made.

(e) *Noise.* As required by §§ 90.01 through 90.99 - Noise of the Newberry County Code of Ordinances.

(6) *Exceptions to performance standards.* The following are exempted from the performance requirements of this division.

(a) Any exemptions provided by other regulations cited in this chapter.

(b) Vibration emanating from construction activities between the hours of 7:00 a.m. and 9:00 p.m. pursuant to a current building permit issued by Newberry County.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.090 CLUSTER DEVELOPMENT, SINGLE-FAMILY RESIDENTIAL.

To encourage open space, residential cluster subdivisions are permitted in all zoning districts allowing single-family residential uses in accordance with the following conditions.

(A) Only single-family, site-built residential dwellings shall be allowed in a residential cluster subdivision.

(B) The minimum size of a residential cluster subdivision shall be 5 acres.

(C) Residential subdivisions are permitted to cluster lots and to reduce lot sizes in order to compensate for the minimum open space requirements established herein; however, density shall not exceed 3 dwelling units per acre.

(D) For lots along the exterior boundary of a cluster subdivision, setbacks for yards adjacent to such exterior boundaries shall be not less than 2 times the setbacks required for the district in which the subdivision is proposed to be located.

(E) A minimum of 25% of the development site shall be designated as open space and shall be so arranged as to mitigate the impacts of clustering on adjoining properties. Such open space shall meet the requirements of § 153.185 - Open Space.

(F) The minimum lot size and interior lot setbacks may not be reduced to less than 50% of the minimum lot size and setbacks for the district in which the cluster subdivision is located. However, zero lot-line development is allowed in residential cluster developments.

(G) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(H) The development shall be in compliance with Chapter 154 - Subdivision Regulations of the Newberry County Code of Ordinances, except as provided in this division.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.091 DWELLING, ABOVE NON-RESIDENTIAL USE.

Dwellings above non-residential uses shall meet the following requirements where conditionally permitted.

(A) Use of the upper floors of commercial buildings may be converted or used for residential purposes where conditionally permitted, provided that the portion of the ground floor of the building which faces the sidewalk or other public road right-of-way continues to be used or dedicated for business or commercial use. A portion of the ground floor may also be used for residential garage or storage space, so long as the garage or storage space is located in the rear of the building.

(B) The dwelling unit must have access to a street as required by building and fire codes.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.092 DWELLING, SINGLE-FAMILY ATTACHED.

Single-family attached dwellings (3 or more units), including townhouses and patio homes, shall meet the following requirements where conditionally permitted.

(A) No more than 6 contiguous housing units shall be built in a row.

(B) A minimum setback of 50 feet is required from all property lines abutting the development site.

(C) A minimum setback of 50 feet is required from all road rights-of-way abutting the development site. A minimum setback of 25 feet is required from all interior roads within the development site.

(D) A buffer of at least 25 feet in width is required along the side and rear property lines of the development site.

(E) No portion of a housing unit or accessory structure in or related to 1 group of contiguous housing units shall be closer than 20 feet to any portion of a housing unit or accessory structure related to another group, or to any building outside of the development.

(F) Maneuvering of associated vehicles of any size must be accommodated by and occur on the associated property.

(G) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.093 DWELLING, ZERO LOT LINE.

Zero lot line dwellings shall meet the following requirements where conditionally permitted.

- (A) A minimum setback of 50 feet is required from all property lines abutting the development site.
- (B) A minimum setback of 50 feet is required from all road rights-of-way abutting the development site. A minimum setback of 25 feet is required from all interior roads within the development site.
- (C) A buffer of at least 25 feet in width is required along the side and rear property lines of the development site.
- (D) Maneuvering of associated vehicles of any size must be accommodated by and occur on the associated property.
- (E) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.
- (F) Where a unit is to be constructed at or on a property line, a 7-foot private maintenance easement shall be provided on the adjoining lot.
- (G) At least 1 side yard extending not less than 7 feet from the property line shall be provided for each dwelling unit. Where a second side yard is provided, though not required, it shall also have a minimum width of 7 feet.
- (H) All other setback requirements for the development, including front and rear yards for individual dwellings, shall be as provided for single-family detached dwellings, unless otherwise provided as part of a cluster subdivision.
- (I) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.094 EQUESTRIAN SUBDIVISION.

Equestrian subdivisions shall meet the following requirements where conditionally permitted.

- (A) The development shall include only detached single-family units.
- (B) Maximum density for such developments shall be 1 dwelling unit per 5 acres. However, minimum lot size for individual dwelling units may be less than 5 acres if the following requirements are met:
 - (1) The required maximum density of 1 dwelling unit per 5 acres for the development site as a whole is not exceeded; and
 - (2) In no case shall the minimum lot size for any individual dwelling unit be less than 2 acres.
- (C) Minimum size of residential lots with accessory facilities for the keeping of farm animals shall be no less than 5 acres.
- (D) A minimum of 30% of the development site area shall be open space as calculated per the requirements of §153.185 - Open Space.
- (E) The development shall be in compliance with Chapter 154 - Subdivision Regulations of the Newberry County Code of Ordinances, except as provided in this division.
- (F) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.
- (G) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site. Any access drives to structures shall be of sufficient width to allow access by emergency vehicles.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.095 FAMILY DAY CARE HOME.

Family day care homes accessory to residential use shall meet the following requirements where conditionally permitted.

- (A) Care is limited to 6 children/adults, including those children or adults living in the home and children or adults received for day care that are related to the resident caregiver.
- (B) The facility meets the minimum standards set forth by the S.C. Department of Social Services (children), the S.C. Department of Health and Environment Control (adults), and any other applicable licensing agencies.
- (C) The child/adult day care function shall be clearly incidental and secondary to the occupied residential use of the building and there shall be no advertising of the family day care function on the site or structure.
- (D) Child/adult care services utilize not more than 25% of the total heated floor area of the dwelling.
- (E) Child/adult day care duties shall be conducted only by persons residing on the premises.
- (F) Drop-off and pick-up of clients and associated parking must be accommodated and conducted on-site. The family day care home operation shall not generate any parking or traffic congestion.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.096 GARAGE APARTMENTS.

Apartments above garages and accessory to a single-family dwelling, where conditionally permitted, shall meet the following requirements:

- (A) The apartment cannot exceed 50% of the gross floor area of the principal dwelling or contain more than 2 bedrooms.
- (B) The apartment must be a complete living space with kitchen and bathroom facilities separated from the principal unit.
- (C) A garage apartment may be accessory only to a detached single-family dwelling, and not more than 1 apartment shall be allowed per dwelling or lot.
- (D) The apartment shall meet all setback requirements.
- (E) One additional off-street parking space will be provided on the dwelling property for the accessory apartment.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.097 HOME OCCUPATIONS.

Customary home occupations accessory to residential use shall meet the following requirements where conditionally permitted.

- (A) The home occupation shall be carried on wholly within the principal residence or accessory structure.
- (B) The floor area dedicated to such use shall not exceed 25% of the floor area of the principal residence or 50% of an accessory building.
- (C) No activity shall be conducted out of doors, and no associated outdoor storage, display, or refuse area shall be allowed in the yard.
- (D) No merchandise or articles shall be displayed so as to be visible from outside the principal residence.
- (E) No person not residing in the principal residence shall be employed on the premises.
- (F) No traffic shall be generated in an amount above that normally expected in a residential neighborhood, and no traffic hazard shall be caused by the home occupation.
- (G) There is no alteration whatsoever of the residential character of the building(s) and/or premises.
- (H) The occupation, profession, or trade shall not generate any health, safety or traffic hazard; or any noise, glare, heat, vibration, smoke, dust, or odor perceptible to adjacent uses.
- (I) No display, rental, or sale of wholesale or retail goods or other commodity other than those prepared on the premises shall be allowed on the premises.
- (J) The occupation shall not be used for receptions, parties, etc. in which the resident receives a fee or compensation.
- (K) Signage for the home occupation shall be limited to 1 wall-mounted, non-illuminated wall sign with a maximum sign surface area of 2 square feet.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.098 HORSES AND HORSE STABLES, HORSES FOR PERSONAL RECREATIONAL USE, ACCESSORY TO RESIDENTIAL.

Horses for personal recreational use and horse stables, barns or other shelters for horses accessory to a single-family residential dwelling, where conditionally permitted, shall meet the following requirements.

- (A) Horses and/or stables must be located upon the same property as the residential use.
- (B) Horses must be contained on the property by adequate fencing. Such fencing must meet the requirements of § 153.033 - Fences and Walls.
- (C) The minimum size of the property, including the dwelling, shall be 2 acres.
- (D) Stables or other structures housing horses shall be setback at least 100 feet from the nearest property line of any existing residential use or adjacent residentially zoned property.
- (E) Manure piles shall be located no closer than 50 feet to any adjacent property line.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.099 JUNKED VEHICLE STORAGE.

To preserve property values and promote a positive community image, the following conditions shall apply to all junked vehicle storage that is accessory to any use within the county. For the purposes of this section, a junked vehicle shall be defined as any vehicle, automotive or marine, that is mechanically inoperable, including any vehicle that is wrecked or partially dismantled, and has been unregistered for a period longer than 30 days.

- (A) No junked vehicles may be stored on any multi-family residential property.
- (B) No more than 2 junked vehicles may be stored outside an enclosed structure and such vehicles shall be screened from view of the primary public road right-of-way by an opaque screen as provided in § 153.183 - Screening.

(C) Any junked vehicle storage determined to be a primary use of the property shall comply with all regulations provided in § 153.146 - Salvage, Scrap and Recycling Operations.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.100 CHILD AND ADULT DAY CARE CENTERS.

Child and adult day care centers shall meet the following requirements where conditionally permitted.

(A) Care is provided to 7 or more children and/or adults.

(B) The facility is licensed by the S.C. Department of Social Services (children) or the S.C. Department of Health and Environmental Control (adults) and meets the minimum standards set forth by that department and any other applicable licensing agencies.

(C) The property upon which the day care center is located must be a minimum of 1 acre in size.

(D) All structures shall be setback a minimum of 25 feet from any existing adjacent residential property or adjacent residentially zoned property.

(E) No play area for a day care center shall be closer than 20 feet to any residential lot line.

(F) An area adequate for loading and unloading children and/or adults shall be provided, and the area shall not be located within any public right-of-way.

(G) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.101 HOSPITALS.

General hospitals, psychiatric and substance abuse hospitals, and other specialty hospitals shall meet the following requirements where conditionally permitted.

(A) A minimum setback of 50 feet is required from any adjacent property with an existing residential use or adjacent residentially zoned property.

(B) A buffer of at least 25 feet shall be required from any adjacent property with an existing residential use or adjacent residentially zoned property, per the requirements of § 153.182 - Buffers.

(C) Primary vehicular access to the facility must be from a paved road with sufficient capacity to accommodate hospital traffic.

(D) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.102 NURSING HOMES.

Nursing homes shall meet the following requirements where conditionally permitted.

(A) The property upon which the nursing home is located must be a minimum of 2 acres in size.

(B) All structures shall be setback at least 50 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(C) A buffer of at least 25 feet shall be required from any adjacent property with an existing residential use or adjacent residentially zoned property, per the requirements of § 153.182 - Buffers.

(D) Primary vehicular access to the facility must be from a paved road with sufficient capacity to accommodate traffic associated with the nursing home.

(E) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.103 FAIRS.

Fairs, fairgrounds, carnivals, circuses and concerts shall meet the following requirements where conditionally permitted.

(A) All structures, whether permanent or temporary, shall be setback a minimum of 100 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(B) Primary vehicular access to such uses must be from a paved arterial or collector road.

(C) Such uses shall operate no later than 11:00 p.m.

(D) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(E) These provisions are not applicable to fairs, carnivals, circuses, concerts or other events conducted within stadiums, arenas and other fully enclosed permanent facilities specially designed to accommodate such activities and events.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.104 MARINA, PUBLIC.

Marinas for public use shall meet the following requirements where conditionally permitted.

(A) Minimum size of the property shall be 1 acre.

(B) A minimum setback of 50 feet is required from any adjacent property with an existing residential use or adjacent residentially zoned property.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.105 RECREATIONAL DAY CAMPS, SHOOTING AND ARCHERY RANGES.

Recreational day camps and shooting or archery ranges shall meet the following requirements where conditionally permitted.

(A) All recreational day camps and shooting or archery ranges, including structures, ranges, camp sites, and other facilities associated with these uses shall be setback a minimum of 100 feet from all adjacent property lines, except where contiguous properties are zoned for commercial (LC or GC) and/or industrial (IND) uses.

(B) All recreational day camps and shooting or archery ranges, including structures, ranges, camp sites, and other facilities associated with these uses shall be surrounded by a minimum 50 foot wide buffer, which meets the applicable requirements of § 153.182 - Buffers. Such facilities shall be surrounded by an opaque screen which meets the requirements of § 153.183 - Screening.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.106 KENNELS AND OTHER PET CARE SERVICES.

Commercial kennels and other pet care services shall meet the following requirements where conditionally permitted.

(A) Structures and animal enclosures shall be setback a minimum of 100 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(B) Animals shall be kept inside buildings at night.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.107 MINI-WAREHOUSES AND COMMERCIAL PERSONAL STORAGE.

In districts where conditionally allowed, mini-warehouses and other commercial personal storage facilities must meet the following conditions.

(A) *Size.* Mini-warehousing or commercial personal storage sites shall not exceed 4 acres in size.

(B) *Vehicles and parking.* Adequate vehicular maneuvering and parking must be accommodated.

(1) Vehicular ingress-egress shall be limited to 1 point for each side of the property abutting any street right-of-way.

(2) At least 4 parking spaces, designed to meet the requirements of §153.200 - Parking Space Design Requirements, shall be provided in the vicinity of the leasing office.

(3) Drive aisles adjacent to all exterior storage unit doors shall be a minimum of 27 feet wide.

(4) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(C) *Buffers.* Property buffers shall meet the requirements of §153.182 - Buffers.

(D) *Uses not allowed.*

(1) Outdoor storage shall be limited to licensed boats on trailers and licensed recreational vehicles. If such storage is to be provided, adequate parking must be provided to accommodate such vehicles.

(2) No retail or wholesale uses, residential activities, and storage of hazardous materials, or any other use other than personal storage shall be conducted within or from the storage units. Notice of such prohibition shall be provided to customers by a conspicuous sign posted at the entrance of the property or by provisions in the lease agreement, or both.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.108 COMMUNICATIONS TOWERS AND ANTENNAS.

Communications towers and/or antennas shall meet the following requirements where conditionally permitted.

(A) *Permit required.*

(1) In all districts, any antenna co-located on an existing legally conforming structure that meets the conditions specified in division (C) below and all other applicable zoning requirements shall be permitted by right upon issuance of a valid zoning permit from the Zoning Administrator.

(2) In residential districts RS, RSV, RSM and RG a new antenna on an existing tower meeting the conditions specified herein, division (C), shall be a permitted use. New free-standing monopoles with a height not exceeding 100 feet are a permitted special exception upon issuance of and in accordance with the limitations of a special exception permit pursuant to § 153.053.

(3) In commercial districts LC and GC, a free-standing or guyed tower with a height not exceeding 180 feet is a permitted conditional use.

(4) In the rural district R2 and the IND industrial district, free-standing or guyed towers with height not exceeding 360 feet is a permitted conditional use.

(5) In Planned Development Districts, towers with height specified in an approved plan are permitted under conditions set forth in the plan.

(6) In districts in which communication towers and antennas are permitted, except in the Planned Development Districts, free-standing or guyed towers and antennas exceeding height limitations may be permitted by the Board of Zoning Appeals as a special exception upon issuance of and in accordance with the limitations of a special exception permit as detailed in § 153.053.

(B) *Application requirements.* The applicant for a conditional use zoning permit for construction of a communications tower or placement of a commercial telecommunication antenna on an existing structure other than a tower previously permitted must file with the Zoning Administrator an application accompanied by the applicable fee, as shown in the most recently adopted fee schedule, and the following documents:

(1) One copy of typical specifications for proposed structures and antennae, including description of design characteristics and material;

(2) A site plan, drawn to scale, showing property boundaries, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property;

(3) A current map, or update for an existing map on file, showing locations of applicant's antennae, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the county;

(4) A report from a structural engineer registered in South Carolina showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIAMA 222 (latest version) standards;

(5) Identification of the owners of all antennas and equipment to be located on the site;

(6) Written authorization from the site owner for the application;

(7) Evidence that a valid FCC license for the proposed activity has been issued;

(8) A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts;

(9) A written agreement to remove the tower and/or antenna within 90 days after cessation of use;

(10) Evidence that applicable conditions in division (C) are met; and

(11) Additional information required by the Zoning Administrator for determination that all applicable zoning regulations are met.

(C) *Conditions.* Applicant must show that for all permits all applicable conditions are met.

(1) The proposed communications tower, antenna, or accessory structure will be placed in a location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.

(2) Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirements, without unreasonable modifications on any existing structure or tower owned by the applicant or any other structure owned by a private or public entity.

(3) Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a nonresidential district for valid technical reasons.

(4) Applicant must show that a new tower is designed to accommodate additional antennae equal in number to

applicant's present and future requirements and must submit a statement that they will act in good faith in negotiating use of the tower by other entities.

(5) Applicant must show that all applicable health, nuisance, noise, fire, building, and safety code requirements are met.

(6) A communications tower must not be painted or illuminated unless otherwise required by state or federal regulations or division (11)(c) below.

(7) A permit for a proposed tower site within 1,000 feet of an existing tower shall not be issued unless the applicant certifies that the existing tower does not meet applicant's structural specifications and applicant's technical design requirements, or that a collocation agreement could not be obtained.

(8) Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Zoning Administrator a written indemnification of the County and proof of liability insurance (Comprehensive General Liability) or financial ability to respond to claims up to \$1,000,000 in the aggregate which may arise from operation of the facility during its life, at no cost to the county, in form approved by the county attorney. Co-locators proposing to locate on an existing structure are exempt from this requirement.

(9) Where a telecommunication tower is to be located on a lot with an existing principle use, the tower shall be located in the rear yard only. In addition, a recorded easement for an access road at least 12 feet wide shall be maintained by the property owner and applicant from a public street to the tower for use by service and emergency vehicles.

(10) Towers are prohibited on the tops of buildings or structures in all residential and business zoning districts.

(11) In the IND - Industrial Zoning District, towers may be permitted on roofs or walls after submittal of a report by a qualified and licensed professional engineer indicating the existing structure's suitability to accept the antenna, and the proposed method of affixing the antennae to the structure.

(a) Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated, for review by the county.

(b) Towers on roofs may be allowed when the tower height:

1. Does not exceed more than 30% of the height of the building; or
2. Is no more than 30 feet above the building/structure, whichever is less.

(c) Towers on roofs or walls shall be screened, constructed, and/or colored to match the structure to which they are attached.

(12) Applicants building new towers shall plan the fence and landscaping per the requirements of divisions (13) and (14) to accommodate all future providers on the site such that the fence and landscaping materials surround the land designated for all future equipment buildings and the tower.

(13) *Fencing.* A minimum 6-foot high chain link fence is required immediately around the telecommunications tower and any equipment building(s) since the tower can be considered an attractive nuisance. Barbed wire shall be used along the top of the fence and access to the tower area and equipment buildings shall be through a locked gate.

(14) *Landscaping.* A landscaped buffer 20 feet in depth shall be required along the outside area of the perimeter-fenced area(s) to mitigate the visual impacts of the tower and equipment buildings from nearby viewers.

(a) Landscape materials shall be planted within the required buffer and shall consist of 12 trees (1/3 shall be evergreen) and 20 shrubs required per 100 feet of buffer strip, planted at reasonable intervals to ensure plant health. Evergreen shrubs should be of a size expected to reach a minimum of 6 feet in height at maturity. Accommodations for reasonable access and use may be incorporated as necessary.

(b) All landscaping shall be irrigated and maintained to ensure good health and vitality.

(c) Screening requirements shall not apply to telecommunications providers who have camouflaged (stealth towers) towers or who have located antennas within another structure (such as a steeple), or who have co-located on an existing tower. Nor shall screening apply when an antenna will be mounted on an electrical transmission tower or on structures such as a water tower/tank, grain silos, etc. or similar structures.

(15) Land development regulations, visibility, landscaping, access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setbacks, landscaping and screening, parking, fencing and height conditions shall be as specified in division (C) herein.

(16) A tower must be a minimum distance equal to 1/2 of the height of the tower from property officially designated historic or architecturally significant, and must be set back from all property lines distances equal to the district setback requirements or 25% of the tower height, whichever is greater. Notwithstanding the foregoing, all towers shall be a minimum of 300 feet from the nearest existing residential dwelling unit.

(17) The county recognizes that telecommunications facilities (both towers and co-locators) cannot be prohibited, nor can a request for a telecommunications tower be denied on the basis of environmental or health concerns relating to radio emissions if the telecommunications equipment and facility complies with the federal radio frequency emission standards. The county requires that each applicant must provide sealed documentation proving that their telecommunications

equipment complies with the federal radio frequency emission standards.

(18) Any planned increase in tower height greater than 180 feet in total for an existing approved telecommunication tower shall require the provider to apply for a special exception permit in accordance with § 153.053.

(19) *Signs.* Freestanding signs in association with this use are prohibited. Wall signs shall be installed and/or mounted on the perimeter fence, or on the tower at its base. Wall signs shall be limited to:

(a) Identification signage allowed on equipment structures or fences surrounding the telecommunication tower/structure provided it does not exceed 9 square feet in size; and

(b) "No trespassing" signs, "danger - high voltage" signs, and other similar warning signs installed to discourage trespassing by unauthorized persons.

(20) Prior to issuing a permit, the county may consult with a communications expert for technical review to determine that the standards herein are met.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.109 VETERINARY SERVICES.

Facilities providing veterinary services, both with and without boarding kennels, shall meet the following requirements where conditionally permitted.

(A) Structures and animal enclosures shall be setback a minimum of 100 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(B) Animals shall be kept inside buildings at night.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.110 WAREHOUSING AND STORAGE.

Warehousing and storage facilities shall meet the following requirements where conditionally permitted.

(A) All structures shall be setback a minimum of 100 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(B) Site design shall ensure safe, predictable vehicular parking, access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.111 AIR TRANSPORTATION, PUBLIC; AND AIR TRANSPORTATION SUPPORT.

Public air transportation facilities (NAICS 4811), including structures, runways and other facilities associated with the use, and air transportation support facilities (NAICS 4881) shall meet the following requirements where conditionally permitted.

(A) Any public airport or other air transportation facility and any applicable air transportation support facility must meet the requirements provided in § 153.075(E) - Airport Overlay District.

(B) All applicable state and federal regulations are met and required approvals and permits have been obtained.

(C) Site design shall ensure safe, predictable vehicular parking, access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.112 AIR TRANSPORTATION, PRIVATE.

Private air transportation facilities (NAICS 48121), including hangers, runways and other facilities associated with the use, shall meet the following requirements where conditionally permitted.

(A) Any private air transportation facility must meet the applicable requirements provided in §153.075(E) - Airport Overlay District.

(B) All applicable state and federal regulations are met and required approvals and permits have been obtained.

(C) All runways shall be setback a minimum distance of 500 feet from any adjacent property line and the road right-of-way.

(E) All structures, facilities and other improvements associated with the use shall be setback a minimum of 25 feet from any adjacent property line and the road right-of-way.

(F) Site design shall ensure safe, predictable vehicular parking, access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.113 BUS TERMINALS AND RAIL TERMINALS.

Bus terminals and rail terminals shall meet the following requirements where conditionally permitted.

(A) All structures shall be setback a minimum of 100 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(B) Site design shall ensure safe, predictable vehicular parking, access and movement onto and off of the site.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.114 CONCENTRATED ANIMAL FEEDING OPERATIONS.

(A) Concentrated animal feeding operations (CAFOs) as defined by this chapter shall meet the following requirements where conditionally permitted.

(B) All applicable state and Federal regulations are met and required approvals and permits have been obtained. All requirements for CAFOs, except for new Swine CAFOs as defined by this chapter and as provided by § 153.152 - Concentrated Animal Feeding Operations for Swine, Slaughterhouse Operations, established and enforced by SC DHEC, per S.C. Code §§ 46-45-10 through 46-45-80, as amended.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.115 HELIPADS.

Helipads accessory to commercial operations and industrial uses shall meet the following requirements where conditionally permitted. Helipads to be used for public safety purposes such as police, fire, hospitals, and emergency medical services are exempt from these standards.

(A) All applicable state and federal regulations are met and required approvals and permits have been obtained.

(B) The surface of the heliport shall be of such material that dust, dirt, or other objectionable matter will not be blown onto adjoining properties by helicopter operations.

(C) Helipads shall be setback a minimum of 500 feet from any adjacent property line and the road right-of-way.

(D) Any helipad must meet any applicable requirements provided in §153.075(E) - Airport Overlay District.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.116 HOUSING, ACCESSORY TO AGRICULTURAL USE.

The use of dwellings as accessory to agricultural uses to house farm workers shall meet the following requirements where conditionally permitted.

(A) Such dwellings must be permanent, site-built single-family, duplex or multi-family structures, or manufactured homes, and must be permitted per the regulations of Newberry County.

(B) Such dwellings must meet all applicable setbacks and buffers for the type of dwelling as required by this zoning ordinance.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.117 OPEN OUTDOOR STORAGE.

Open outdoor storage of materials used in assembly, fabrication or processing and of waste materials as accessory to a commercial, industrial, institutional or other non-residential use shall meet the following requirements where conditionally permitted.

(A) Such open storage shall not occupy more than 25% of the buildable area of the property.

(B) Such open storage shall be screened from public view as detailed in §153.183(F) - Screening Required for Features.

(C) Open storage shall not be located in any required setback or buffer area.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.118 TRANSPORT CONTAINERS AS ACCESSORY STORAGE.

The use of transport containers as storage as accessory to a principal use shall meet the following requirements where conditionally permitted.

(A) Such use of transport containers shall require a zoning permit.

(B) Such container shall be screened from public view per the requirements of §153.183(G) -Features for which screening is required.

(C) Such container shall not be located in any setback or buffer area.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.119 CONTRACTOR OFFICE AND EQUIPMENT SHED.

The temporary use of contractor offices and equipment sheds shall meet the following requirements where conditionally permitted.

- (A) The use must be associated with construction on the premises.
- (B) Site design shall ensure safe, predictable vehicular parking, access and movement onto and off of the site.
- (C) Use may continue for up to 1 year after permit is issued and the permit for temporary use may be renewed once.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.120 MANUFACTURED HOME, EMERGENCY HOUSING.

The temporary use of a manufactured home as emergency housing following damage to a permanent dwelling by fire or natural disaster shall meet the following requirements where conditionally permitted.

(A) The manufactured home must meet the requirements of §§ 150.25 through 150.99 of the Code of Laws of Newberry County.

(B) Temporary use of the manufactured home may continue for up to 1 year after the permit is issued while repairs are being made to the permanent dwelling that was damaged.

(C) The permit for such temporary use may be renewed for an additional 6 months, provided repairs are in progress and are scheduled for completion by the expiration of the 18-month period. No additional extension past the 18-month period shall be granted.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.121 MANUFACTURED HOME, TEMPORARY DURING CONSTRUCTION.

The temporary use of a manufactured home as housing by the owner of the property during construction of a permanent single-family residence shall meet the following requirements where conditionally permitted.

(A) The manufactured home must meet the requirements of §§ 150.25 through 150.99 of the Code of Laws of Newberry County.

(B) The manufactured home shall be occupied by the owner of the property who is constructing the permanent residence.

(C) The manufactured home shall be located on the same lot of record as the permanent residence that is under construction.

(D) Proof of ownership of the property in the form of a copy of a plat and a deed of the property upon which the residence is being built and the manufactured home is located shall be submitted to the Zoning Administrator.

(E) The applicant will remove the manufactured home from the property within 30 days of the issuance of a certificate of occupancy for the permanent residence.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.122 PORTABLE ON-DEMAND CONTAINER (POD) AS TEMPORARY STORAGE.

The temporary use of portable on-demand storage containers shall meet the following requirements where conditionally permitted.

(A) *Permit required.* Use of such container for more than 7 consecutive days shall require a temporary zoning permit. However, use of such container for any period of time shall meet the requirements of this section.

(B) *Duration.* The structure may be located as a temporary structure for a period not to exceed 30 consecutive calendar days in duration from the date of issuance of the permit until the date of removal of the container. A 30 day extension may be granted by the Zoning Administrator if substantial evidence of need is provided in writing, which sets forth the reason the extension is needed. No more than 3 30-day extensions may be granted within any twelve month period.

(C) *Number of units.* No more than 2 PODs may be located on any property at 1 time.

(D) *Location.* PODs shall only be placed upon approved parking areas such as driveways and parking lots, or if space is available in the side or rear of the property.

(1) A POD shall be located no closer than 10 feet to any adjacent property line unless placed on an existing impervious driveway or surface and shall not obstruct sight distance for a driveway or road as required by § 153.032 - Visibility Requirements, Sight Triangle. PODs shall not be placed within any public right-of-way.

(2) POD units may not displace required parking spaces.

(E) *Size.* PODs located in residential zoning districts shall not exceed 8 feet in height, 8 feet in width and 16 feet in length.

(F) *Maintenance and safety.* The owner and operator of any property on which a POD is placed shall be responsible for ensuring that the unit is maintained in good condition, free from evidence of deterioration, graffiti, or other structural problems, at all times. It shall be the obligation of the owner or operator of such structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the structure.

(G) *Storage allowed.* No retail or wholesale uses; residential activities; and storage of hazardous or illegal materials, solid or liquid waste, and construction or demolition debris; or any other use other than the temporary storage of materials shall be conducted within or from the POD unit.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.123 RECREATIONAL VEHICLES AS TEMPORARY ACCOMMODATION.

The temporary use of recreational vehicles as temporary accommodations shall meet the following requirements where conditionally permitted.

(A) No recreational vehicle (RV) subject to state licensing and/or registration which does not display a current license plate or decal shall be stored in any real estate parcel in the R2, RS, RSV, RSM, and RG zoning districts.

(B) Except as otherwise regulated by the state and the requirements of this zoning ordinance for commercial campgrounds and RV Parks, there is no restriction on the parking or recreational use of recreational vehicles in the R2, RS, RSM, and RG zoning districts.

(C) It is the intent of division (B) above with respect to the unrestricted use of recreational vehicles, that no occupancy or use of such vehicle rise to the level of permanent occupancy or use, and that any use remains temporary in nature.

(D) The legal owner(s) of any property on which an RV is located is responsible for any violation of this code.

(E) Any owner of the property where the RV is to be used, and/or the user of the RV, if different, is responsible for compliance with any SCDHEC regulations which apply to the use and occupancy of recreational vehicles otherwise permitted in this section.

(F) Notwithstanding the foregoing, in those zoning districts that allow a manufactured home to be used as a temporary residence by the owner of the property during the construction of a permanent residence on the same property, recreational vehicles may be used for the same purpose under the same conditions, restrictions, and regulations required for the manufactured home. This provision does not apply to the RSV district.

(G) *Conditions specific to the RSV zoning district.*

(1) It is the intent of this subsection that any occupancy or use of a recreational vehicle in the RSV zoning district be temporary and for recreational purposes only. Temporary use of a recreational vehicle (RV) is characterized by, but is not limited to the following:

(a) No permanent connection to electric power for the RV.

(b) No occupational or commercial use shall be associated with the RV.

(c) The RV may not be used as a fixed place of abode or as a temporary abode during a period of employment or work as an independent contractor.

(d) No permanent foundation is provided for the RV.

(e) No porches, patios or storage buildings affixed or in close proximity to the RV.

(f) The RV must be mechanically ready to be moved at all times under the motive power for which such unit is designed.

(2) No recreational vehicles shall be parked or stored on any real estate parcel or right-of-way in the RSV district for more than 24 hours, except in accordance with the temporary use restrictions set forth in § 153.123(G)(3) below.

(3) The temporary use of recreational vehicles in the RSV zoning district shall be subject to the following restrictions.

(a) The use of recreational vehicles shall be allowed only by permit, which shall be issued by the Newberry County Planning and Zoning Department only to property owner(s) of record, with each recreational vehicle requiring a separate permit for each permitted use period. Accurate vehicle licensing and registration information shall be provided for each vehicle permitted under these provisions as a condition of permit issuance.

(b) A maximum of 20 calendar days of recreational vehicle use may be allowed for each individual property in any calendar quarter, with each day for each recreational vehicle constituting 1 day's use (e.g., 2 recreation vehicles used on a given real estate parcel simultaneously for 10 calendar days constitutes 20 calendar days of recreational vehicle use for the individual property).

(c) For each calendar quarter, calendar days of recreational vehicle use not permitted shall expire (i.e., shall not accumulate or roll over) at the end of that calendar quarter. Calendar quarters 1 through 4 shall end at midnight on March 31, June 30, September 30, and December 31, respectively.

(d) No recreational vehicle use permit shall be issued for more than 10 consecutive calendar days, and no fewer than

2 calendar days shall elapse between permitted use periods, though overlapping permits for separate recreational vehicles may be continued as long as no unit is permitted for more than 10 calendar days consecutively, and provided that the use will not result in more than 20 calendar days having been permitted for the individual property in the calendar quarter.

(e) All property owners applying for permits for recreational vehicle use must pay an annual, non-refundable fee of \$25 at or prior to the first such permitted use in any calendar year. Annual fees paid for this purpose expire at midnight on December 31 of each calendar year, regardless of the date of permit issuance.

(f) Permits must be prominently displayed on recreational vehicles throughout permitted use periods.

(g) Recreational vehicle use permits shall be issued only during normal working hours of the Newberry County Planning and Zoning Department. Property owners are responsible for ensuring that applications for permits are submitted timely and should make such applications no less than 3 working days prior to the first date of intended use.

(h) Except as provided for in § 153.123(G)(2) above, no recreational vehicle shall be located on an individual property in an RSV zoning district without a recreational vehicle use permit first being issued by the Newberry County Zoning Office to the property owner. Failure to display a current recreational vehicle use permit shall be punishable by a fine assessed against the property owner, not to exceed \$500 per day.

(i) Property owners desiring more than 24 hours of recreational vehicle parking or storage may apply for permits under this section.

(H) *Conditions specific to the R2 zoning district.*

(1) *Purpose.* The purpose of this section is to enable limited use of recreation vehicles (RVs) as temporary accommodations for workers who will be working for a period of time in or near the County, but do not intend to permanently relocate to the area. This section does not apply to a single temporary RV as otherwise allowed by this zoning ordinance.

(2) *Conditions.* A property owner may apply for a temporary RV accommodation permit in the R2 zoning district shall meet the following conditions:

(a) The parcel must be 10 contiguous acres or larger.

(b) One such temporary RV may be allowed per acre, however RV units may be clustered as long as they comply with all other requirements of this section and the setbacks required in the R2 zoning district. No more than 5 temporary RVs shall be allowed for this use on 1 parcel.

(c) No portion of any RV may be located closer than 20 feet to any portion of another RV or from a permanent residence if one is on the parcel.

(d) Application must be made by the property owner for each temporary RV requested to be located on the property. Application for more than 1 temporary RV may be submitted for a property at the same time.

(e) Such temporary RV shall be maintained in a manner which will facilitate and enable its removal by the expiration date of the permit.

(f) The placement of the temporary RV must meet SCDHEC requirements for water and wastewater connections and Newberry County requirements for temporary electrical service. Each proposed temporary RV dwelling shall have individual water, sewer and electrical service and connections and may not share such services with other temporary RV dwellings or permanent dwellings.

(g) A minimum setback of 100 feet is required between the perimeter of all RV sites and all property lines and the road right-of-way. A buffer of at least 50 feet in width is required along all side and rear property lines.

(3) *Application.* To apply for a temporary RV housing permit, the property owner shall submit the following information:

(a) A site plan drawn to a scale large enough to allow determination of the following:

1. The size and boundaries of the property;

2. The size and location of access, including driveways and access easements, from the parcel to a county, state or other public road;

3. The approximate location and size of all existing structures on the property; and

4. The proposed location and maximum size of all proposed temporary RV sites.

(b) Application and fees for electrical hookup for each proposed temporary RV as required by Newberry County.

(c) Approval for water and sewer service from the appropriate agency for each proposed temporary RV.

(4) *Permit term, renewal and revocation.*

(a) *Term.* A temporary RV housing permit issued to an applicant based on compliance with the requirements of this section shall be valid for a period not to exceed 12 months unless renewed according to the requirements of this section.

(b) *Renewal.* A request for renewal of a valid temporary RV accommodation permit shall be submitted by the applicant at least 45 days prior to the expiration of the temporary permit. Such request shall be made in writing to the Zoning

Administrator.

(c) *Revocation.* If the Zoning Administrator determines that any of the requirements or conditions of this section or additional conditions imposed by the Board of Zoning Appeals have not been met, the Board of Zoning Appeals may revoke the temporary RV accommodation permit after notice to the property owner. If the permit holder fails to demonstrate to the satisfaction of the Board of Zoning Appeals that no grounds for revocation exist within 30 days, then the permit may be revoked.

(d) *Expiration.* Occupancy of the temporary RV shall cease immediately upon expiration of a temporary RV accommodation permit or within 14 days after mailing, by certified mail, of notice of revocation, whichever event shall occur first. All utilities shall be disconnected and the temporary RV dwelling shall be removed within 30 days after expiration or revocation of the temporary RV accommodation permit. An unoccupied RV may be stored on the property with all utilities disconnected as long as it meets the setback requirements for a manufactured home on an individual parcel, and any other applicable provision of this section or this zoning ordinance.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.124 SOLAR FARM.

New solar farms or solar farms proposed to be expanded by more than 10% of original footprint shall meet the following requirements where conditionally permitted.

(A) *Site plan required.* A site plan drawn to scale shall be submitted to the Zoning Administrator by the applicant demonstrating compliance with the Solar Farm and all other applicable sections of this zoning ordinance. At a minimum, the plan must include:

- (1) Name of the project, names and addresses of the owner(s), engineers, and surveyors.
- (2) Date, scale and accurate north arrow.
- (3) Property boundaries, including dimensions and size.
- (4) Required setbacks and buffers.
- (5) Location of all proposed facilities, including solar collectors and proposed structures
- (6) Horizontal and vertical (elevation) to-scale drawings with dimensions that show the location of the solar collectors and system.
- (7) Any existing or proposed signs, fencing, lighting, parking areas, driveways, easements, fencing, gates, vegetative screening, and applicable landscaping.
- (8) Adjacent property lines, noting properties that include existing residential uses or residentially zoned properties and other adjacent land uses.
- (9) Adjacent roads and road rights-of-way.
- (10) Required landscaping, as applicable.

(B) *Setback.* A minimum setback of 100 feet is required from all road rights-of-way and all adjacent property lines.

(C) *Buffer.* A buffer of at least 50 feet shall be required from any adjacent property with an existing residential use or adjacent residentially zoned property line and a buffer of 25 feet is required for all other adjacent property lines including road rights-of-way, per the requirements of § 153.182 - Buffers.

(D) *Screening.* Screening per the requirements of §153.183 - Screening shall be provided for any adjacent property with an existing residential use or adjacent residentially zoned property line.

(E) *Height.* Systems, equipment and structures shall not exceed 20 feet in height, with the exclusion of associated electric transmission lines and utility poles.

(F) *Fencing.* A security fence at least 6 feet in height shall be provided around the perimeter of the solar farm facility and shall meet the requirements of § 153.033 - Fences and walls, however the security fence may be chain link for this use.

(G) *Preservation of existing vegetation.* Where possible, existing vegetation shall be protected and preserved in the required buffer and setback areas to provide natural screening for the use. If screening is required, existing vegetation may be used to meet screening requirements as provided in § 153.183(C)(2) - Natural Areas. Such preservation does not include areas designated for roads, driveways, or required parking areas.

(H) *Glare.* Solar collection equipment shall be installed so that no reflected glare is visible at the property line or right-of-way as required by § 153.034 - Light and Glare.

(I) *Decommissioning plan.* The applicant must provide a decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) that describes the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the solar farm project will be decommissioned and the site restored to its condition prior to the development of the solar farm.

(1) Decommissioning will be required following a continuous 6 month period in which no electricity is generated by the facility.

(2) The permit holder will have 12 months to complete decommissioning of the solar farm. Decommissioning shall include removal of solar panels, foundations, structures, cabling, electrical components, conduit, and any other associated facilities as described in the decommissioning plan.

(3) Prior to issuance of zoning permit, the applicant must provide the county with a performance guarantee in the form of an irrevocable letter of credit in the amount of 125% of the estimated decommission cost minus the salvageable value or \$50,000, whichever is greater. Estimates shall be determined by an engineer licensed to practice in South Carolina.

(J) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site, and shall accommodate safe access to the property by emergency vehicles.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.125 CEMETERIES.

Cemeteries, including gravesites, mausoleums, crematoriums, and columbariums, shall meet the following requirements where conditionally permitted.

(A) Minimum size of the property shall be 2 acres.

(B) The use, including gravesites, must meet all setback requirements for the applicable zoning district.

(C) One non-illuminated sign not over 30 square feet in area or 10 feet in height is allowed.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.126 LARGE ANIMAL PROCESSING.

The processing of large animals including deer, but not including slaughterhouses as defined by this chapter and the State of South Carolina, shall meet the following requirements where conditionally permitted.

(A) Animal carcasses and any processing activities related to the use must be screened from view from road rights-of-way and adjacent property lines, either by storage in an enclosed structure or by an opaque screen as provided in § 153.183 - Screening.

(B) All animal remains must be discarded per applicable state regulations.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.127 TAXIDERMY.

(A) Animal carcasses and any processing activities related to the use must be screened from view from road rights-of-way and adjacent property lines, either by storage in an enclosed structure or by an opaque screen as provided in § 153.183 - Screening.

(B) All animal remains must be discarded per applicable state regulations.

(C) All hazardous materials associated with the use must be stored in an enclosed structure.

(D) There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive to a person of normal sensibilities at the property line or right-of-way.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.128 MOBILE FOOD TRUCK OR TRAILER.

Mobile food trucks or trailers shall meet the following requirements where conditionally permitted as a temporary use. Properly licensed ice cream trucks are exempted from these requirements, except as provided in other local or state regulations.

(A) *Location.* Mobile food trucks or trailers must be located on private property unless approved by the county as part of a special event. Written consent by the private property owner must be obtained and displayed or readily available in the vehicle at all times.

(B) *S.C. DHEC Requirements.* Mobile food trucks or trailers must meet all applicable South Carolina Department of Health and Environment Control requirements.

(C) *Sales.* Mobile food truck or trailer sales are limited to food and non-alcoholic beverages.

(D) *Noise.* No amplified or other loud sounds or music may be produced by or from the truck or trailer to attract customers, for entertainment, or other purposes.

(E) *Supervision.* The mobile food truck or trailer must be occupied by the owner or operator thereof at all times during operation.

(F) Mobile food trucks or trailers must meet the following conditions.

(1) Hours of operation are limited to 7:00 a.m. to 9:00 p.m. Overnight parking of a mobile food truck at a vending site is not permitted. Mobile food trucks or trailers and all associated equipment, refuse containers, and other materials must be removed from the temporary location before 9:30 p.m.

(2) Mobile food trucks or trailers must be at least 100 feet from the principle public entrance or associated outdoor dining area of any established "brick-and-mortar" restaurant, unless written permission is obtained from the restaurant owner to locate closer than 100 feet. Such written permission must be displayed or readily available in the food truck at all times.

(3) Mobile food trucks or trailers must be at least 100 feet from any residential use or primarily residential zoning district (RS, RSV, RSM, and RG).

(4) No structures, tables, or chairs are allowed outside of the vehicle, except for awnings that are attached to the food truck or trailer and can be removed or retracted.

(5) The exterior of the mobile food truck or trailer shall be maintained in good, clean, and safe condition and free of excessive wear or damage.

(6) Signs must be securely attached to or painted on the mobile food truck or trailer.

(7) On-site food preparation must be performed inside the mobile food truck or trailer. No grills or other cooking facilities are allowed outside of the truck or trailer.

(8) Refuse containers adequate to contain trash and recyclables produced by the use must be provided by the operator. Liquid waste must be collected and contained in the vehicle. Solid and liquid waste must be disposed of off-site at a municipal, county, or other approved collection site.

(9) The area utilized by the mobile food truck or trailer and its customers must be maintained in a clean, attractive, and safe condition at all times.

(10) For any location where the mobile food truck or trailer is proposed to stay for two or more hours, the vendor must provide access to toilet facilities for employees, including the vendor/ operator/owner.

(11) Mobile food trucks or trailers shall not operate in loading zones, public rights-of-way, sidewalks, or alleys, or obstruct or impede traffic flow or access to neighboring businesses, residences, or other uses.

(12) Access to adequate parking for the use must be provided, to include no less than three parking spaces. Additional parking may be required by the Zoning Administrator. Mobile food trucks or trailers shall not be parked in a way that occupies required handicapped parking or interferes with the flow of traffic in parking lots.

(Ord. 12-23-18, passed 2-6-2019)

SPECIAL EXCEPTION REGULATIONS

§ 153.136 APPLICATION OF SPECIAL EXCEPTIONS.

The requirements of this subchapter shall apply to all special exceptions listed in §153.073(D) - Zoning District Table of Permitted Uses, as applicable. Requests for a special exceptions shall be submitted to the Zoning Administrator and reviewed by the Board of Zoning Appeals, per the requirements of § 153.053 - Special Exceptions. Conditions imposed on conditional uses shall also be imposed on special exceptions, where applicable, for the same use and in the same manner.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.137 R2 RURAL DISTRICT SPECIAL EXCEPTIONS.

In addition to single-family residential and agricultural uses, certain light commercial and industrial and substantially similar uses including uses in the healthcare, government, information, professional/office, transportation, and utilities use categories are considered to be appropriate for a rural area and as such may be allowed in the R2 district as listed in § 153.073(D) - Zoning District Table of Permitted Uses, provided the conditions as listed in §153.089 - R2 Rural Conditional Uses are met. If the single structure or combination of structures to be included in the proposed non-residential use exceeds 3,000 square feet in gross floor area, it must be permitted by special exception, provided the Board of Zoning Appeals finds that the conditions provided in § 153.089 - R2 Rural District Conditional Uses are met, in addition to applicable considerations as provided in division (A).

(A) Additional considerations for approval by special exception shall include, but are not limited to:

- (1) Proposed size of the structure;
- (2) Proposed location of the structure;
- (3) Type of and classification of use proposed;
- (4) Distance to existing residences or residentially zoned properties;
- (5) Hours of operation, to include deliveries and shipping;

- (6) Projected number of employees for largest shift.
- (7) Probable sensory impacts to neighboring properties including, but not limited to: noise, odor, vibration, light and glare;
- (8) Primary vehicular access on a paved arterial or collector road; and
- (9) Traffic impacts including, but not limited to: deliveries, shipping, customers, and workers.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.138 DWELLING, MULTI-FAMILY.

Multi-family buildings and developments shall meet the following requirements where permitted by special exception.

- (A) A minimum setback of 100 feet is required from all property lines and the road right-of-way.
- (B) A buffer of at least 50 feet in width is required along the side and rear property lines.
- (C) Primary vehicular access to the multi-family building/development must be from a paved arterial or collector road.
- (D) Maneuvering of associated vehicles of any size must be accommodated by and occur on the associated property.
- (E) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site. Access drives to all dwellings shall be of sufficient width to allow access by emergency vehicles.
- (F) All off-street parking areas and driveways must be paved with asphalt, concrete, brick pavers, or permeable pavements including interlocking paving systems and porous pavement as approved by the Zoning Administrator.
- (G) A minimum of 20% of the development site area shall be designated as open space and shall meet the requirements of § 153.185 - Open Space.
- (H) The use will not substantially injure the value of adjoining properties.
- (I) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.
- (J) Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.139 MANUFACTURED HOME PARKS.

Manufactured home parks may be permitted by special exception in the RG zoning district, provided the Board of Zoning Appeals finds that the following conditions are met.

- (A) Manufactured home parks shall meet the requirements specified in the Chapter 154 -Subdivision Regulations of the Newberry County Code of Ordinances.
- (B) *Area.* A manufactured home park shall contain a minimum of 8 acres.
- (C) *Density.* Maximum density for a manufactured home park is 5 units per acre.
- (D) *Unit space.* A minimum of 7,500 square feet is required per each manufactured home space.
- (E) *Space size.* Each manufactured home space shall be a minimum of 50 feet in width and 150 feet in length, indicated by permanent flush markers at each corner.
- (F) *Open space.* There shall be at least 2,500 feet of common open space for each acre or major fraction of an acre in the park, as provided in § 153.185 - Open Space.
- (G) *Access road.* All home spaces shall be accessible by an interior roadway at least 66 feet wide, with unobstructed access to a public road. Roads shall comply with Chapter 154 - Subdivision Regulations of the Newberry County Code of Ordinances and with the Newberry County road acceptance ordinance.
- (H) *Parking.* Two parking spaces per unit shall be provided on or adjacent to each manufactured home space, with car stops for head-in parking, in addition to adequate turn-around space. Parking space may be provided on 1 side of a private driveway at least 34 feet in width, and on both sides of a private driveway at least 43 feet in width.
- (I) *Site design.* Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.
- (J) *Setback for manufactured home parks.* All manufactured home sites and other facilities associated with the manufactured home site shall be setback a minimum of 100 feet from all property lines and the road right-of-way.
- (K) *Unit setbacks and clearances.* Each manufactured housing unit shall have the following setbacks:
 - (1) Front yard: 25 feet.
 - (2) From abutting driveway: 15 feet.
 - (3) From adjacent units: 20 feet on the side and rear.

(4) Accessory structures shall be at least 4 feet from the unit space line and 20 feet from common buildings such as offices or laundry facilities.

(L) *Buffers.* A buffer of at least 50 feet in width is required along the rear and side property lines of all manufactured home parks.

(M) *Screening.* Manufactured home parks shall be screened along the side and rear park property lines by an opaque wall or fence of commercial grade at least 5 feet high per the requirements of § 153.183 - Screening. The screen shall be installed within the required buffers along the side and rear park property lines.

(N) *Park occupancy.* Construction of required driveways, utilities, unit spaces and other improvements shall be completed for at least 25 percent of the manufactured home spaces shown on the site plan before any part of the park is occupied.

(O) *Site plan required.*

(1) A site plan drawn to scale of 1 inch to 40 feet or larger, showing the details of development, shall be submitted with an application for a manufactured home park showing compliance with all conditions imposed by this chapter. The site plan shall include the following information:

(a) Total park area, including shape and dimensions of the site and a north arrow;

(b) Location and dimensions of access roads, proposed driveways, entrances, exits, walkways, unit spaces, stands, parking areas, refuse receptacles, recreation areas, open space, screening and landscaping;

(c) The plan for sewage disposal and water, gas, and electrical supply;

(d) Tax map number and zoning district; and

(e) Owners and zoning districts of adjoining properties.

(2) The site plan must comply with all applicable regulations before a permit can be issued.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.140 CORRECTIONAL INSTITUTIONS.

Correction institutions, not including county or municipal facilities, may be permitted by special exception in the R2 and GC zoning districts provided the Board of Zoning Appeals finds that the following conditions are met.

(A) All structures, outdoor exercise areas, or any other facilities associated with the use shall be setback a minimum of 500 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(B) Primary vehicular access to such use must be from a paved arterial or collector road.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(D) All applicable conditions required in § 153.089 - R2 Rural District Conditional Uses shall be met for this use in the R2 zoning district.

(E) The use will not substantially injure the value of adjoining properties.

(F) Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.141 CAMPGROUNDS AND RECREATIONAL VEHICLE (RV) PARKS, COMMERCIAL.

Commercial campgrounds and recreational vehicle (RV) parks may be permitted by special exception in the R2 zoning district provided the Board of Zoning Appeals finds that the following conditions are met.

(A) Commercial Campground and RV Park facilities may include a residence for the owner/manager of the premises; utility hook-ups; accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities; and recreational vehicles (including travel trailers) in designated spaces.

(B) All campground and RV park facilities, including structures, camping sites, RV camp/parking sites, and other facilities associated with the use shall be setback a minimum of 100 feet from all adjacent property lines, except where contiguous properties are zoned for commercial (LC or GC) and/or industrial (IND) uses.

(C) All campground and RV park facilities, including structures, camping sites, RV camp/parking sites, man-made uses, and other facilities associated with the use shall be surrounded by a minimum 50 foot wide buffer, which meets the applicable requirements of § 153.182 - Buffers. Such facilities shall be surrounded by an opaque screen which meets the requirements of § 153.183 - Screening.

(D) All applicable conditions required in § 153.089 - R2 Rural District Conditional Uses shall be met for this use.

(E) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(F) The use will not substantially injure the value of adjoining properties.

(G) Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.142 RACETRACKS, STADIUMS, SPECTATOR SPORTS COMPLEXES, PERFORMING ARTS FACILITIES.

Racetracks, spectator sports complexes, stadiums and performing arts facilities may be permitted by special exception as provided in § 153.073(D) - Zoning District Table of Permitted Uses, provided the Board of Zoning Appeals finds that the following conditions are met.

(A) Minimum size of the property is 1 acre.

(B) All structures, fields of play, racetracks, and performance or exhibit areas shall be setback a minimum of 100 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(C) Primary vehicular access to such uses must be from a paved arterial or collector road.

(D) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(E) All applicable conditions required in § 153.089 - R2 Rural District Conditional Uses shall be met for this use in the R2 zoning district.

(F) The use will not substantially injure the value of adjoining properties.

(G) Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.143 ZOOS.

Zoos may be permitted by special exception as provided in §153.073(D) - Zoning District Table of Permitted Uses, provided the Board of Zoning Appeals finds that the following conditions are met.

(A) Minimum size of the property is 5 acres.

(B) All structures, pens, enclosures, and any other area of primary activity associated with the use shall be setback a minimum of 200 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(C) Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

(D) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(E) All applicable conditions required in § 153.089 - R2 Rural District Conditional Uses shall be met for this use in the R2 zoning district.

(F) The use will not substantially injure the value of adjoining properties.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.144 SEXUALLY-ORIENTED BUSINESSES.

Sexually oriented businesses may be permitted by special exception in the GC zoning district, provided the Board of Zoning Appeals finds that the following conditions are met.

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

(B) *Description and Additional Regulation.* For the purposes of defining and describing the types of establishments and activities regulated by this section, the description and definitions found in Chapter 111 of the Newberry County Code of Ordinances § 111.01 shall apply. All sexually-oriented businesses shall be subject to all requirements as set out in Chapter 111 in addition to regulations stipulated in this chapter.

(C) *Applicability.* Sexually-oriented businesses include, but are not limited to those listed in Chapter 111 and any other establishment which contains activities characterized by the performance, depiction, or description of nudity or state of nudity, semi-nudity or state of semi-nudity, specified sexual activities, or specified anatomical areas. Each sexually-oriented business is considered a separate business regardless of ownership and must meet all zoning requirements including location.

(D) *Qualification and Inspections Required.* Prior to the issuance of a certificate of zoning compliance required for a certificate of occupancy, the applicant must be qualified by the Sheriff's Department and pass all inspections as set forth in Chapter 111. In addition, the applicant shall submit evidence that the premises have been found to be in compliance with

applicable laws administered by the Health Department, Fire Department, and Building Official.

(E) *Location*. Sexually-oriented businesses shall be located only in accordance with the following standards:

(1) At least 1,000 feet from any residential use, church, day-care center, retirement center, nursing care facility, hospital, public or private elementary or secondary education school, public park, public library, cemetery, or family-oriented recreation facility, including, but not limited to, a public swimming pool, a roller skating rink, or a motion picture establishment which shows G-rated or PG-rated movies to the general public on a regular basis, regardless of jurisdiction.

(2) At least 1,000 feet from any other sexually-oriented business, regardless of jurisdiction. Only 1 sexually-oriented business is permitted per structure. Each sexually-oriented business is considered a separate business regardless of ownership.

(F) *Measurements of distance*. Separation shall be in a straight line from the closest points of the buildings or outdoor areas in which the sexually-oriented business activity takes place to either:

(1) The closest point of the building in which the residential use, public library, motion picture establishment, or other sexually-oriented business is located; or

(2) The closest point of the property line of a church, day-care center, public or private elementary or secondary education school, public park, or cemetery.

(G) *Signage and exterior decoration/design*.

(1) It shall be unlawful for the owner or operator of any sexually-oriented business or any other person to erect, construct, or maintain any sign other than as provided herein.

(2) Signs and exterior decoration/design shall contain no photographs, silhouettes, drawings, titles, graphic or pictorial representations in any manner of nudity or state of nudity, semi-nudity or state of semi-nudity, specified sexual activities, or specified anatomical areas.

(3) Each sexually-oriented business must display at least 1 sign, easily discernible prior to entering the establishment, which identifies it as such by using the word adult (for example, adult bookstore, adult cabaret, adult entertainment, and the like).

(Ord. 06-11-16, passed 9-21-2016)

§ 153.145 CHEMICAL AND ALLIED PRODUCTS WHOLESALERS, PETROLEUM BULK STATIONS AND TERMINALS, WHOLESALE.

Chemical and allied products wholesalers (NAICS 424690) and petroleum bulk stations and terminals (NAICS 424710) may be permitted by special exception in the Industrial (IND) zoning district provided the Board of Zoning Appeals finds that the following conditions are met.

(A) The property on which the use will be located must be at least 1 acre in size.

(B) All chemical and allied products facilities and petroleum bulk stations and terminals facilities used in the storage, sale, transfer, production of or in any other way associated with these products must be setback at least 500 feet from any existing residential uses or residentially zoned properties and 100 feet from all other adjacent properties and any road right-of-way and a 50 foot buffer shall be provided around the perimeter of the site.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(D) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.

(E) The use will not substantially injure the value of adjoining properties.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.146 SALVAGE, SCRAP AND RECYCLING OPERATIONS.

Salvage and scrap operations, recyclable materials wholesalers, junkyards, and similar used motor vehicle parts wholesalers may be permitted by special exception as provided in § 153.073(D) - Zoning District Table of Permitted Uses, provided the Board of Zoning Appeals finds that the following conditions are met.

(A) The use shall be setback at least 100 feet from any adjoining property line and the public right-of-way and a 50 foot buffer shall be provided around the perimeter of the site.

(B) Primary vehicular access to the use is from a paved arterial or collector road.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(D) No material shall be placed in open storage in such a manner that it is capable of being transferred out by wind, water, or other causes.

(E) All paper, rags, cloth and other fibers, and activities involving the same other than loading and unloading shall be within fully enclosed buildings.

(F) All materials and activities not within fully enclosed buildings shall be enclosed by an opaque screen at least 8 feet in height, excluding points of ingress or egress. Such screening shall adhere to the requirements of § 153.183 - Screening.

(G) Open dumping of garbage shall be prohibited.

(H) All applicable conditions required in § 153.089 - R2 Rural District Conditional Uses shall be met for this use in the R2 district.

(I) Additional conditions may be imposed to ensure that the use will not create a safety, health, or traffic hazard.

(J) The use will not substantially injure the value of adjoining properties.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.147 MOVIE THEATERS, DRIVE-IN.

Drive-in movie theaters may be permitted by special exception in the R2 zoning district provided the Board of Zoning Appeals find that the following conditions are met.

(A) All structures, the projection screen, parking for viewing, and any other area of primary activity associated with the use shall be setback a minimum of 100 feet from any adjacent property with an existing residential use or adjacent residentially zoned property.

(B) Primary access, including all public access, to this use shall be from paved arterial or collector roads.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(D) All applicable conditions required in § 153.089 - R2 Rural District Conditional Uses shall be met for this use.

(E) The use will not substantially injure the value of adjoining properties.

(F) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.148 COMMUNICATIONS TOWERS AND ANTENNAS.

(A) *Purpose.* Approval for new towers, poles, and antennas in the RS, RSV, RSM and RG districts as well as exceptions to height in other districts and waivers to fencing and landscaping requirements may be permitted by special exception granted by the Board of Zoning Appeals after public hearing and findings of fact required.

(B) *Consultation.* Prior to approving a permit by special exception, the Board of Zoning Appeals may consult with a communication expert for technical review to determine that the standards herein are met.

(C) *Conditions.* All towers, poles and antennas permitted by special exception shall, in addition to any other reasonable conditions placed upon the permit by the Board of Zoning Appeals, meet all conditions required in § 153.108(C) except that height, fencing and landscaping may be established on a case-by-case basis through the issuance of the special exception permit.

(D) *Limitations on special exception permits.*

(1) If additional tower height is required, total tower height will not exceed 150% of the maximum height permitted in the district as a conditional use.

(2) The Telecommunications Act of 1996 requires that a denial of permit be supported by substantial evidence; therefore, the Board shall make appropriate findings based upon the evidence submitted outlining the reason for denial.

(3) The Board of Zoning Appeals may only waive fencing requirements if it determines that the fencing serves no useful purpose.

(4) The Board of Zoning Appeals may waive any or all of the screening requirements only upon determining that the existing topography or existing natural materials on site will screen the property as effectively as the required screening, provided that the spirit and intent of this subsection are met. The Board may also waive screening on those sides of the proposed tower that are located adjacent to undevelopable property. Such a waiver may not be sought to relieve the screening requirement for towers to be located adjacent to vacant properties or along any public right-of-way. Undevelopable property shall constitute any such property or land that is unable to be used as a building site (e.g., a floodplain, etc.) or public access.

(5) The Board may not grant a variance or waiver from the standards imposed for a communication tower or antenna in connection with granting a special exception, except as permitted expressly in § 153.148(A) above.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.149 MANUFACTURING, PETROLEUM AND COAL PRODUCTS AND EXPLOSIVES.

The manufacturing of petroleum and coal products (NAICS 324) and explosives (NAICS 32592) may be permitted by special exception in the Industrial (IND) zoning district provided the Board of Zoning Appeals finds that the following

conditions are met.

(A) The property on which the use will be located must be at least 1 acre in size.

(B) Any petroleum or coal production facilities or facilities used in the production of explosives must be setback at least 500 feet from any existing residential uses or residentially zoned properties and 100 feet from all other adjacent properties and any road right-of-way and a 50 foot buffer shall be provided around the perimeter of the site.

(C) All materials and activities not within fully enclosed buildings shall be enclosed by an opaque screen at least 8 feet in height, excluding points of ingress or egress. Such screening shall adhere to the requirements of § 153.183 - Screening.

(D) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.150 LANDFILL, CLASS ONE AND TWO.

Class One and Two landfills as defined by SC DHEC may be permitted by special exception in the R2 zoning district provided the Board of Zoning Appeals finds that the following conditions are met.

(A) All applicable state and federal regulations are met and required approvals and permits have been obtained.

(B) Any Class One or Two landfill structures or facilities associated with such use must be setback a minimum of 500 feet from any adjacent property lines and a 100-foot buffer shall be provided around the perimeter of the site.

(C) The landfill site, including all materials and activities not within fully enclosed buildings, shall be enclosed by an opaque screen at least 8 feet in height, excluding points of ingress or egress. Such screening shall adhere to the requirements of § 153.183 - Screening.

(D) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(E) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.

(F) All applicable conditions required in § 153.089 - R2 Rural District Conditional Uses shall be met for this use.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.151 WASTE MANAGEMENT AND REMEDIATION SERVICES.

Waste management and remediation services (NAICS 562) may be permitted by special exception in the R2 zoning district provided the Board of Zoning Appeals finds that the following conditions are met.

(A) Containers and other structures or facilities associated with the use shall be setback a minimum of 300 feet from any adjacent property lines and a 100-foot buffer shall be provided around the perimeter of the site.

(B) All applicable conditions required in § 153.089 - R2 Rural District Conditional Uses shall be met for this use.

(C) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(D) All materials and activities not within fully enclosed buildings shall be enclosed by an opaque screen at least 8 feet in height, excluding points of ingress or egress. Such screening shall adhere to the requirements of § 153.183 - Screening.

(E) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.152 CONCENTRATED ANIMAL FEEDING OPERATIONS FOR SWINE, SLAUGHTERHOUSE OPERATIONS.

Concentrated animal feeding operations (CAFO) for swine and slaughterhouse operations as defined by this zoning ordinance may be permitted by special exception in the R2 zoning district provided the Board of Zoning Appeals finds that the following conditions are met.

(A) All applicable state and federal regulations are met and required approvals and permits have been obtained. Requirements for CAFOs shall be as required by SC DHEC, per the S.C. Code §§ 46-45-10 through 46-45-80, as amended, unless otherwise provided in this section.

(B) Site design shall ensure safe, predictable vehicular parking, access and movement onto and off of the site.

(C) New CAFOs for swine and new slaughterhouse operations as defined by this zoning ordinance must meet the following requirements, when not superseded by more stringent DHEC requirements.

(1) New CAFOs for swine shall be separated from another swine CAFO by a distance of no less than 5 miles.

(2) The use shall not be injurious to the use or enjoyment for permitted uses of adjacent property.

(3) The use will not discourage or negate the use of surrounding property for permitted uses.

(4) The use will not substantially injure the value of adjoining properties.

(5) Additional conditions may be imposed to ensure that the use will not constitute a nuisance or a safety, health, or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.153 AUCTIONS, LIVESTOCK WHOLESALE.

Wholesale auctions of livestock (NAICS 424520 and 424590) may be permitted by special exception in the R2 zoning district provided the Board of Zoning Appeals finds that the following conditions are met.

(A) Structures and animal enclosures shall be setback a minimum of 500 feet from any adjacent property line and a 100-foot buffer shall be provided around the perimeter of the site.

(B) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(C) The use will not substantially injure the value of adjoining properties.

(D) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.154 MINING AND MINING SUPPORT ACTIVITIES.

(A) All applicable state and federal regulations are met and required approvals and permits have been obtained.

(B) Any mining facilities or facilities used for mining support activities must be setback a minimum of 500 feet from any existing residential uses or residentially zoned properties and a 100-foot buffer shall be provided around the perimeter of the site.

(C) The use will not substantially injure the value of adjoining properties.

(D) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.155 MANUFACTURED HOME, TEMPORARY ASSISTANCE.

The temporary use of a manufactured home as housing for a family member who is elderly, infirm, otherwise in need of assistance, or is to be the caregiver for a family member in need of such assistance may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.

(A) The manufactured home meets the requirements of §§ 150.25 through 150.99 of the Code of Laws of Newberry County.

(B) Such temporary residence shall be either on the same lot of record or on an adjacent lot of record as the permanent residence in which either the caregiver or infirm relative lives.

(C) If such temporary residence is to be located on the same lot of record, the building lot shall be of sufficient size to permit the location of the manufactured home so that all minimum setback requirements are met without encroaching on the setback requirements of the permanent residence.

(D) The manufactured home shall be occupied by a family member who is infirm, elderly, otherwise in need of assistance, or is to be the caregiver for such family member in need of assistance.

(E) The Board of Zoning Appeals may grant conditional renewal of the permit for the manufactured home every 2 years if the applicant provides proof of hardship to the permitted occupant of the manufactured home or the individual being cared for, based on medical conditions that are supported by a signed physician's statement, setting forth the physician's opinion of the medical necessity for the issuance of the permit.

(F) The temporary permit is issued for the use of the manufactured home by a particular individual and is not transferable. If continued use of the manufactured home for or by another family member or caregiver is requested, a new application must be filed in a timely manner and a new permit granted.

(G) The applicant shall remove the manufactured home from the property or shall undertake appropriate measures to make the manufactured home an allowed use through subdivision or other means provided by county and state regulations:

(1) Within 30 days after the manufactured home is vacated by the individual in need of assistance or the caregiver of such person;

(2) Within 30 days of the expiration of the temporary permit or any extension thereof granted per the requirements of division (E); or

(3) Within 30 days of the expiration of a new permit issued for the manufactured home for another family member or caregiver per the requirements of division (F).

(H) Additional conditions may be imposed to ensure that the use will not constitute a safety, health, or traffic hazard.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.156 SOLAR FARMS.

New solar farms or solar farms proposed to be expanded by more than 10% of original footprint shall meet the following requirements where conditionally permitted.

(A) *Site plan required.* A site plan, drawn to scale, shall be submitted to the Zoning Administrator by the applicant, demonstrating compliance with this section and all other applicable sections of this zoning ordinance. At a minimum, the plan must include:

- (1) The name of the project, the names and addresses of the owner(s), engineers, and surveyors;
- (2) The date, scale, and an accurate north arrow;
- (3) The property boundaries, including dimensions and size;
- (4) Required setbacks and buffers;
- (5) The location of all proposed facilities, including solar collectors and proposed structures;
- (6) The horizontal and vertical (elevation) to-scale drawings, with dimensions that show the location of the solar collectors and system.
- (7) Any existing or proposed signs, fencing, lighting, parking areas, driveways, easements, fencing, gates, vegetative screening, and applicable landscaping.
- (8) Adjacent property lines, noting properties that include existing residential uses or residentially zoned properties and other adjacent land uses;
- (9) Adjacent roads and road rights-of-way;
- (10) The planting plan shall demonstrate that sufficient plantings will be installed so as to screen the solar panels from view from any adjacent right-of-way.

(B) *Setback.* A minimum setback of 125 feet is required from all road rights-of-way and all adjacent property lines.

(C) *Buffer.* A buffer of at least 100 feet shall be required from all road rights-of-way and all adjacent property lines, per the requirements of § 153.182 - Buffers.

(D) *Screening.* Screening, per the requirements of §153.183 - Screening, shall be provided for any adjacent property with an existing residential use or adjacent residentially zoned property line.

(E) *Height.* Systems, equipment, and structures shall not exceed 20 feet in height, with the exclusion of associated electric transmission lines and utility poles.

(F) *Fencing.* A security fence at least 6 feet in height shall be provided around the perimeter of the solar farm facility and shall meet the requirements of §153.033 - Fences and Walls. However, the security fence may be chain link for this use.

(G) *Preservation of existing vegetation.* Where possible, existing vegetation shall be protected and preserved in the required buffer and setback areas to provide natural screening for the use. If screening is required, existing vegetation may be used to meet screening requirements as provided in § 153.183(C)(2) - Natural Areas. Such preservation does not include areas designated for roads, driveways, or required parking areas.

(H) *Glare.* Solar collection equipment shall be installed so that no reflected glare is visible at the property line or right-of-way as required by § 153.034 - Light and Glare.

(I) *Decommissioning plan.* The applicant must provide a decommissioning plan, signed by the party responsible for decommissioning and the landowner (if different), that describes the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the solar farm project will be decommissioned and the site restored to its condition prior to the development of the solar farm.

(1) Decommissioning will be required following a continuous, 6-month period in which no electricity is generated by the facility.

(2) The permit holder will have 12 months to complete the decommissioning of the solar farm. Decommissioning shall include removal of solar panels, foundations, structures, cabling, electrical components, conduit, and any other associated facilities as described in the decommissioning plan.

(3) Prior to issuance of zoning permit, and annually thereafter, the applicant must provide the county with a performance guarantee, in the form of an irrevocable letter of credit in the amount of 125% of the estimated decommission cost minus the salvageable value or \$50,000, whichever is greater. Estimates shall be determined by an engineer licensed to practice in South Carolina.

(J) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site, and shall accommodate safe access to the property by emergency vehicles.

(K) Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

(L) Additional conditions may be imposed to ensure that the use will not create a safety, health, or traffic hazard.

(M) The use will not substantially injure the value of adjoining properties.

(Ord. 11-25-2022, passed 12-7-2022)

AREA, SETBACK AND DIMENSIONAL REQUIREMENTS

§ 153.165 PURPOSE, INTENT AND APPLICABILITY.

In order to ensure that new development, renovations, and reconstructions are designed, sized, and sited to complement the area in which they are located and the character of the county in general; and to protect existing development and property values through the promotion of high standards of compatibility; the following standards are hereby adopted.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.166 CONFORMANCE.

All permitted, conditional, and accessory uses and uses permitted by special exception shall conform to the area, height, density and dimensional requirements as provided in this section for the district in which the use is located.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.167 MODIFICATION OF REQUIREMENTS.

The requirements of this chapter may be further modified by other applicable sections of this zoning ordinance, including, but not limited to, those provided in §§ 153.088 *et seq.* - Conditional Uses and §§ 153.136 *et seq.* - Special Exceptions. Where requirements differ, the more restrictive requirement shall apply.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.168 SETBACK FROM THE LAKE SHORE.

All principal and accessory structures shall be set back no less than 50 feet from the 360 contour line 1929 National Geodetic Vertical Datum (NGVD) on Lake Murray and the 440 contour line on Lake Greenwood. However, where adjacent lake properties on both sides of a property are developed, the setback shall not be less than the average of the setback from the 360 contour on Lake Murray or the 440 contour on Lake Greenwood of the principal structures on the adjacent lake properties. Mapping and survey data as provided by the Newberry County Geographic Information System (GIS) will be used by the Zoning Administrator to determine the original location of the 360 or 440 contour lines. Local, state, or federal setback requirements from the lake shore may also apply.

(Ord. 06-11-16, passed 9-21-2016; Am. Ord. 12-23-18, passed 2-6-2019)

§ 153.169 ORIENTATION OF REQUIRED YARDS.

(A) *Generally.* In interpreting requirements related to establishment of required yards, the Zoning Administrator shall apply the following interpretation to the orientation of the yards.

(1) *Through lots.* If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

(2) *Corner lots with 2 frontages.* In the case of corner lots with 2 frontages, a front yard of the required depth shall be provided on the frontage of the street having the higher traffic volume. Where the traffic volumes on both streets are approximately equal, the required depth shall be provided on the street frontage having the minimum lot width. A second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

(3) *Corner lots with more than 2 frontages.* In the case of corner lots with more than 2 frontages, the Zoning Administrator shall determine the front yard requirements, subject to the following limitations:

(a) At least 1 front yard shall be provided having full depth required generally in the district; and

(b) No other front yard on the lot shall have less than half of the full depth required for a front yard.

(4) *Irregularly shaped lots.* On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this chapter to achieve an appropriate spacing of buildings and orientation to the street(s). The rear lot line of triangular or otherwise irregularly shaped lots shall be a line at least 10 feet in length and entirely within the lot, parallel to and at a maximum distance from the front lot.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.170 STRUCTURES AND PROJECTIONS INTO REQUIRED YARDS AND RIGHTS-OF-WAY.

(A) No principal building or structure shall be located within any required setback or yard.

(B) No principal building or structure shall be located within any required buffer.

(C) Permitted fences and walls, retaining walls, security gates, paths, walkways, handicap ramps, mailboxes, utility poles, signs, lighting fixtures, patios at grade, and similar features may be located in a required setback or yard, so long as the sight triangle on corner lots and at driveway intersections is protected.

(D) Ornaments, eaves, cornices, gutters, window sills, awnings, canopies, and other minor architectural features projecting less than 18 inches from the main portion of a building shall be allowed to project into any required yard or setback.

(E) Steps and open porches without roofs shall be permitted in any required yard or setback.

(F) Permitted signs may be placed in required yards and setbacks per the requirements set forth in §§53.213 *et seq.* - Signs. However, permitted signs may not extend into or over any existing public right-of-way.

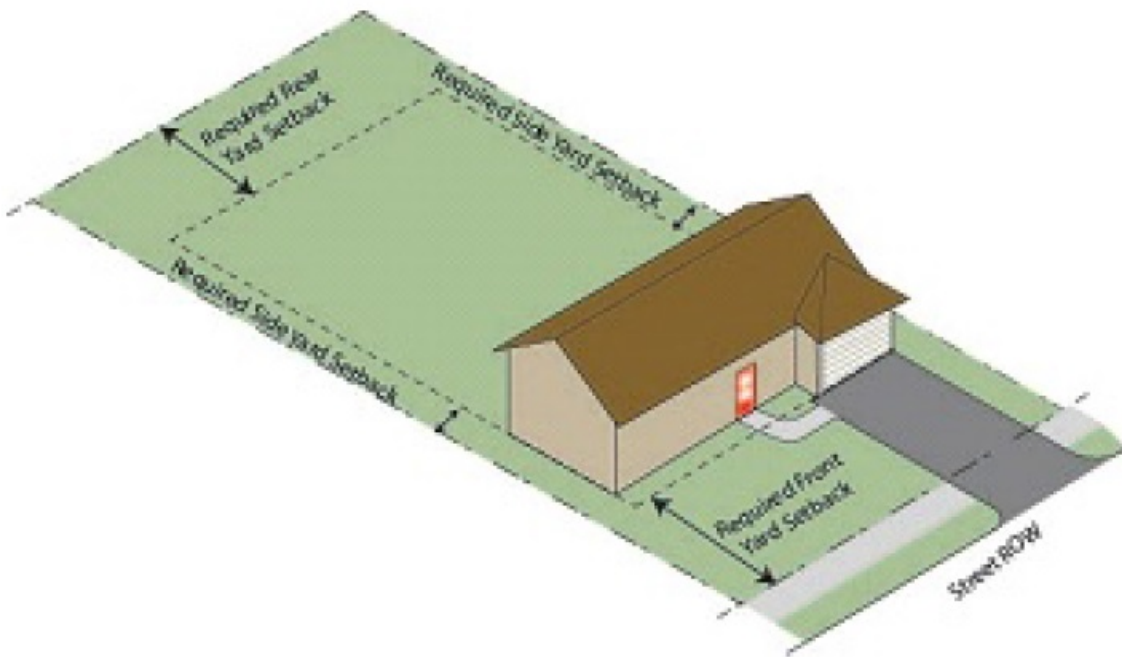
(G) In GC and IND Districts, guard/entry structures, vehicle scales, and roofs over such structures and devices are permitted within required front yards, provided that they do not constitute a substantial impediment to visibility across the yards which would contribute to the creation of traffic hazards, and further provided that servicing operations in connection therewith can be conducted so as not to interfere with public use of adjacent sidewalks or public streets.

(H) Above-ground sewer backflow prevention devices are expressly prohibited in the established front yards of buildings.

(Ord. 06-11-16, passed 9-21-2016)

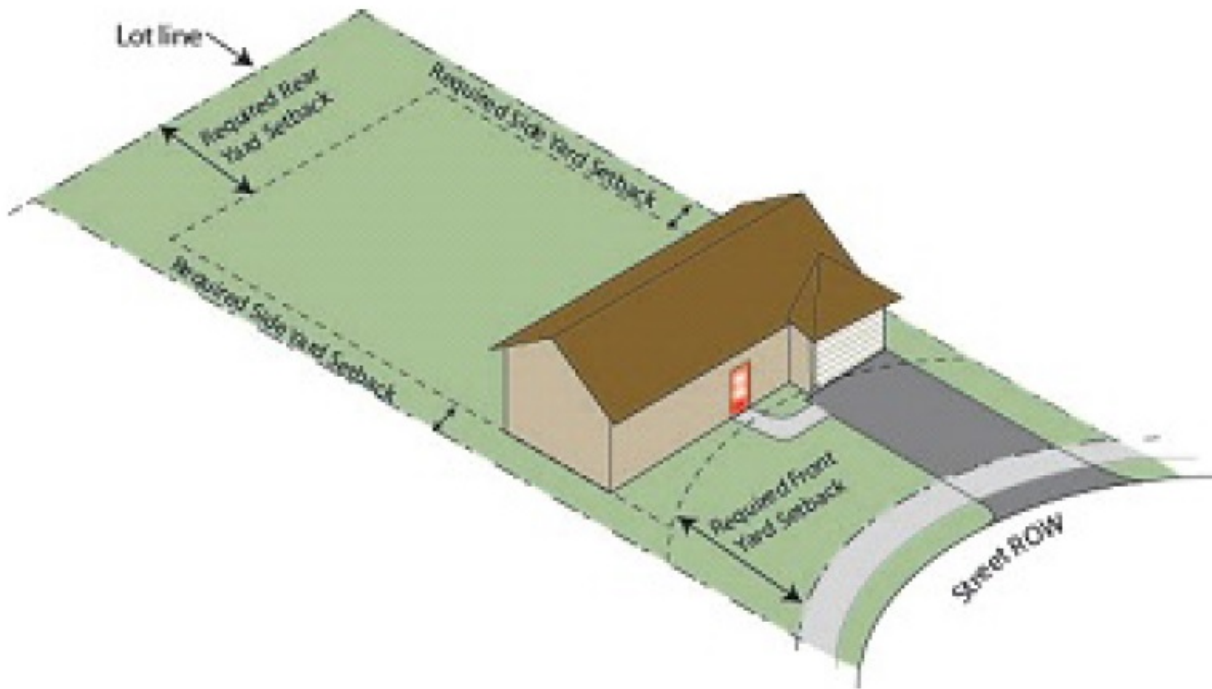
§ 153.171 SETBACK AND YARD MEASUREMENTS, BUILDABLE AREA.

(A) *General setback and yard measurements.* The required front, side and rear setbacks (yards) for individual properties, as set forth for the particular zoning district within which a given property is located, shall be measured inward toward the center of said property from all points along the front, side and rear property lines of the property. Once the required yard areas of a given lot have been established, the remaining area of the lot which is not included in any required front, side or rear lot shall be known as the buildable area within which the approved structure(s) shall be placed. Where a property abuts a street right-of-way or access easement, the setback shall be measured from the edge of the right-of-way line or access easement.



Setbacks and Buildable Area Diagram

(B) *Setback measurement on cul-de-sacs.* The front setback for lots on cul-de-sacs shall be measured parallel to the arc of the street right-of-way and inward toward the center of the lot, as illustrated in the following diagram.



Front Setback Measurement on Cul-de-Sacs Diagram

(Ord. 06-11-16, passed 9-21-2016)

§ 153.172 LOT AREA, WIDTH, SETBACK REQUIREMENTS TABLE.

Zoning Districts	Lot Area (sq. ft.)		Lot Width Front Bldg. Line (ft.)	Yard and Building Setbacks (ft.)			
	Residential ^A	Non-Residential ^{A,E}		Front Yard from Street ROW ^{D,F}	Principal Structures		Accessory Structures Side/Rear Yards
			Side Yard		Rear Yard		
R2	1 acre SFB 5,000/DU MFB	1 acre	100 feet	25 feet res. 50 feet nonres.	7 feet	20 feet	7 feet
RS	20,000	1 acre	70 feet	25 feet	7 feet	20 feet	7 feet
RSV	20,000	1 acre	70 feet	25 feet	7 feet	20 feet	7 feet
RSM	15,000	1 acre	70 feet	25 feet	7 feet	20 feet	7 feet
RG	10,000 SFB 5,000/DU MFB	10,000	70 feet	25 feet res. 50 feet nonres.	7 feet	20 feet	7 feet
LC	10,000 SFB 5,000/DU MFB	-	70 feet	25 feet res. 50 feet nonres.	10 feet ^C	20 feet ^C	7 feet ^C
GC	-	-	70 feet	50 feet	10 feet ^C	20 feet ^C	7 feet ^C

IND	-	-	100 feet	50 feet	20 feetC	20 feetC	12 feetC
<p>A Or as required by SC DHEC</p> <p>B DU = dwelling unit, SF = single-family residential, MF = multi-family residential and duplexes</p> <p>C All uses except single-family residential shall setback from any residential zoning district: 30 feet in LC and GC and 50 feet in IND</p> <p>D Minimum setback from second street right-of-way (ROW) is 25 feet</p> <p>E Minimum lot area for utility station and water towers is 10,000 sq. ft.</p> <p>F For front yard setbacks, res. = single-family detached dwellings and duplexes; nonres. = single-family attached residences, multi-family dwellings, and all non-residential uses</p>							

(Ord. 06-11-16, passed 9-21-2016)

BUFFERS, SCREENING AND LANDSCAPING REQUIREMENTS

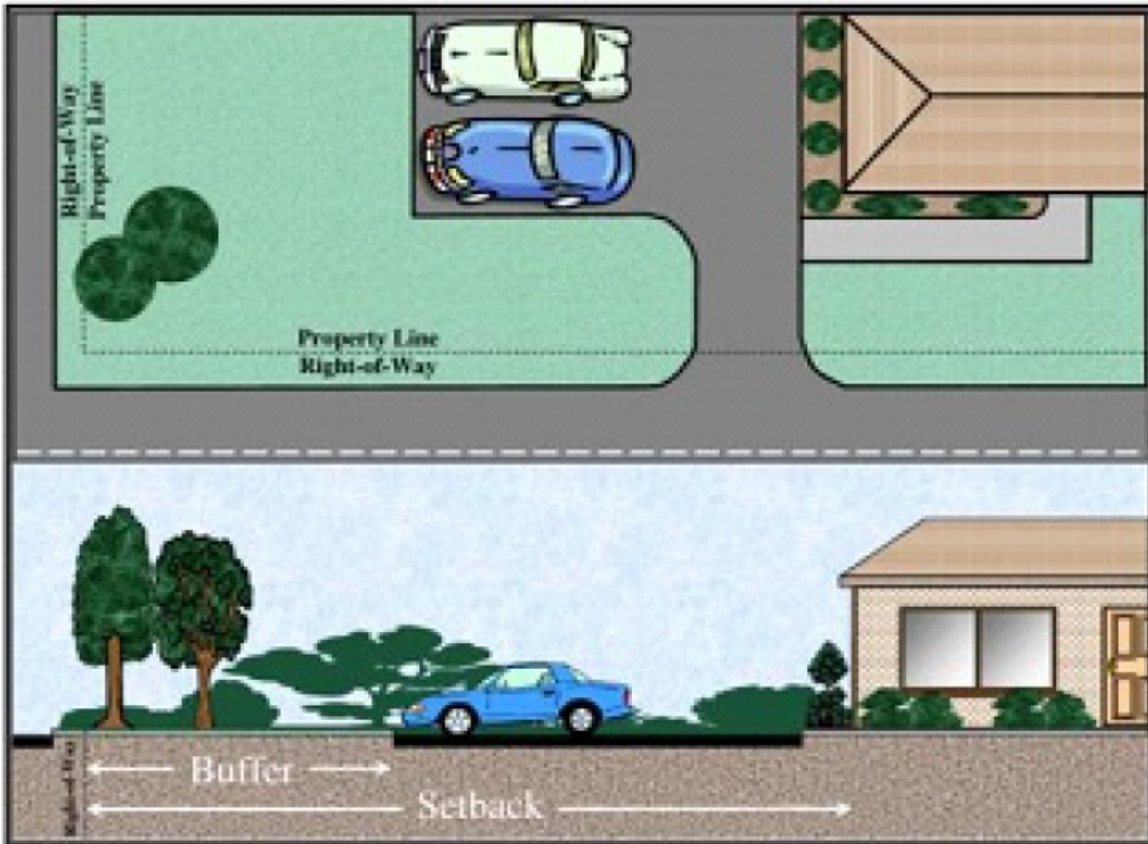
§ 153.182 BUFFERS.

(A) *Intent.* The purpose of a buffer is to help provide transition between different types of land uses, to protect significant water bodies, and to break up and soften the appearance of paved surfaces and provide shade in parking areas. Notwithstanding any other requirements of this section, buffers shall be required as follows.

(B) *Applicability.* Buffers shall be required where applicable whenever new development is approved or an existing use is expanded by more than 25%.

(C) *Modification of buffer requirements.* The requirements of this section may be further modified by other applicable sections of this zoning ordinance, including, but not limited to, those provided in §§ 153.088 *et seq.* - Conditional Uses and §§ 153.136 *et seq.* - Special Exceptions. Where requirements differ, the more restrictive requirement shall apply.

(D) *Location.* Buffers shall not be located on any portion of an existing street or right-of-way; however, they may occupy part or all of any required front, side or rear yard setback. Property buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line.



Buffer and Setback Diagram

(E) *Use of buffers.* A buffer may be used for passive recreation. All other uses are prohibited, including off-street parking. However, where permitted, freestanding signs may be installed in required buffers. Otherwise, only landscaping and approved fences, berms and walls shall be permitted within a required buffer area.

(F) *Existing vegetation.* Except when necessary to provide access to a site or to ensure the safety and security of people and property, every reasonable effort shall be made to protect and retain existing trees and shrubs within areas of required buffers not actually lying in planned roadways, drainage ways, building foundation sites and construction activity areas on all development sites and on sites where a nonresidential use is expanded by more than 25%.

(G) *Exceptions to buffer requirements.*

(1) Where the location of existing permanent buildings on an existing site reduces the area available for a buffer, buffer requirements shall be met to the maximum extent practicable.

(2) In the event that unusual topography or elevation of a development site, the size of the parcel to be developed, the soil or sub-surface condition of the site would make strict adherence to the requirements of this section serve no meaningful purpose, the Zoning Administrator may alter the requirements of this section as long as the existing features of the development site comply with the spirit and intent herein. Such alteration may occur only at the request of the property owner who shall provide adequate explanation and evidence that such conditions apply.

(3) When an activity is located on a parcel which is separated from surrounding protected property by existing road or railroad rights-of-way, by utility rights-of-way, or by water bodies, then the buffering restrictions applicable to that activity shall be measured across such separation from the protected property lines.

(H) *Property buffers.*

(1) Property buffers shall be required along all applicable property boundaries for new development sites, redevelopment sites, and whenever an existing commercial or industrial use is expanded by more than 25%. Buffers for expansions of existing commercial or industrial uses shall only be required for the expanded area and/or structure.

(2) The property buffer width shall be established for applicable new or expanded development as follows:

REQUIRED BUFFER WIDTH				
Proposed Use	Existing Use			
	Residential, Single-Family*	Residential, Duplex*	Residential, Multi-Family*	Manufactured Home Park
REQUIRED BUFFER WIDTH				
Proposed Use	Existing Use			
	Residential, Single-Family*	Residential, Duplex*	Residential, Multi-Family*	Manufactured Home Park
Residential, Single-family Detached	0 feet	0 feet	0 feet	0 feet
Residential, Duplex	0 feet	0 feet	0 feet	0 feet
Residential, Single-family Attached	25 feet	25 feet	25 feet	25 feet
Residential, Zero Lot Line	25 feet	25 feet	25 feet	25 feet
Residential, Multi-Family	50 feet	50 feet	50 feet	50 feet
Manufactured Home Park	50 feet	50 feet	50 feet	50 feet
Commercial	50 feet	50 feet	30 feet	30 feet
Industrial	50 feet	50 feet	50 feet	50 feet

* Existing residential properties and residentially zoned properties

(I) *Road buffers.*

(1) Road buffers shall be required for properties along all road corridors identified in the Corridor Protection Overlay District for all new industrial and commercial uses, all industrial and commercial uses expanded by more than 25%, and all large subdivisions (10 or more lots).

(2) Road buffers shall be no less than 6 feet in width at any point and average 8 feet in width, as measured

perpendicularly to the road being buffered, along the entire length of the property.

(J) *Stream and wetland buffers.* Land-disturbing activities for construction in, on, or under a lake or natural watercourse shall be planned and conducted to minimize the extent and duration of disturbance of the stream channel or lake bed. Where relocation of a stream is an essential part of the proposed activity, the relocation shall be planned and executed to minimize changes in the stream flow characteristics, except where the developer or landowner demonstrates that the significant alteration of the flow characteristics is justified.

(1) An undisturbed, natural buffer shall be maintained along each perennial stream within the county's jurisdiction. The minimum buffer width shall be 50 feet from each side of the stream as measured from the top of the bank.

(2) No land-disturbing activities shall take place within a stream buffer or delineated wetland area, except for required streets and associated facilities, utility mains and easements, and/or greenways and pedestrian paths. Roads and golf courses may cross a buffer, provided they do not cross at an angle of less than 60 degrees.

(3) Streams, wetlands, and required buffers shall be shown on all site plans and subdivision plats for approval and recording.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.183 SCREENING.

(A) *Purpose.* The purpose of screening is to provide a visual barrier between an unsightly or out of scale feature or incompatible land uses or activities and the view from public streets and abutting properties.

(B) *Applicability.* The requirements of this section shall apply to all required screening in this zoning ordinance, including screening required in §§ 153.088 *et seq.* - Conditional Uses and §§ 153.136 *et seq.* - Special Exceptions. Screening shall be required where applicable whenever new development is approved or an existing use is expanded by more than 25%.

(C) *Opaque screening required.* Unless otherwise specified in this section, all required screening shall be visually opaque. An opaque screen is intended to exclude visual contact with the screened feature, land use or activity from any protected property, public street, or right-of-way. An opaque screen may be composed of a wall, fence, building, berm, or a combination thereof; as approved by the Zoning Administrator. A wall, fence, or building, or combination thereof, must be used to screen features. Natural areas, as detailed below, may also be used to screen land uses or activities.

(1) *Natural areas.* Where an existing vegetated area is located on the same property as the proposed development; is within or includes the required buffer; and is of sufficient height, length and depth and contains adequate and sufficient healthy vegetation to provide a visually opaque screen as required in this section, the Zoning Administrator may determine that further improvements shall not be required. Such area must remain intact and be protected throughout all phases of development, including any land disturbance, per the requirements in § 153.184(C)(2). Such areas may not be used for the screening of features.

(D) *Height of required screening.* The height of required screening shall be sufficient to block the view of the feature, land use or activity for which the screening is required from the protected property, public street, or right-of-way that is to be provided such protection as approved by the Zoning Administrator; however, all required screening shall be opaque to a minimum height of 6 feet above grade and shall not be required to exceed 8 feet in height above grade.

(E) *Length of required screening.* The length of a required screen shall be that which is necessary to screen the feature, land use or activity from protected properties, streets, and rights-of-way as provided in this section, however screening cannot obstruct the line of sight for vehicular traffic and must comply with the requirements of § 153.032 - Visibility Requirements, Sight Triangle. The Zoning Administrator may approve accommodations for reasonable access to the property.

(1) Where an existing residential property is to be afforded screening protection and the adjacent property line exceeds 200 feet in length, the screen need only extend 100 feet beyond either extent of the existing use to be protected by screening to meet the screening requirements of this section. The extent of the existing use shall include any primary structures, and structures and associated area accessory to the primary use afforded such protection.

(2) Where a vacant residentially zoned property is to be afforded screening protection and the adjacent property line of the proposed use exceeds 200 feet in length, the following requirements shall apply to meet the screening requirements of this section. The extent of the proposed use shall include any structures, parking, and outdoor storage or work areas associated with the proposed use.

(a) If the proposed use is included in the use category Commercial - Wholesale or the use Manufacturing - Limited as provided in § 153.073(D), the screen need only extend 25 feet beyond either extent of the proposed use.

(b) If the proposed use is included in the use category of Commercial - Retail or is any Manufacturing use other than those included in the Manufacturing - Limited use as provided in § 153.073(D), the screen need only extend 50 feet beyond either extent of the proposed use.

(F) *Screening required as a condition.* All screening required by §§ 153.088 *et seq.* - Conditional Uses and §§ 153.136 *et seq.* - Special Exceptions, except for screening required for features as provided in division (G) below, must be installed within the required buffer between the land use or activity to be screened and the adjacent property, road, road right-of-way, or use being provided such protection. Where a land use or activity is to be screened, the opaque screen may be composed

of a wall, fence, building, berm, or a combination thereof; as approved by the Zoning Administrator. Natural areas, as provided in division (C)(1), may be used to screen land uses or activities.

(G) *Features for which screening is required.* Screening to minimize views from adjacent properties, roads and public rights-of-way shall be required for the following features, and additional features as provided in §§ 153.088 *et seq.* - Conditional Uses and §§ 153.136 *et seq.* - Special Exceptions. To maximize site line obstruction, a screen shall be placed immediately adjacent to the feature to be screened except as otherwise approved by the Zoning Administrator. The Zoning Administrator may approve accommodations for reasonable access, use, and maintenance of the features and equipment, as necessary.

(1) Mechanical equipment for all uses other than single-family residential and duplexes at ground level and mounted on roofs, including, but not limited to HVAC equipment, transformers and generators.

(a) Roof mounted mechanical equipment shall not be visible in any direction from any adjacent existing residential properties, properties in residential zoning districts, roads and public rights-of-way. Where it can be clearly demonstrated that such equipment is not visible from any adjacent existing residential properties, properties in residential zoning districts, roads and public rights-of-way, the Zoning Administrator may waive screening requirements.

(b) Screening of roof-mounted equipment shall be accomplished by solid and permanent roof-mounted screens, compatible with the architectural style, materials and color of the building upon which the equipment is located.

(2) Service areas for all uses other than single-family residential and duplexes, including, but not limited to, garbage and trash collection areas, exposed non-power utility fixtures, power utility substations, and delivery and loading areas.

(3) Open, outdoor storage of materials, including, but not limited to, materials used in assembly, fabrication or processing, and waste materials, in the R2, LC, GC and IND districts as provided in § 153.117 - Open Storage.

(4) Communications towers as provided in § 153.108 - Communications Towers and Antennas or § 153.053 - Special Exception.

(5) Junked vehicle storage as provided in § 153.099 - Junked Vehicle Storage.

(6) Transport containers used as accessory storage as provided in § 153.118 - Transport Containers as Accessory Storage.

(H) Land uses for which screening is required. Screening to minimize views between the following new land uses or land uses expanded by more than 25% shall be required. Where a land use or activity is to be screened, the opaque screen may be composed of a wall, fence, building, berm, or a combination thereof; as approved by the Zoning Administrator. Natural areas, as provided in division (C)(1), may be used to screen land uses or activities.

(1) *Commercial uses.* An opaque screen is required between all structures and facilities related to commercial uses and all adjacent existing residential uses or residentially zoned properties. The screen shall be installed within the required buffers between the commercial use and any adjacent existing residential uses or residentially zoned properties.

(2) *Industrial uses.* An opaque screen is required between all structures and facilities related to industrial uses and all adjacent existing residential uses and residentially zoned properties. The screen shall be installed within the required buffers between the industrial use and any adjacent existing residential uses or residentially zoned properties.

(I) *Berms.* The following standards shall apply to all berms.

(1) No structures, including fences and walls, shall be placed on a berm unless approved by the Zoning Administrator as part of the landscaping requirements for a development site.

(2) Berms shall not be used for the display of vehicles or other merchandise.

(3) If included in the landscape design, berms shall:

(a) Have a minimum height of 2 feet, a minimum crown width of 2 feet, and a side slope with a width to height ratio of no greater than 3 to 1. No berm shall exceed 4 feet in height, not including associated landscaping.

(b) Be designed and constructed with an undulating appearance which mimics, as much as is practicable, a natural topographical feature of the site.

(c) Be substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, ground cover, mulch or similar material.

(d) Be fully installed, planted, stabilized and maintained prior to issuance of a certificate of zoning compliance or occupancy.

(e) Be designed to prevent standing water and not to impede the flow of stormwater from adjacent properties.

(J) *Fences and walls.* All fences and walls shall meet the requirements of § 153.033 - Fences and Walls. Chain-link fences with strips composed of wood, plastic, metal, or other material are expressly prohibited for use in meeting screening requirements, unless otherwise required by this chapter.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.184 LANDSCAPING.

In order to promote careful landscaping of outdoor areas, soften and enhance the manmade environment, reduce summer heat and provide shade, and to assist with stormwater drainage, the following minimum standards shall apply in all zoning districts where landscaping is required, unless otherwise noted.

(A) *General standards.*

- (1) All required plantings installed shall be:
 - (a) Nursery grown stock that is free from pests or growth problems;
 - (b) Installed and maintained according to best management practices and standards set forth by the American Nursery and Landscape Association, ANSI Z60.1-2004, as amended;
 - (c) Installed in a manner that is not intrusive to above and below ground utilities; and
 - (d) Selected from the list of preferred plant species for Newberry County unless otherwise certified by a licensed landscape architect or arborist as suitable for Newberry County's climate and comparable in habit and growth rate to a plant included in the list of preferred plant species for Newberry County.
- (2) All required landscaping shall be included in the required site plan as provided in §153.184(G) - Site plan required.
- (3) The use of native species and related cultivars is encouraged.
- (4) Clustering and/or random spacing of plants and trees is encouraged to produce a natural appearance in the landscape, except where uniformity is required for opaque screening.
- (5) Landscaping, including berms, shall be installed and maintained so as not to interfere with the sight distance requirements of this zoning ordinance or the sight distance needs of vehicular traffic in parking areas and at entrance and exit locations.
- (6) Shrubs and trees shall be installed no closer than 2 feet to a curb, gutter, sidewalk or building. Small maturing trees shall be planted no closer than 10 feet to a building, medium maturing trees no closer than 20 feet to a building and large maturing trees no closer than 25 feet to a building, unless otherwise required in § 153.184 - Landscaping.
- (7) Shrubs shall not be planted within 6 feet of tree trunks.
- (8) In landscaped areas adjacent to parking spaces or street curbs, no plant material with the potential to reach over 6 inches in height may be located within 12 inches of the curb or other protective barrier. This is intended to protect planted materials from damage by car bumpers and car doors.
- (9) The Zoning Administrator will conduct inspections as needed to determine that required landscaping is properly installed and maintained as provided in this chapter.

(B) *Tree size.* The following standards shall apply to all required trees at the time of planting.

Required Tree Size at Time of Planting	
Type	Minimum Caliper¹
Large Maturing Tree	1.5 inches
Medium Maturing Tree	1.5 inches
Small Maturing Tree	1.0 inches

¹ Caliper shall be measured 6 inches above the ground

(C) *Existing vegetation.* Except when necessary to provide access to a site or to insure the safety and security of people and property, every reasonable effort shall be made to protect and retain existing vegetation in required buffers and setbacks, except in planned roadways, driveways, and drainage ways.

(1) *Existing vegetation incorporated into landscaping requirements.* Existing vegetation may count towards meeting the landscaping requirements of this section as long as such are:

- (a) Free from pests or structural problems;
- (b) Clearly shown on the site plan;
- (c) Approved by the Zoning Administrator prior to development as meeting the intent of the landscaping requirements;
- (d) Not considered invasive or noxious plants; and
- (e) Adequately protected before and during grading and development of the site.

(2) *Protection during development required.* Prior to construction, grading or other land disturbing activity, substantial protective barriers shall be placed around the root protection area of all trees and shrubs to be saved and incorporated to meet landscaping requirements.

(a) *Plant protection plan required.* A plan for protection of existing vegetation shall be submitted and approved by the Zoning Administrator prior to clearing, grading or development of the site.

(b) *Protection during development required.* All existing trees included in tree requirements for parking lots must be protected from damage by the property owner by the establishment of a tree protection zone. A tree protection zone for each tree, at a minimum, shall be equal to a 2 foot radius on the ground for every inch of diameter at breast height (DBH) of the tree. The tree protection zone 2017 S-13 shall be protected by a sturdy, durable, and visible fence installed before any land disturbance begins and in place during all phases of development and construction. Each tree protection zone must be designated as such with signs posted visibly on all sides of the fenced protection area, with lettering and colors that provide maximum readability in terms of distance and contrast.

(D) *Irrigation.* All newly-planted and relocated trees and plant material shall be watered by permanent irrigation systems and shall be watered sufficiently to ensure healthy growth and longevity in the landscape.

(E) *Exceptions.* The Zoning Administrator may alter the requirements of this section as long as the existing features complement or enhance the spirit and intent herein, to reasonably accommodate the following circumstances.

(1) In the event that unusual topography or elevation of a development site, the size of the parcel to be developed, the soil or sub-surface condition of the site, or other existing conditions on the site would make strict adherence to the requirements of this section serve no meaningful purpose or would make it physically impractical to install and maintain the required landscaping. Such alterations may occur only at the request of the property owner, who shall submit a plan to the Zoning Administrator showing existing site features that would prevent adherence to the requirements of this section, the requirements of this chapter that would be difficult or impossible to meet, and proposed alternatives to the requirements that would ensure that the spirit and intent of these landscaping regulations will be met.

(2) The Zoning Administrator may require changes to any planting schedule or plant size requirement and may require plant substitution when, in their opinion, the size, nature, and/or spacing of plantings will compromise the safety and security of the public.

(3) The Zoning Administrator may approve revisions to landscaping in an approved site plan in order to accommodate seasonal planting problems or a lack of plant availability as long as:

(a) There is no significant reduction in the quantity of plant material;

(b) There is no significant change in the size or location of plant materials; and

(c) The plant substitutions are of the same general category and have the same general design characteristics (growth rate, habit, etc.) as the materials being replaced.

(F) *Landscape and tree installation and maintenance responsibility.* All landscape materials required or installed voluntarily by the developer, whether used for screening, property buffers, road buffers, or other required landscaping areas shall be properly installed and maintained by the property owner. Maintenance includes all actions necessary to keep landscaping materials healthy, neat and orderly in appearance, and free of litter and debris. Any landscape material lost, stolen, or vandalized, or which has died or become irreparably or irreversibly damaged, by disease, pests, or for any other reason shall be removed and replaced unless, in the determination of the Zoning Administrator, the maturity of the remaining vegetation compensates for the loss of an individual shrub or tree, thereby causing the intent of the landscape standard to still be met without replacement.

(G) *Site plan required.* A site plan, drawn to scale, is required for all landscaped areas as required in §153.184 - Landscaping. The site plan shall include the following elements.

(1) A scale bar and north arrow.

(2) Property boundaries for the project site.

(3) Location of adjacent property lines of existing residential uses and residentially zoned properties.

(4) Existing adjacent streets (including names) and rights-of-way.

(5) Existing berms, walls, fences, and natural areas/vegetation to be incorporated into the required landscaping and screening.

(6) Required buffers and setbacks on the project site.

(7) Existing and proposed above ground utility lines that would impact required tree planting.

(8) Location, dimensions, and composition (plants, ground covers, materials, etc.) of all required landscaping, to include plant species and size, and all proposed berms, fences, or walls.

(9) Proposed driveways, roads, parking lot design (including spaces, medians, walkways, curbs, etc.), additional parking not in a parking lot, loading areas, and other areas of note within required buffers and planting areas.

(H) *Landscaping in the Corridor Protection Overlay District.* The landscaping standards included in this section shall apply, as appropriate, to all required landscaped areas in the Corridor Protection Overlay District (CPO). Landscaping shall be provided for all new industrial and commercial uses and large subdivisions (10 or more lots) and all industrial and commercial uses expanded by more than 25% that are located within the CPO.

(1) *Road buffers.* The following landscaping is required within required road buffers in the CPO as identified in § 153.182(l) - Road Buffers.

(a) Large maturing trees shall be planted unless overhead utility lines or other factors require the use of medium or small maturing trees, as approved by the Zoning Administrator. Fractions generated by applying the minimum number of plants to the actual linear footage of the buffer shall be rounded up to the next whole number. (For example, 125 feet of buffer length would be required to have 2 large trees or 3 medium trees or 4 small trees.) Existing trees may be included in this calculation, if the trees are healthy and structurally sound, are more than 12 inches in diameter at breast height in size, and are located within the road buffer area. The planting schedule for road buffers shall be as follows:

PLANTING SCHEDULE FOR ROAD BUFFERS	
Type	Minimum Number Per Linear Foot of Road Buffer
Large Maturing Trees	0.015
Medium Maturing Trees	0.04
Small Maturing Trees	0.06

(b) In addition to the tree planting requirements, a minimum of 30% of the buffer area shall be planted in a combination of approved shrubs, perennials, ornamental grasses, live ground cover, or turfgrass, except that additional plantings may not be required in significant forested areas maintained within the road buffer if so approved by the Zoning Administrator. All other areas, including bare ground under trees, shall be covered in a minimum of 3 inches of mulch, turfgrass, live ground cover, or a combination of these elements. Spacing and arrangement of plant material must be primarily based on the mature dimensions of the plants. Plant materials shall be designed and installed in a manner that provides variability of height at maturity.

(c) Berms shall be allowed to augment required road buffer plantings as long as a minimum of 50% of all required trees and plantings shall be planted along the street front portion of the berm.

(l) *Parking lot tree canopy.* The intent of the parking lot tree canopy requirements is to break up and soften the appearance of expanses of paved areas and reduce ambient temperatures within off-street parking lots by providing shade.

(1) *Applicability.* The following standards shall apply to all new off-street parking areas with 10 or more parking spaces and all expansions to existing parking areas which add 10 or more spaces, unless otherwise noted. In an expansion, only the area of expansion is required to be included in the calculations provided in this section.

(2) *Required trees.*

(a) Large maturing trees must be provided in each of-street parking lot at a minimum average density of 1 tree for every 10 parking spaces in the lot. Fractions shall be rounded to the nearest whole number.

(b) *Existing trees.* Existing trees may be included in this calculation, if the trees are healthy and structurally sound, are more than 12 inches in diameter at breast height in size, and are located within the tree planting area as described in divisions (3) and (6).

(3) *Parking lot perimeter.* A buffer of at least 10 feet in width immediately surrounding the off-street parking area, except where the lot is permitted to abut or directly adjoin a building and excluding access points, is required for all off-street parking as regulated by this section. Large maturing trees as required in division (l)(2) - Required Trees may be planted in such buffer areas, as specified in the following subsections.

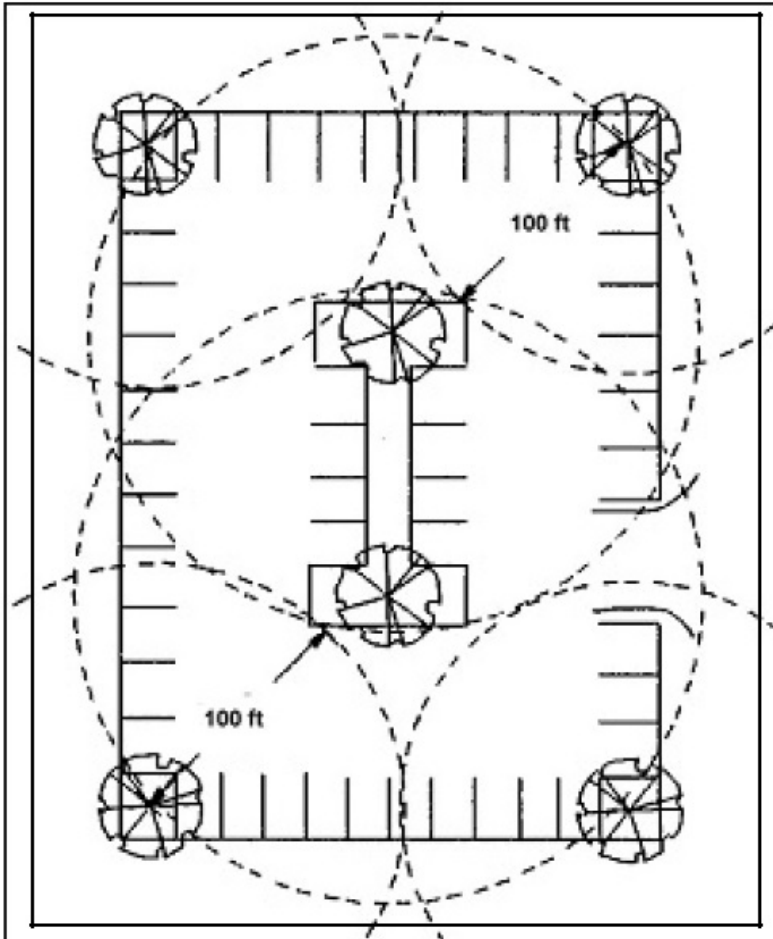
(4) *Responsibility for installation.* The property owner of the developing property shall be responsible for all required tree installation and maintenance.

(5) *Tree size.* Required trees shall be large maturing trees, however smaller trees must be substituted for required large trees whenever a larger tree would interfere with existing overhead utility lines.

(6) *Tree location.* A minimum of 1 large maturing tree shall be located within 100 feet of every parking space. The measurement shall be taken at breast height for each tree.

(a) No tree may be planted closer than 3.5 feet to the back of a curb or the paved portion of the parking lot.

(b) No required tree shall be planted or installed within an underground or overhead utility easement or a drainage easement without the consent of the county and the easement holder at the time of site plan approval.



Location of Parking Lot Trees

(7) *Tree planting areas.* Each planting area for a required tree shall be pervious, a minimum of 100 square feet in size, and no less than 6 feet in width at any point, with an average width of 8 feet.

(8) *Planting areas - design and materials.* The area between and immediately surrounding required trees and in tree islands shall be designed and installed in an orderly and attractive manner conducive to the ongoing health of the plant materials, and shall include ground cover, mulch, or plantings including, but not limited to: small maturing shrubs (no more than 2 feet tall at maturity), annuals, perennials, ornamental grasses, turf grasses, or a minimum of 3 inches of landscaping mulch. Bare ground, including areas under trees, shall not be visible within these areas.

(9) *Tree planting, maintenance and replacement.* Required trees shall be properly maintained by the property owners. Maintenance includes all actions necessary to keep trees healthy, neat and orderly in appearance.

(a) Any trees lost, stolen, vandalized or irreparably or irreversibly damaged, to include disease or pest infestation, or dead shall be removed and replaced. In the event that any tree functioning to meet the standards of division (I) is severely damaged due to an unusual weather occurrence or natural catastrophe, the owner shall have 1 growing season to replace or replant.

(b) Any tree with a diameter at breast height of at least 12 inches which is damaged or removed shall be replaced with a tree which at maturity will have a diameter at breast height of equal size to that tree it is replacing. The size at planting of such replacement tree shall meet the requirements of division (I)(5) - tree size. Replacement trees shall be planted within close vicinity of the tree they are replacing. If the area is too small or in any way not conducive to the health and growth of the new tree, the Zoning Administrator may approve a more suitable location on the site.

(c) All trees shall be installed and maintained to current industry standards as provided by American National Standards Institute (ANSI) and/or the International Society of Arboriculture (ISA) Best Management Practices Series.

(d) In no instance will Newberry County be responsible for the maintenance of any vegetation located on any property that is not owned by the county.

(J) Time for installation of required landscaping and trees.

(1) *Time limit.* All landscaping as required by this zoning ordinance shall be completed in accordance with the approved

site plan prior to issuance of a certificate of occupancy for the site.

(2) *Extensions and exceptions.* The Newberry County Zoning Administrator may grant exceptions and extensions to the above time limit under the following conditions:

(a) Extensions may be granted due to unusual environmental conditions, such as drought, ice, over-saturated soil (deep mud), or inappropriate planting;

(b) Exceptions may be granted due to the substitution or unavailability of tree or plant species or acceptable tree size as specified on the site plan; and

(c) Exceptions may be granted due to circumstances beyond the developer's or property owner's control, such as incomplete construction or utility work to occur in a proposed landscaped area within 30 days after expected site completion. Exceptions may be granted provided that the developer or property owner submits a letter from the utility company to the county stating the estimated installation date.

(3) *Inspections.* A permanent certificate of occupancy for the development shall not be issued unless the landscaping required under this section is installed in accordance with these standards and in accordance with the approved site plan or subdivision plat.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.185 OPEN SPACE.

The following standards shall apply to all required open space unless otherwise noted.

(A) In residential cluster developments, multi-family developments, equestrian subdivisions, manufactured home parks, planned development districts, and major subdivisions as defined in Chapter 154 - Land Development Regulations of the Newberry County Code of Ordinances:

(1) No existing development shall be expanded or enlarged unless the minimum open space requirements of this section are met.

(2) Required buffers may be included in open space if held in common ownership.

(B) Open space requirements shall be calculated using the open space ratio.

(C) Open space may include recreational areas, wooded areas, and environmental open space. Environmental open space is defined as any pervious area set aside for the protection, enhancement, or creation of water quality buffers, wildlife habitat, view corridors, flood hazard mitigation, or similar environmental features and may or may not include public access.

(D) All required open space shall be well buffered from moving vehicles.

(E) Required open space shall be substantially clustered around the edges of the development to buffer the development against adjacent tracts of land, especially land used for agriculture and low density residential development.

(F) The land used for required open space shall have an average slope of 5% or less with no portion of the land exceeding a 15% slope.

(G) Open space areas set aside in residential cluster developments may be used for onsite treatment of stormwater.

(H) Required open space may be public or private. The planning, construction, and maintenance of privately owned facilities shall adhere to the following:

(1) Private open space intended to count towards the open space requirements of this section shall be held and maintained by a legally constituted homeowner's association or corporation. Land designated as open space may not be separately sold, subdivided or developed.

(2) Public open space may be held by any private non-profit organization created for such purposes that has been approved by the County Council. Public open space shall:

(a) Have direct access from public streets;

(b) Be visible and easily accessible; and

(c) Have multiple points of entry.

(3) High maintenance cost facilities such as swimming pools shall not be counted in determining compliance with the minimum open space requirements of this section. Bridges along pedestrian and bicycle paths and similar high cost facilities shall not be permitted as an integral part of any required open space or recreational area unless no feasible alternative exists.

(4) Each phase of a phased development shall meet the minimum requirements for open space. All plans for such developments shall demonstrate compliance for each phase. No certificates of occupancy shall be issued until all such required facilities have been installed or bonded by the developer and approved by the county.

(5) The responsibility for the perpetual maintenance of open space shall be with the owner. Maintenance for required open spaces shall include ensuring that no hazards, nuisances or unhealthy conditions exist; and keeping the property neat

and orderly in appearance and free of litter and debris. Failure to adequately maintain open space shall constitute a violation of this chapter and shall subject the owner to any and all remedies permitted herein.

(Ord. 06-11-16, passed 9-21-2016)

PARKING AND LOADING REGULATIONS

§ 153.197 OFF-STREET PARKING REQUIREMENTS.

(A) General requirements.

(1) Permanent off-street parking for all structures and uses of land, except parking for individual single-family residences, shall conform to the minimum requirements of § 153.198 - Off-Street Parking Table. These standards, to be used as a guide to the Zoning Administrator, are based on parking standards for general land use categories. The developer is ultimately responsible for ensuring that sufficient parking is provided.

(2) Required off-street parking must be provided on the same lot or parcel or within 400 feet of the main entrance of the principal use for which it is required, either:

- (a) In a parking facility under the same ownership as the such principal use;
- (b) Offsite in an area approved by the county as shared parking for the use; or

(c) Where such parking is to be provided by a public garage or facility, as approved by the Zoning Administrator. Shared parking areas are encouraged and shall be permitted whenever the Zoning Administrator determines that the minimum parking requirements can be met for each use.

(3) Required off-street parking shall meet the requirements of §153.184(l) - Parking Lot Tree Canopy.

(4) A plan must be submitted for all proposed off-street parking that clearly delineates the location and dimensions of parking spaces, aisles, maneuvering areas, stacking spaces, and driveways. The plan shall provide the location and description of all required trees and tree planting areas as required in § 153.184(l) - Parking Lot Tree Canopy.

(5) Off-street parking is permitted in required yard and setback areas as provided in this section, but shall not be permitted in any required buffer area.

(6) Expansions to an existing parking area which increase the parking capacity by 10 or more spaces shall be required to comply with all applicable requirements of this section and § 153.184(l) - Parking Lot Tree Canopy.

(B) Off-street parking extending into residential zoning district. Required off-street parking for a commercial or industrial use may extend up to 120 feet into a residential zoning district, provided:

- (1) The parking area adjoins the property on which the principal commercial or industrial use is located; and
- (2) The parking area access is to the same street as the principal use.

(C) Combined parking areas. Combined parking areas serving 2 or more principal uses shall contain spaces equal in number to the total of spaces required for all principal uses served. This requirement also applies if the principal uses are the same or have the same parking requirements.

(1) The Zoning Administrator may accept a lower number of parking spaces than required in §153.201 - Off-street Parking Table (or a specific number of spaces for a use not listed) based upon applicant-submitted parking data such as a shared parking analysis or appropriate standards from the Institute of Traffic Engineers (ITE) or other credible sources, provided the following:

(a) If the Zoning Administrator accepts the (a) lower number of parking spaces than is required in §153.201 - Off-street Parking Table, the plan for the site must be designed to accommodate all required parking, and all areas set aside to accommodate unconstructed parking. Should the Zoning Administrator determine that the originally constructed parking is insufficient, he shall order that the unconstructed parking and/or loading be provided and a certificate of occupancy for such obtained within 12 months of such order. The design and location of these unconstructed parking spaces shall meet design standards as provided in this chapter and the following:

- 1. The area necessary to accommodate these unconstructed spaces shall not be included as part of the site's minimum open space requirement.
- 2. The area necessary to accommodate these unconstructed spaces shall be included in the impervious coverage for the site and accounted for in the drainage design.
- 3. Until or unless such spaces are needed, as determined by the Zoning Administrator, the area shall be maintained as open space, and the clearing of trees and other vegetation and subsequent adherence to the requirements of § 153.184(l) - Parking Lot Tree Canopy and §153.182 - Buffers, shall not occur until or unless such additional parking is required to be constructed.

(b) Any shared parking analysis shall follow the guidelines provided in the most recent edition of the Urban Land Institute's "Shared Parking" publication. Any off-site parking to be used shall require the recording of a perpetual easement prior to occupancy in the Office of the Register of Deeds of Newberry County, the form and substance of which must be

approved by the Zoning Administrator.

(D) *Calculation of off-street parking requirements.*

(1) The number of parking spaces required shall be calculated so that fractional portions of parking spaces are considered a full space (i.e. 56.12 parking spaces shall be calculated as 57 total spaces).

(2) Calculation for required off-street parking for any bar, lounge, nightclub, or restaurant shall take into account all indoor and outdoor seating areas.

(E) *Change or expansion of an existing use.*

(1) Change in the use of an existing structure or site shall require compliance with the minimum parking requirements applicable to the new use. However, if the new use also requires additional buffer area or parking lot canopy, the Zoning Administrator may permit a maximum 20% reduction in the required number of spaces to accommodate additional buffer area or trees.

(2) Any expansion of an existing building or use shall require review by the Zoning Administrator to determine additional off-street parking necessary to accommodate the expansion area or change, per the requirements of § 153.198 - Off-street Parking Table.

(3) Any addition of dwelling units, personnel, seats, chairs, boat slips, or other similar changes shall require review by the Zoning Administrator to determine additional parking necessary to accommodate that addition or change, per the requirements of § 153.198 - Off-street Parking Table.

(F) *Parking for uses not listed in table.* Parking for uses not expressly provided for in §153.198 - Off-street Parking Table shall be determined by the Zoning Administrator, who shall apply the unit of measurement set forth in the table for a use that he deems to be most similar to the proposed use.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.198 OFF-STREET PARKING TABLE.

<i>Description of Use</i>	<i>201 7 NAICS</i>	<i>Off-Street Parking Requirements</i>
<i>Description of Use</i>	<i>201 7 NAICS</i>	<i>Off-Street Parking Requirements</i>
RESIDENTIAL		
Dwellings, Residential	NA	2 per dwelling unit (DU)
Dwelling, Above Non-residential Use	NA	1 per DU in excess of 2 units per building
Manufactured Home Park	531190	2 per dwelling unit
Rooming and Boarding House	721310	2 for owner plus 1 per guestroom
ACCESSORY USES TO RESIDENTIAL USES		
Apartment, Accessory to Single-family Dwelling	NA	1 per dwelling unit
Private Residential Community Recreation, Community Center, Common Area, or Storage Area (within residential community)	NA	Per administrative review
EDUCATION		
College or University; Community or Junior College; Professional School; Vocational, Technical and Trade School	6112 - 6115	1 per 3 students and full-time employees at maximum capacity plus 1 per 4 seats in auditorium
Elementary, Intermediate or Middle School, Public and Private	6111	2 per classroom and office
Kindergarten, Public and Private; Preschool	6111 624410	1 per employee plus 1 off-street drop-off/pickup space
Other Schools and Places of Instruction	6116	1 per 3 students and 1 per full-time employees at maximum capacity
High School, Public and Private	6111	1 per 3 students and 1 per full-time employees at maximum capacity plus 1 per each 4 seats in auditorium
HEALTH CARE AND SOCIAL SERVICES		

Ambulance and EMS Services; Home Health Care services; Laboratory, Medical and Diagnostic; Other Ambulatory Health Care Services; Outpatient Care Centers; Physician, Dentist, Other Health Care Practitioner Office; Social Services and Assistance	6211 - 6216 6221 - 6223 621910 62191 624	1 per 200 sq ft gross floor area
Community Care and Assisted Living Facility for the Elderly; Nursing Home	6231 6233	1 per 3 patient beds plus 1 per full-time employee
Day Care, Child and Adult	624120 624410	1 per employee plus 1 off-street drop- off/pickup space
Hospital, General; Hospital, Psychiatric and Substance Abuse; Hospital, Other Specialty	6221 6222 6223	1.5 per each patient bed
GOVERNMENT		
Correctional Institutions	922140	By administrative review
Executive, Legislative, General Government; Fire Services; Judicial Building; Police Services; Post Office	491 921 - 926 922160 922110 922130	1 per 200 sq. ft. gross floor area
ARTS, ENTERTAINMENT AND RECREATION		
Amusement Arcade; Amusement Ride	713120 713990	1 per 200 sq. ft. gross service area
Botanical Garden; Campground & RV Parks, Commercial; Nature Park; Zoo	712130 712190 712130 7212	By administrative review
Ball Field; Bowling Center; Dance Studio Fairs; Fitness and Recreational Sports Center; Museum; Park with Playground; Park and Recreation Facilities; Swimming; Tennis Wedding Event Venue	713950 7111 71121 711212 712110 711310 713940 713990 812990	1 per 4 patrons at maximum capacity
Driving Range (not accessory to a golf course)	713990	1 per 3 patrons at maximum capacity
Golf Course	713910	1 per 200 sq. ft. gross building area plus 4 per each golf hole
Marina	713930	1.5 per slip plus 1 per full-time employee
Miniature Golf	713990	1.25 spaces per playable hole
Performing Arts Facilities; Racetracks; Spectator Sport Complex; Stadium	7111 711212 71121 711310	1 per 4 patrons at maximum capacity plus 1 per full-time employee at maximum shift for events
Recreational Day Camp; Shooting or Archery Range	611620 713990	1 per 3 patrons at maximum capacity plus 1 per full-time employee
RELIGIOUS AND RELATED USES		
Educational Building, Religious	8131	1 per 3 students at maximum capacity

Parsonage or Parish House, Accessory to Religious Use	NA	2 per dwelling unit
Places of Worship; Religious Organizations	8131	1 for each 4 seats in main assembly room/hall or 1 per 150 sq. ft. gross floor area, whichever is less
CIVIC AND SOCIAL ORGANIZATIONS		
Clubs, Civic, Social	8134	1 per 150 sq. ft. of gross floor area
ACCOMMODATION AND FOOD SERVICES		
Bed & Breakfast Inn	721191	2 for owner plus 1 per guest room
Drinking Places, Bars	7224	1 per 4 patrons at maximum capacity
Hotels and Motels	72111	1 for each guest room plus 1 per each full-time employee
Restaurant, full service and other eating places	722511 722513	1 per 3 patrons at maximum capacity plus 1 per full-time employee
Special Food Service	7223	1 per 300 sq. ft. gross office, sales or service area
OTHER SERVICES		
Automotive Service, Repair and Maintenance	8111	1 per 1,000 sq. ft. gross floor area
Car Wash	811192	Self-service - 3 auto wash, minimum of 6
Cemetery	81222	1 per each full time employee
Dry Cleaning and Laundry; Kennel, Other Pet Care Services; Personal Care Services (including Barber & Beauty shops, Nail Salons, Day Spas), excluding Tattoo Parlors and Sexually Oriented Businesses (NAICS 812199); Repair, Electronic and Precision Equipment, Commercial and Industrial Machinery and Equipment; Repair, Personal and Household Goods	8112 - 8114 8121 8123 812910	1 per 200 sq. ft. gross office, sales or service area
Funeral Home, Crematories	81221 81222	1 per 3 persons at maximum capacity in viewing rooms and chapel plus 1 per full-time employee
Administrative and Support Services; Carpet and Upholstery Cleaning; Landscaping Service	561740 561730	1 per 300 sq. ft. gross office area
Sexually Oriented Business; Tattoo or Body Piercing Parlor	812199	1 per 4 patrons at maximum capacity plus 1 per full-time employee
Social Advocacy, Business, Professional and Similar Organizations	8132 8133 8139	1 per 200 sq. ft. gross office, conference or service area
COMMERCIAL - RETAIL		

All Commercial - Retail uses, except uses otherwise listed under Commercial - Retail	4411-4413 442-443 4441-4442 445-446 445120 4453 448 448310 451-454 453930 4542 492	1 per 200 sq. ft. gross sales area
Convenience Store with fuel pumps	447110	1 per 200 sq. ft. gross sales area plus 2 per each fuel pump
Gasoline Station, w/o convenience store	447190	1 per 300 sq. ft. gross floor area plus 2 per each fuel pump
Mini-warehouse and Personal Storage	531130	1 per 200 sq. ft. gross floor area plus 1 per 10 storage units
Roadside Fruit and Vegetable Markets	445230	1 per 150 sq ft gross sales area
COMMERCIAL - WHOLESALE		
All Commercial - Wholesale uses	42 424690 423140 423930 424710	1 per 5,000 gross floor area
INFORMATION		
Broadcasting and Telecommunication (except NAICS 5172 communications towers)	515 517	1 per 300 sq. ft. gross office or sales area
Information and Data Processing; Newspaper and Software Communications and publishing	511 518 519	1 per 200 sq. ft. gross office or sales area
Motion Picture Production (except 512131 and 512132)	5121	1 per 300 sq. ft. gross floor area
Movie Theater (not drive-in)	512131	1 per 4 patrons at maximum capacity
Movie Theater (drive-in)	512132	Per Administrative Review
Communication Tower, Cell	517312	1 space
PROFESSIONAL AND OFFICE		
Contractors, All Types	23	1 per 300 sq. ft. gross office area
Finance and Insurance; Pawn Shops	52 522298	1 per 200 sq. ft. gross office, service or sales area
Professional, Scientific and Technical Services and Offices (excluding NAICS 54194 Veterinary Services)	54	1 per 150 sq. ft. of gross floor area, or 1 per 300 sq. ft. gross floor area for testing/laboratory facilities
Real Estate, Sales and Leasing; Rental and Leasing	531 532	1 per 200 sq. ft. gross office or sales area
Veterinary Services	541940	1 per 300 sq. ft. gross office, service or sales area plus 1 per full-time employee
INDUSTRIAL - PROCESSING, MANUFACTURING, WAREHOUSING, DISTRIBUTION		
Fuel dealer	454310	1 per 200 sq. ft. gross office space
All Manufacturing uses	31-33 324 325920	1 per employee for maximum shift plus 1 per 200 sq. ft. gross office and sales area
Warehousing and Storage	493	2 per each 3 full-time employees on largest shift or 1 space per 5,000 sq. ft. gross floor area, whichever is greater
TRANSPORTATION		

Air Transportation, Public (including NAICS 48111 Air Traffic Control); Air Transportation Support; Transportation Support Activities (excluding NAICS 4881, 488490, 488210)	4811 488 4881	1 per 300 sq. ft. of gross terminal or office area
Air Transportation, Private (including associated hangers and runways)	48121	By administrative review
Bus Terminal; Rail Terminal	488490 488210	1 per each 200 sq. ft. gross floor area
UTILITIES AND INFRASTRUCTURE		
All Utilities and Infrastructure uses	22 22111 22131-22132 562 562212 562219	1 per 200 sq. ft. gross office area or 1 per full-time employee
NATURAL RESOURCES - AGRICULTURE, FORESTRY, MINING/EXTRACTIVE		
Auctions, Livestock Wholesale	424520 424590	1 per 300 sq. ft. gross service or sales area
Farmer's Markets per DHEC	445230	1 per 300 sq. ft. gross sales area
Mining; Mining Support Activities	212 213	1 per 300 sq. ft. gross office area
TEMPORARY USES		
Contractor office & equipment shed - temporary	23	1 per full-time, onsite employee
Manufactured Home, Emergency Housing	NA	2 per dwelling unit
Manufactured Home, Temporary Assistance; Manufactured Home, Temporary during Construction	NA	1 per dwelling unit
Recreational Vehicle, As Temporary Accommodation	NA	1 per recreational vehicle

(Ord. 06-11-16, passed 9-21-2016; Am. Ord. 12- 23-18, passed 2-6-2019)

§ 153.199 PARKING SPACE DESIGN REQUIREMENTS.

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

(A) *Parking space dimensions.* Parking stalls, except for parking for the physically handicapped as outlined in division (D), shall be not less than 9 feet by 19 feet, except that a maximum of 10% of the total number of stalls may be 8.5 feet by 18 feet. However, the dimensions of all parallel parking stalls shall be not less than 9 feet by 24 feet.

(B) *Minimum parking aisle widths.* Parking aisles shall be 24 feet in width if serving 2-way traffic and 12 feet in width if serving 1-way traffic.

(1) No parking aisle serving the general public that contains more than 10 parking spaces shall dead end. Any parking aisle that dead ends shall be provided a suitable turnaround.

(2) Driveways shall not exceed 24 feet in width at the street.

(3) All off-street parking shall be served by interior circulation drives. No private off-street parking spaces shall directly connect to public streets. This standard shall not apply to single-family detached residential, duplex, patio home and townhouse developments.

(C) *Construction requirements.*

(1) *Paving - larger parking areas.* All off-street parking areas for 10 or more vehicles shall be paved with asphalt, concrete, brick pavers, or approved pervious pavement and pavers as detailed in division (C)(3), except for areas used for overflow, special events, and peak parking, and parking areas serving single-family detached and duplex housing. However, parking designed to accommodate the regular parking of heavy construction and industrial vehicles shall be allowed to pave those areas with suitable gravel. Any parking on such site intended to park automobiles, small service vehicles, and similar passenger vehicles shall be paved.

(2) *Paving - small parking areas.* Surfaces for all driveways and off-street parking areas for less than 10 vehicles may consist of asphalt, concrete, crushed stone, gravel, approved pervious pavement and pavers as detailed in division (C)(3), or other similar material approved by the Zoning Administrator, except for areas used for overflow, special events, and peak parking, and parking areas serving single-family detached and duplex housing.

(3) *Pervious pavement and pavers.* Permeable pavements are permitted including interlocking paving systems and porous pavement, provided handicapped spaces and pathways are designed and installed to meet Americans with Disabilities Act (ADA) requirements. Open-grid pavers may be used in peripheral and overflow parking areas.

(4) Any non-paved surface used for overflow, special events, and peak parking that cannot be maintained with healthy, living turf grass or similar live ground cover shall be paved with approved permeable pavers.

(5) Parking lot construction shall be designed to minimize off-site storm water runoff.

(6) Driveways and parking areas shall be paved with a minimum 10 foot wide apron made of asphalt, concrete, brick pavers, or similar hard material approved by the Zoning Administrator and suitable for driveway use, which extends at least 10 feet from the edge of the public street to prevent washout into the public street and to protect the edge of pavement. This standard shall not apply to single-family residential and duplex uses.

(7) *On-site turnaround required.* On-site turnaround area adequate to accommodate typical passenger vehicles shall be provided for all parking spaces. This standard shall not apply to single-family detached residential, duplex, patio home and townhouse developments.

(8) *Marking.* Off-street parking, except for single-family detached residential use, shall be clearly marked on the ground by painted lines, curbs or other means to indicate individual spaces. Signs or markers, as approved by the Zoning Administrator, shall be used as necessary to ensure efficient and safe vehicle operation on the lot.

(9) *Circulation.* All off-street parking shall be served by interior circulation drives. No private off-street parking spaces shall directly connect to public streets. This standard shall not apply to single-family detached residential, duplex, patio home and townhouse developments.

(10) *Connectivity.* New parking areas on adjacent non-residential and non-industrial properties shall be connected unless the Zoning Administrator determines that topography or other natural features or other factors prevents it.

(D) *Parking for the physically handicapped.* Parking for the physically handicapped shall be provided per the requirements of the Americans with Disabilities Act (ADA) of 1990, as amended; and the International Building Code, as amended and adopted by Newberry County. Each space shall be paved, prominently outlined in blue paint, and shall include appropriate signage provided per the requirements of the ADA and the International Building Code.

(E) *Lighting requirements.* Adequate lighting shall be provided if off-street parking spaces are to be used at night. Equipment for lighting parking facilities shall be shielded so as to prevent sky glow and light trespass onto adjacent residential areas, public streets and rights-of-way.

(F) *Tree canopy.* Off-street parking areas for 10 or more vehicles shall be landscaped and buffer areas provided in accordance with the provisions of § 153.184(l) - Parking Lot Canopy.

(G) *Drive-thru stacking.* In addition to required parking spaces, drive-thru facilities shall provide a minimum of 5 stacking spaces per drive-thru facility, window, or bay, with the following exceptions. Stacking spaces shall be located entirely outside of a required driveway or parking aisle needed to access required parking spaces.

(1) Fast food restaurants shall have an additional 5 stacking spaces. A minimum of 5 of the total stacking spaces shall be located at or prior to the ordering station.

(2) Non-automated car washes shall only be required to provide 2 stacking spaces per bay, 1 of which is located for use as a dry down area.

(3) Automated car washes shall be required to provide an additional 2 stacking spaces per bay.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.200 PARKING AND STORAGE OF RECREATIONAL VEHICLES, OTHER RECREATIONAL EQUIPMENT, AND UNLICENSED VEHICLES.

(A) In the RSV zoning district, no recreational vehicles shall be parked or stored on any property or right-of-way for more than 24 hours, except in accordance with the temporary use restrictions set forth in § 153.123 - Recreational Vehicle as Temporary Accommodation.

(B) No vehicle, watercraft, or trailer subject to state licensing and/or registration which does not display a current license plate or decal shall be parked or stored on any property in the R2, RS, RSV, RSM and RG zoning districts, except in an enclosed building or as provided in § 153.099 - Junked Vehicles.

(C) Temporary use of recreational vehicles as accommodations must comply with the provisions of §153.123 - Recreational Vehicle as Temporary Accommodation.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.201 OFF-STREET LOADING AND UNLOADING SPACES.

Each property used for commercial or industrial purposes, or multi-family developments with more than 10 units, shall provide off-street space for loading and unloading as follows.

- (A) All uses shall provide off-street loading space sufficient for their requirements. Such space shall be arranged so that no vehicle being loaded or unloaded in connection with normal operations shall stand in or project into a public street, walk, alley, or private street.
 - (B) Off-street loading and unloading space shall in all cases be located on the same lot or parcel of land as the uses they are intended to serve.
 - (C) Adequate on-site turnaround area shall be provided for all loading and unloading areas.
 - (D) Off-street loading and unloading areas shall be designed to avoid or minimize safety issues or traffic congestion.
 - (E) *Access.* Each loading space shall have access from an alley or public street.
 - (F) *Dimensions.* Each loading space shall be a minimum of 12 feet by 40 feet, clear of obstructions.
 - (G) *Screening.* Screening of loading/unloading areas shall be provided in accordance with the provisions of §153.183 - Screening.
 - (H) *Expansions.* Expansions to an existing loading area which increase the total area by more than 40% shall be required to comply with all applicable requirements of this section.
- (Ord. 06-11-16, passed 9-21-2016)

SIGN REGULATIONS

§ 153.213 PURPOSE, INTENT AND APPLICABILITY.

In order to ensure that signage is designed and placed to minimize the distractions and obstruction of view that contribute to traffic hazards and endanger public safety, and to prevent signs from dominating the visual appearance of the areas in which they are located, the following standards shall apply to all signs in all zoning districts unless otherwise noted.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.214 PERMIT REQUIRED.

It shall be unlawful to construct, enlarge, modify, move, or to replace any sign or cause the same to be done, without first obtaining a zoning permit for such sign from the county. Notwithstanding this provision, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this chapter.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.215 GENERAL PROVISIONS.

The following provisions shall apply to all signs as noted.

(A) *Materials.* Signs must be constructed of durable materials approved by the Zoning Administrator, and maintained in good condition. All signs, except for banners, flags, temporary signs, and window signs conforming in all respects to the requirements of this chapter shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance. All temporary signs shall be constructed of materials and printed on by inks capable of withstanding normal weather conditions.

(B) *Code compliance required.* All signs shall be constructed and installed in accordance with the applicable provisions of the International Building Code.

(C) *Sign illumination.* Devices illuminating signs shall be placed and shielded in a manner such that the illuminating rays or reflections shall not be directed into any residence, residential district, sleeping room in any district, or public right-of-way. Light produced by a changeable copy billboard (otherwise known as electronic billboards) should not exceed 0.3 Foot-candles over ambient light levels. Furthermore, such billboard must be able to automatically adjust as ambient light levels change. An automatic light-sensing device (such as photocell or similar technology) should be utilized for adjusting the electronic billboard's brightness. Sunset-sunrise tables and manual methods of controlling brightness are not acceptable as a primary means of controlling brightness. If light levels are suspected to exceed required light levels by the Zoning Administrator through observation, the property owner will be required to conduct and document light level tests as needed to demonstrate that the light generated does not exceed the values established. Such tests must be conducted by a qualified professional with proven expertise in the area of light level measurement and testing.

(D) *Sign height.* Unless otherwise regulated herein, no freestanding sign shall extend more than 40 feet above the surrounding grade.

(E) *Sign placement.* All signs shall be placed at least 10 feet from any street right-of-way as measured from the closest

part of the sign, unless otherwise noted in this section.

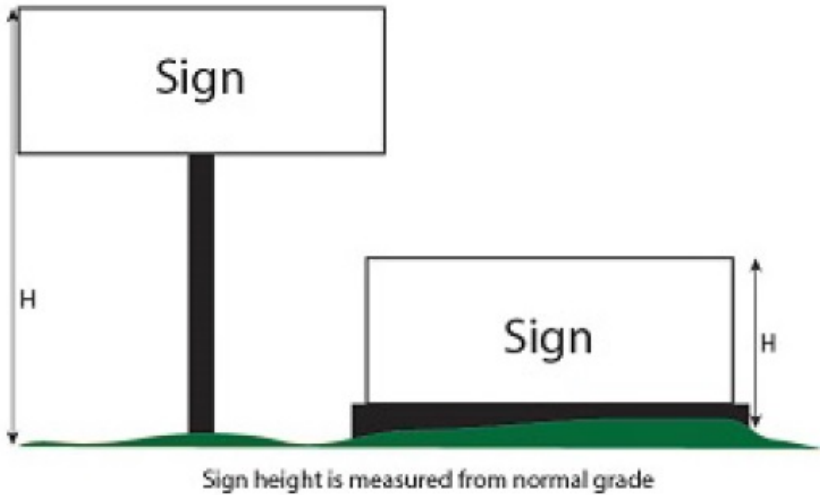
(F) *Measuring setbacks and distances.* All measurements for setbacks and location as stated in this subchapter shall be taken from the outermost portion of a sign to the nearest portion of the feature from which the setback or distance is to be measured, such as property lines, rights-of-way and other signs.

(G) *Computation of sign dimensions.*

(1) *Computation of sign height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

(a) Existing grade prior to construction; or

(b) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

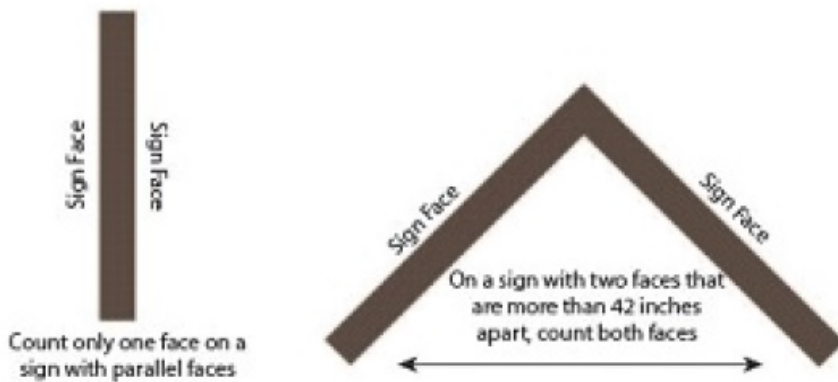


Sign Height Measurement

(2) *Computation of area of individual signs.* The area of a sign face (which is also the sign area of a wall sign or other sign with only 1 face) shall be computed by means of the smallest square, circle, rectangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets these zoning regulations and is clearly incidental to the display itself.

(3) *Computation of area of multi-faced signs.* The sign area for a sign with more than 1 face shall be computed by adding together the area of all sign faces visible from any 1 point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

How to Determine the Area of Sign Faces



Sign Face Area Calculation

(H) *Obstructions prohibited.* No sign shall be placed so as to obstruct the clear sight triangle at a street intersection nor shall any sign obstruct the view of motorists entering or leaving an off-street parking area.

(I) *Forfeiture of illegal signs placed on or over public property.* Any sign installed or placed on or over public property, except in conformance with the requirements of this chapter, shall be forfeited to the public and be subject to confiscation and disposal. In addition to other remedies provided by this chapter, the county shall have the right to recover from the sign owner and/or installer the full costs of removal and disposal of such sign.

(J) *Placement on trees, utility poles, towers, natural features, and the like prohibited.* No sign shall be painted or attached to a tree, fence, utility pole, tower, tank, roof, rock, bridge, street sign or other similar natural or manmade feature. This prohibition shall not apply to "no trespassing" or boundary marker signs posted on trees on private property or utility and official community identification signs posted on water towers.

(Ord. 06-11-16, passed 9-21-2016; Am. Ord. 12-23-18, passed 2-6-2019)

§ 153.216 PROHIBITED SIGNS.

(A) *Signs imitating traffic or emergency signals.* No private sign which imitates or gives the appearance of an official traffic or emergency sign or signal shall be permitted.

(B) *Distracting signs.* No private sign which uses flashing, blinking, scrolling or moving lights, text or graphics shall be permitted, except as may be permitted in § 153.219(A).

(C) *Sign lighting incompatible with a residential district.* Sign lighting shall not trespass onto adjacent properties or create glare that is dangerous to passing motorists or interferes with the use and enjoyment of adjacent residential properties.

(D) *Portable signs.* Portable signs are prohibited.

(E) *Signs in right-of-way.* Signs extending into the public right-of-way other than those expressly permitted by this chapter or otherwise approved by the Newberry County Director of Public Works or SCDOT, if placed along public streets.

(F) *Obstructive signs.* Any sign which obstructs the view of motorists, pedestrians, or cyclists using any street, sidewalk, bike path, or driveway, or which obstructs the approach to any street intersection or railroad crossing, or which interferes with the effectiveness of any traffic sign, device, or signal. In addition, any sign that is illuminated or is highly reflective that hampers the vision of motorists or cyclists shall be prohibited.

(Ord. 06-11-16, passed 9-21-2016; Am. Ord. 12-23-18, passed 2-6-2019)

§ 153.217 SIGNS ALLOWED WITHOUT A PERMIT.

A permit shall not be required for the following signs:

(A) *Traffic signs.* Traffic, directional, street, warning, or information signs authorized by a public agency.

(B) *Official notices.* Official notices issued by a court, public agency, or office.

(C) *Real estate signs.* One non-illuminated "for sale," "for rent," "for lease," or similar sign not exceeding 6 square feet in area in a residential district, or 20 square feet in a nonresidential district, and located at least 10 feet from a street right-of-way or on the front wall of a building.

(D) *Temporary signs.* One non-illuminated political campaign, yard sale, "for sale," "for rent," "for lease," or similar sign not exceeding 6 square feet in area in a residential district or 20 square feet in nonresidential districts, and located a least 10 feet from a street right-of-way or on the front wall of a building.

(E) *Government signs.* Historical markers, regulatory signs, official notices, public interest signs, and warning signs erected and maintained by the county or state or an agent of such.

(F) *Signs for churches, places of worship.* Noncommercial signs for churches and/or places of worship, however such signs must be placed at least 10 feet from any street right-of-way as measured from the closest part of the sign.

(G) *Flags on permanent poles.*

(H) *Traffic control signs on private property.* Traffic control signs on private property, the faces of which meet SCDOT and/or Newberry County Department of Public Works standards and which contain no commercial message of any kind.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.218 PERMITTED SIGNS.

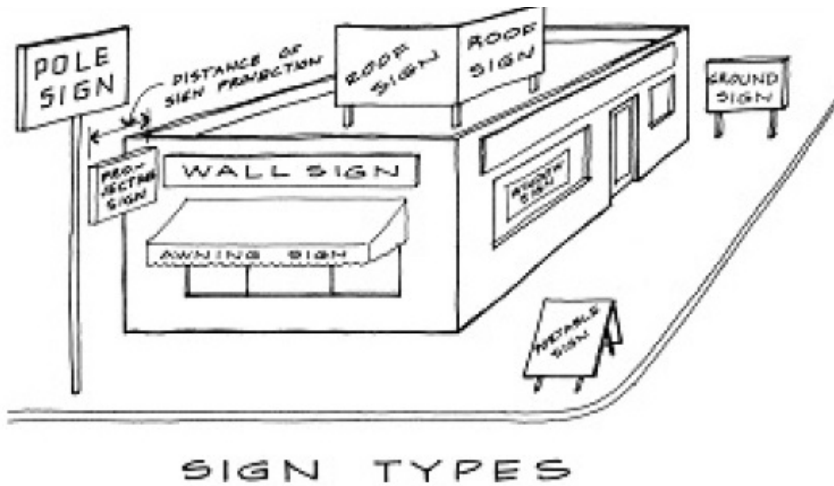
The following signs requiring a permit are allowed as indicated in the following table. All signs shall be located on-premises of the business or use being advertised unless otherwise specified.

PERMITTED SIGNS				
Sign Type	Districts Allowed¹	Number Allowed²	Maximum Size²	Conditions
PERMITTED SIGNS				
Sign Type	Districts Allowed¹	Number Allowed²	Maximum Size²	Conditions
Bed and Breakfast	All	1	6 sq. ft.	(a) May not be illuminated. (b) Must be set back not less than 5 feet from street r-o-w.
Business Identification - Monument	All	1	32 sq. ft.	(a) Not allowed in conjunction with a single-family use. (b) Largest dimension of sign area shall not exceed 8 feet.
Business Identification - Pole	LC, GC, IND	1	200 sq. ft.	Must be set back not less than 10 feet from street r-o-w.
Changeable Copy	R2, LC, GC, IND	1 per sign face, may not exceed 1 per street frontage	50 sq. ft.	(a) Permitted only on permanent freestanding signs, marquee signs, canopy signs and wall signs, and shall comply with all of the regulations of such signs as applicable. (b) See § 153.219 for requirements for changeable copy by electronic or automated mean.
Construction, including alteration and demolition	All	1	100 sq. ft.	(a) May not be illuminated. (b) The sign shall be removed from the site within 30 days after completion of the project.
Institutional and Public Facility	All	1	20 sq. ft.	May not be illuminated.
Neighborhood, Manufactured Home Park, Industrial Park Identification	All (as applicable)	1 per entrance	20 sq. ft.	(a) Signs may be located partially or wholly within the street r-o-w on islands at split entrances as approved by the Public Works Director or SCDOT where required prior to issuance of a permit. (b) The County shall not be responsible for the repair or replacement of such signs regardless of why or how they are damaged or removed including but not limited to traffic accidents, vandalism, street repair, mowing, or resurfacing, and acts of God. (c) The County may remove any such sign at any time for any reason without notice and without compensation.

Off-premises Advertising	R2, LC, GC, IND	Regulated by spacing and setback requirements	(a) On I-26: 672 sq. ft. with embellishments not to exceed 150 square feet. (b) On all other road ways: maximum size shall be 300 sq. ft.	(a) <i>Construction.</i> All signs with a 32-square foot or more sign face shall be of mono-pole construction. (b) <i>Spacing.</i> All signs shall be at least 1,200 feet apart on the same side of the road and 600 feet from the opposite side of the road, measured linearly along the rights-of-way. (c) <i>Configuration.</i> Signs on I-26 may be double decked and double sided. On all other streets, signs may be double sided only. (d) <i>Setbacks.</i> Setback from I-26 may be as required by SCDOT. From adjacent property lines, setback shall be 10 feet measured from the outside edge of the sign. From a residential district boundary or an existing adjacent residence on the same side of the road, minimum setback shall be 100 feet. (e) <i>Height.</i> On I-26, maximum height shall be 110 feet. On all other roads maximum height shall be 40 feet. Advertising space shall be at least 20 feet from ground level for signs greater than 32 square feet in area.
Private Directional	All	1	6 sq. ft.	Must be spaced not less than 500 feet apart.
Professional or Business Name Plate	All	1	2 sq. ft.	(a) Must be mounted flat against the wall of the building where the business is located. (b) May not be illuminated.
Projecting	LC, GC	1 per street frontage	10 sq. ft.	(a) Minimum clearance of 8 feet is required between the bottom of the sign and the sidewalk, pavement or ground surface. (b) Maximum distance a sign shall project from a building is 4 feet. However, no sign shall project from the building wall to an extent that it obstructs the view of pedestrians, cyclists or motorists, or of street intersections, traffic signs, devices or signals. (c) Signs shall not be mounted higher than 12 feet. (d) Signs shall be mounted at a right angle to the building wall.
Rooftop	IND	2	675 sq. ft.	(a) Rooftop signs may be permitted only on buildings that are visible from Federal Interstate Highways. (b) Sign must reach a height of no more than 30 feet above the highest point on rooftop on which it is installed, but no higher than 110 feet from the ground level of the building.
Temporary Land Subdivision	All	1 per street frontage	20 sq. ft.	(a) May not be illuminated. (b) Must be spaced not less than 300 feet apart. (c) Must be removed when 75% of the lots are conveyed.
Wall	All	2 per building frontage	Shall not exceed 20% of the front surface of 25% of the side or rear surface	Surface mounted signs may extend not more than 24 inches from the wall.

1 Signs in LC, GC and IND districts shall be setback at least 15 feet from all interior lot lines.

2 On a lot occupied by a business use, signs shall be limited to not more than 4 signs of any type having a total area of not more than 600 square feet in area. Sign area not exceeding a total of 750 square feet may be granted as a special exception by the Board of Zoning Appeals.



Sign Types*

* Definitions for Sign Types are provided in §§153.230 *et seq.* - Definitions. Source: Harvey S. Moskowitz and Carl G. Lindbloom. *The Latest Illustrated Book of Development Definitions*, Center for Urban Policy Research, 2004.

(Ord. 06-11-16, passed 9-21-2016; Am. Ord. 12-23-18, passed 2-6-2019)

§ 153.219 ADDITIONAL STANDARDS FOR SPECIFIC SIGNS.

Electronic signs. Outdoor advertising that conforms to standards and bears a permit pursuant to §§153.215 through 153.219 of this subchapter may include electronic outdoor advertising only if the electronic outdoor advertising meets the following requirements:

- (A) The electronic outdoor advertising does not contain any form of animation and remains static for at least eight seconds with a transition time of no greater than two seconds.
- (B) The electronic outdoor advertising is not located within 500 feet of a residential area.
- (C) From sunset until 11:00 p.m., the dimmer for electronic outdoor signs, displays, and devices shall not be set to exceed 342 nits in full white mode for signs that are smaller than 672 square feet in area and 300 nits in full white mode for signs that are equal to or larger than 672 in area.
- (D) From 11:00 p.m. until sunrise, illumination shall be extinguished and electronic outdoor advertising signs, displays, and devices shall be equipped with an automatic device to ensure compliance with the requirements of this section, except for signs displaying amber alerts and other governmental emergencies. The automatic device shall have the ability to dim the display through a photoelectric sensor that detects ambient light levels and adjusts the display intensity automatically to ensure maximum nit levels are enforced.
- (E) The electronic outdoor advertising shall comply with the size and spacing limitations prescribed in §§153.215 through 153.219 of this subchapter.
- (F) The owner of any outdoor advertising that wants to convert to an electronic outdoor advertising sign shall notify the Planning and Zoning Department of the face-type status change and meet all criteria as set forth.

(Ord. 12-23-18, passed 2-6-2019)

DEFINITIONS

§ 153.230 GENERAL TERMS.

Except as specifically defined herein, all words and phrases used in this zoning ordinance have their customary dictionary definitions. For the purpose of this chapter, certain words or terms used herein shall be interpreted as follows:

- (A) The present tense includes the past and future tenses.
- (B) Singular words shall include the plural, and plural words include the singular.
- (C) The words "County Council" mean the County Council of Newberry County, South Carolina.
- (D) The words "Board of Zoning Appeals" mean the Newberry County Board of Zoning Appeals.
- (E) The words "Joint Planning Commission" mean the Newberry County Joint Planning Commission.
- (F) The words "zoning map" or "Newberry County Zoning Map" shall mean the Official Zoning Map of Newberry County.

(G) Any reference to a section or chapter shall mean a section or chapter of the Newberry County zoning ordinance, unless otherwise specified.

(H) The words "shall," "will" and "must" are mandatory; and the word "may" is permissive, except when the context of the particular use is negative (e.g., "may not").

(I) The word "street" includes the words "road" and "highway."

(J) The word "person" includes an individual, firm, association, organization, partnership, corporation, company, trust, governmental unit, and any combination thereof.

(K) The word "day" or "days" means calendar days unless otherwise specified.

(L) Words used in the masculine gender include the feminine gender.

(M) The words **USED** or **OCCUPIED** include the words **INTENDED, DESIGNED, OR ARRANGED TO BE USED OR OCCUPIED**.

(N) The words **LOT** or **PROPERTY** include the words **LOT, PLOT, PARCEL, PROPERTY, or TRACT**.

(O) The word **STRUCTURE** includes the words "building" and "accessory structure."

(P) References to NAICS codes shall mean those codes assigned to businesses in the 2012 North American Industrial Classification Manual published by the United States Office of Management and Budget. NAICS codes are listed in the Table of Permitted Uses as an aid in interpretation and determination of those specific uses included in a general class of uses.

(Q) The word **CONTIGUOUS**, as applied to lots or districts, shall be interpreted as meaning sharing a common boundary of 10 or more feet in length.

(R) The phrase **ON THE PREMISES OF**, as applied to accessory uses or structures, shall be interpreted to mean on the same lot or on a contiguous lot in the same ownership.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.231 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED. A structure that has been left vacant or unused or unoccupied for a period of 6 months or longer. It is further provided that the disconnection of electric power for a period of 6 months or longer, or the failure to ever connect such a structure to electric power after it is brought into Newberry County, creates a rebuttable presumption that the property has been abandoned.

ACCESSORY STRUCTURE. A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

AGENT, AUTHORIZED. An agent appointed by a property owner to act as that party's proxy in matters related to land use regulation, as duly authorized in writing.

ALLEY. A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

ANIMAL SHELTER, DOMESTIC. A pen, shelter or structure where dogs or other small domestic animals, not to include horses, cows, goats, swine, sheep, ponies or small horses, grazing animals or fowl are boarded or kept. This definition does not include commercial training or breeding facilities.

AUTOMOBILE SERVICE STATION. Use involving the sale of gasoline, lubricating oils, merchandise such as tires, batteries, auto parts, minor repairs, and may include limited sale of groceries or carwashes, but may not include storage of dismantled or wrecked vehicles for parts.

BAR. Premises used primarily for the sale or dispensing of alcohol for on-site consumption, and where food may be available for consumption on the premises as accessory to the principal use.

BED AND BREAKFAST. An owner-occupied house or portion thereof, where short-term (no more than a week at a time) lodging rooms and meals are provided for no more than 4 guest rooms at any 1 time.

BERM. Any hill or slope which represents a change of elevation of at least 2 feet at a slope of between 25 percent and 50 percent and which is covered with appropriate stabilizing vegetation.

BOARDING HOUSES. Same as rooming and boarding houses.

BODY PIERCING. The creation of an opening in the body of a human being so as to create a permanent hole for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose,

navel, or eyebrow. **BODY PIERCING** for the purpose of this chapter does not include piercing an ear lobe with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear lobe.

BREAST HEIGHT. A measurement of 4.5 feet above ground level.

BREW PUB. A tavern, public house, restaurant, or hotel that produces on the permitted premises a maximum beer per year for sale on the premises in compliance with S.C. Code § 61-4-1700.

BUFFER. A strip of land, that may be improved by landscaping, berms, walls, or fences, or any combination thereof, designed to mitigate the extent of higher intensity land uses on neighboring lower intensity uses. A buffer is an area within which no activity is allowed other than passive recreation and necessary utility and maintenance functions such as transmission lines, underground conduits, or irrigation. The buffer area is described by a linear measurement from the property line inward and will vary depending on the nature of the activity and its location.

BUFFER YARD. A strip of land improved by landscaping or fences, or both, designed to mitigate the extent of higher intensity land uses on neighboring lower intensity uses.

BUILDABLE AREA. That portion of any property that may be used or built upon in accordance with the regulations governing the zoning district within which the property is located when the required front, side and rear yard setbacks, open space, and applicable buffer area requirements have been met.

BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

CALIPER. The diameter measurement of the trunk taken 6 inches above ground level for trees up to and including 4 inch caliper. Caliper shall be measured 12 inches above ground level for larger trees.

CAMPGROUND AND RECREATIONAL VEHICLE (RV) PARK. A commercial facility for users of recreational vehicles, travel trailers, and similar vehicles to reside, park, rent or lease on a temporary basis.

CHANGE OF USE. Any use that substantially differs from the previous use of a building or land.

CHURCH. Any building or structure, or group of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

CIVIC ORGANIZATION. See club, lodge, civic or fraternal organization, fraternity, sorority.

CLUB, LODGE, CIVIC OR FRATERNAL ORGANIZATION, FRATERNITY, SORORITY. An incorporated or unincorporated association for civic, social, cultural, religious, literary, political, or like activities, operated for the benefit of its members and not open to the general public.

CLUSTER HOUSING. A form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development and the remaining land area is devoted to open space, active recreation, preservation of environmentally sensitive areas or agriculture.

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO). Agricultural operations where animals have been, are, or will be kept, fed and maintained in confined situations. Animals have been, are, or will be confined for a total of 45 days in any 12-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Feed is brought to the animals rather than allowing the animals to graze or otherwise seek feed in pastures, fields or on rangeland. Designation as a CAFO is per SC DHEC. Structures used for storage of animal waste from animals in the operation are part of the confined animal feeding operations.

CONCENTRATED ANIMAL FEEDING OPERATIONS FOR SWINE, NEW. Porcine production operations not in existence on June 30, 2006 (S.C. Code § 46-45-20).

CONDITIONAL USE. A use permitted in a particular zoning district upon demonstration that the use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in §§ 153.088 *et seq.* - Conditional Uses.

CORNER LOT. See lot, corner.

CRITICAL ROOT ZONE (CRZ). The area of soil around a tree where the majority of the roots are located and that provide structural stability as well as uptake of water and minerals. In general, the CRZ will be determined by the ratio of radial distance to diameter at breast height (i.e. - 2 radial feet for every 1 inch of diameter at breast height).

CURB CUT. The opening along the curb line where vehicles may enter or leave the roadway.

DAY CARE, CHILD/ADULT. The care, supervision or guidance of a child/adult or children/adults, unaccompanied by the parent, guardian or custodian, on a regular basis, for periods of less than 24 hours per day, but more than 4 hours, in a place other than the child's/adult's own home or homes.

DAY CARE FACILITIES, CHILD/ADULT. Any facility that provides care, supervision or guidance for any minor child or adult who is not related by blood, marriage or adoption to the owner or operator of such a facility whether or not the facility is operated for profit and whether or not the facility makes a charge for services offered by it. This definition includes, but is not limited to:

(1) **CHILD/ADULT DAY CARE CENTER.** Any facility that regularly receives 7 or more children and/or adults for day care.

(2) **FAMILY CHILD/ADULT DAY CARE HOME.** An occupied residence where child and/or adult day care is regularly provided for no more than 6 children and/or adults, unattended by a parent or legal guardian, including those children/adults living in the home and children/adults received for day care who are related to the resident caregiver. This definition does not include an occupied residence in which child and/or adult care is regularly provided only for a child/adult or children/adults related to the resident caregiver, or only for the child/adult or children/adults of 1 unrelated family, or only for a combination of such children/adults.

DEVELOPED LOT. Any lot that has been developed with buildings or other improvements, or for which development approval, such as a final plat approval, a zoning permit, or a certificate of occupancy, has been issued.

DIAMETER AT BREAST HEIGHT (DBH). Measurement of tree trunk diameter taken at breast height, which is measured 4.5 feet above ground level.

DISPLAY AREA OR LOT. Any unenclosed area used for the display of merchandise.

DISTRICT. A geographical area assigned a zoning district designation in accord with the provisions of this chapter.

DRINKING PLACE. Establishment primarily engaged in retail sale of alcoholic drinks for consumption on premises. Sale of food may account for a substantial portion of receipts.

DRIVE-THRU RESTAURANT. Any eating or drinking establishment that, by its structural design, site characteristics, or manner of food service encourages consumption of food or beverages in automobiles on the premises or upon public streets adjacent thereto.

DRIVEWAY. A paved or unpaved area used for ingress and egress of vehicles, and allowing access from a street to a building or other structure or facility.

DRIVEWAY, PRIVATE. A privately owned and maintained driveway that provides access to no more than 3 single-family residences.

DWELLING. A structure or portion thereof that is used exclusively for human habitation.

DWELLING, DUPLEX. A building on a single lot containing 2 dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof, and including separate entrances, kitchens and bathrooms for each dwelling unit. This 2-dwelling unit is not physically attached to any other principal structure.

DWELLING, MULTI-FAMILY. A building containing 3 or more dwelling units including, but not limited to, units that are located one over the other.

DWELLING, PATIO HOME. A single-family detached or semi-detached dwelling unit built on a small lot generally enclosed by walls which provide privacy.

DWELLING, SINGLE-FAMILY ATTACHED. A residential structure containing more than 2 dwelling units in which units are physically attached, and each has its own separate exterior entrance way and a separately owned lot. Townhouses and patio homes are included in this definition.

DWELLING, SINGLE-FAMILY DETACHED. A building containing not more than 1 dwelling unit, not physically attached to any other principal structure, and specifically excluding manufactured homes.

DWELLING, TOWNHOUSE. A series of attached single-family dwelling units on separate lots in which each has its own front and rear access to the outside, no unit is located over another unit, each unit is separated from any other unit by 1 or more common vertical walls, and which may or may not have a common roof.

DWELLING UNIT. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single-family maintaining a household.

DWELLING, ZERO LOT LINE. A residential building containing not more than 1 dwelling unit on an individual lot, is not physically attached to any other principal structure, and which instead of being centered on the lot is placed against at least 1 of the side lot lines.

EASEMENT. A grant of 1 or more property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

ENLARGEMENT. An increase in the size of an existing structure or use, including physical size of the property, building, parking, and other improvements.

FAMILY. One or more persons residing in a single dwelling unit. Unless all members are related by blood, marriage, or adoption, no such family shall contain more than 3 persons. Domestic servants, required medical personnel employed on the premises, or children in approved foster care may be housed within the single dwelling unit without being counted as family or families. Pursuant to South Carolina Code of Laws § 6-29-770(E), Homes for the Handicapped (see definition in this Chapter) are to be perceived as a family as if related by blood or marriage.

FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS. Regulations promulgated by the Department of Housing and Urban Development (HUD) governing the design and construction, strength and durability, transportability, fire resistance, energy efficiency, and quality of manufactured housing. These standards also set performance requirements for heating, plumbing, air conditioning, thermal, and electrical systems.

FENCE. An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FORESTED AREA. An area covered with trees and undergrowth.

FRATERNAL ORGANIZATION, FRATERNITY. See club, lodge, civic or fraternal organization, fraternity, sorority.

FREESTANDING SIGN. See sign, freestanding.

FREESTANDING TOWER. A wireless communications support structure with no guy wires. This can be either a lattice or monopole tower.

GARAGE. A deck, building, or parking structure, or part thereof, used, or intended to be used for the parking and storage of vehicles.

GRADING. Any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

GROSS FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the center line of a wall separating 2 buildings, but excluding any space where the floor-to-ceiling height is less than 6 feet.

GROUND COVER. Any plant material that serves to prevent soil erosion by covering large areas of ground, and which does not grow beyond 12 inches in height.

GUYED TOWER. Any variety of wireless communication support structures using guy wires connecting above grade portions of a communication support structure diagonally with the ground or the structure on which the tower is placed. The purpose of the wire guys is to provide support for wireless communications towers, antennas, and connecting appurtenances.

HELIPAD. An identifiable area on land, water, or a structure, including any buildings or facilities thereon, used or intended to be used for the landing and take-off of helicopters or other tilt rotor aircraft.

HOME FOR THE HANDICAPPED. Pursuant to the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, S.C. Code § 6-29-770, a home serving 9 or fewer mentally or physically handicapped persons, providing 24-hour care, and approved or licensed by a state agency, department or under contract with the agency or department, is exempt from local zoning ordinance requirements. Residents of such a home are perceived as a natural family, as if related by blood or marriage. Approval and licensing for such use is by the appropriate state agency, as provided in S.C. Code § 6-29-770.

HOME OCCUPATION. An occupation, profession, or trade customarily and commonly carried out by an occupant in a dwelling unit as a secondary use that is clearly incidental and subordinate to the residential character of the dwelling unit.

HOTEL. A building in which lodging for pay is offered to the public, with or without meals, for transient or permanent guests, including a motel or tourist court containing 5 or more guest rooms.

INTENSITY OF USE. The number of dwelling units per acre for a residential development and the amount or degree of activity for commercial and industrial development.

JUNK. Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of, or abandoned.

JUNK, SALVAGE, SCRAP, OR WRECKING YARDS. Any use involving storage or processing of inoperable, disused, dismantled, or wrecked vehicles, equipment, or machinery or the storage or processing of scrap metal, waste paper, rags, food processing wastes, construction wastes, industrial wastes, secondhand building materials, or other scrap, salvage, waste, or junk materials.

KENNEL. A commercial establishment where dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

LAND DISTURBANCE. Any activity that changes the physical conditions of land form, vegetation and hydrology, creates bare soil, or otherwise causes erosion or sedimentation. Such activities include, but are not limited to clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.

LANDFILL. Per SC DHEC Regulation 61-107.19: Solid Waste Landfills and Structural Fill, a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment, or an injection well.

(1) **CLASS ONE LANDFILL.** A landfill used solely for the disposal of trees, stumps, wood chips, and yard trash that is generated from land-clearing activities, excluding agricultural and silvicultural operations when generation and disposal are on site.

(2) **CLASS TWO LANDFILL.** A landfill used for the disposal of environmentally safe waste, as determined by SC DHEC, as may be generated by construction, demolition, land-clearing, industrial, and/or manufacturing activities, and/or obtained from segregated commercial waste. A listing of such materials is included in Appendix 1 of Regulation 61-107.19. However, any materials listed in that appendix that have been contaminated by any hazardous constituent as listed in the S.C. Hazardous Waste Management Regulations 61-79.261, or petroleum products, are prohibited from disposal at a Class Two Landfill.

(3) **CLASS THREE LANDFILL.** A landfill that accepts municipal solid waste, industrial solid waste, sewage sludge, nonhazardous municipal solid waste incinerator ash and other nonhazardous waste.

LATTICE TOWER. A wireless communications support structure that consists of a network of vertical and horizontal supports and crossed metal braces, forming a tower which is usually triangular or square in cross-section.

LOT. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

LOT AREA. The total area within the property lines of a lot, excluding any street right-of-way.

LOT, CORNER. Any lot that is bounded on 2 or more consecutive sides by road rights-of-way which intersect at an angle of 135 degrees or less.

LOT COVERAGE. The area of the lot, which when viewed directly from above would be covered by all principal accessory buildings and structures.

LOT FRONTAGE. The front of an interior lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided upon that basis. The phrase "street frontage" shall be interpreted to have the same meaning as the phrase "lot frontage."

LOT, INTERIOR. A lot other than a corner lot, with only 1 frontage on a street.

LOT LINE. A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line.

LOT OF RECORD. A lot defined by plat or described by metes and bounds which has been duly recorded with the County Clerk of Court.

LOT, REVERSE FRONTAGE. A through lot that is not accessible from 1 of the parallel or nonintersecting streets upon which it fronts.

LOT, THROUGH. A lot that fronts upon 2 parallel streets or that fronts upon 2 streets that do not intersect at the boundaries of the lot.

LOT WIDTH. The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

MANUFACTURED HOME. A manufactured single-family dwelling, or integral part thereof, so constructed that it may be transported, temporarily or permanently affixed to real estate, and comprised of 1 or more components, that meets the National Manufactured Home Construction and Safety Standard Act (42 U.S.C. §§ 5401 et seq.), commonly known as the HUD Code. Manufactured homes in Newberry County must meet the requirements of §§ 150.25 through 150.99 of the Newberry County Code of Ordinances.

MANUFACTURED HOME PARK. A lot providing rented parking space for 5 or more manufactured homes used for dwelling units, including service buildings and facilities. Manufactured home sale or storage lots for unoccupied units are not manufactured home parks.

MINI-WAREHOUSE. A building or group of buildings on a fenced, controlled access lot which contain individual locked compartments for storage of personal property.

MOBILE FOOD TRUCK OR TRAILER. A readily movable, motorized, wheeled vehicle, whether self-propelled or towed, that is designed and equipped to serve, store, prepare, or sell food, other than or in addition to food products identified in the definition of products sold by an ice cream truck.

MOBILE HOME. A manufactured, single-family dwelling, constructed so that it may be transported, and temporarily or permanently affixed to real estate, and that was manufactured prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act, effective June 15, 1976.

MODULAR BUILDING. A structure consisting of 2 or more prefabricated components designed to be transported to a lot and placed on a permanent foundation, and which is certified by the South Carolina Building Codes Council as conforming to the International Building Code standards for site built units. A house trailer or manufactured home is not a modular building.

MONOPOLE TOWER. A self-supporting communications tower consisting of a single pole without guy wires or other stabilizers.

MOTEL. A building or buildings where lodging, with or without meals, is offered to the public for consumption, including a hotel, tourist court, or inn.

MULCH. Organic material that is spread on the soil surface, normally around newly planted trees or other areas, to reduce weed growth, to retain soil moisture and moderate soil temperature extremes, to reduce compaction, to prevent damage from lawn-maintenance equipment, to reduce erosion, to improve soil quality and/or to improve aesthetic appearance of the landscape. Mulch can be composed of chipped, ground or shredded organic material such as bark or wood.

MULTI-FAMILY DWELLING. See dwelling, multi-family.

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

NOXIOUS PLANT. Any plant that can directly or indirectly injure crops and other useful plants, interests of agriculture or navigation, fish or wildlife resources, or the public health.

OFF-STREET LOADING. Designated areas located adjacent to buildings where trucks may load and unload cargo.

OFF-STREET PARKING. An area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street arranged so that maneuvering incidental to parking shall not be on any public street and so that an automobile may be parked or unparked therein without moving any other automobile.

OPEN SPACE. Unless otherwise defined in this chapter, open space is any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring the open space. Open space shall include recreational areas, greenways, and wooded areas.

OPEN SPACE RATIO. The open space ratio is a measure of the intensity of land use. It is calculated by dividing the total amount of open space within the site by the total site area.

OVERLAY DISTRICT. A zoning district that encompasses 1 or more underlying zones and that imposes additional requirements above those required by the underlying zone.

OWNER. An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

PARCEL. A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

PARK. An area or facility intended to be used for recreation, exercise, sports, or similar activities or an area intended to enhance the enjoyment of natural features or natural beauty, but specifically excluding commercially operated amusement parks.

PARKING AREA. Any public or private area located under or outside of a building or structure and designed and used for parking motor vehicles, including parking lots, garages, private driveways, and legally designated areas of public streets.

PARKING LOT. A public or private open lot for parking motor vehicles as a principal use or as an accessory use to a commercial use.

PERMITTED USE. A use permitted outright by district regulations.

PERMITTEE. A person in whose name a permit has been issued, as well as the individual listed as an applicant on the application for a permit.

PERSONAL SERVICES. Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

PEST. An organism, including but not limited to insects, bacteria or fungi, that is severely damaging, noxious, a nuisance or fatal to a plant or animal.

PLANNED DEVELOPMENT DISTRICT. An area of land wherein a variety of housing types and/or related commercial and industrial facilities are accommodated in a pre-planned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply. The procedure for approval of the development contains requirements in addition to those of the standard subdivision, such as building design principles, and landscaping plans. See § 153.074 for more details.

PLAT.

- (1) A map representing a tract of land showing the boundaries and location of individual properties and streets.
- (2) A map of a subdivision or site plan.

PORTABLE ON-DEMAND STORAGE CONTAINER (POD). A transportable unit designed and used primarily for temporary storage of building materials, household goods, personal items and other materials, for use on a limited basis, typically delivered and removed by truck. The reuse of a shipping container as included in the definition of Transport Containers for storage is not included in this definition.

PRINCIPAL STRUCTURE OR USE. A structure or use that is significant or primary rather than accessory.

PROHIBITED USE. A use that is not permitted in a zone district.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

RECREATIONAL. A use that involves a pastime, exercise, diversion or other resource affording relaxation and enjoyment. Common recreational activities include, but are not limited to: hunting, fishing, swimming, boating, camping, hiking, travel, nature study, golf, tennis, horseback riding, participatory sports, spectator sports; viewing or enjoying historic, archaeological, scenic or scientific sites, and the like.

RECREATIONAL VEHICLES. Vehicular-type portable structures without permanent foundation, but with undercarriage, and any necessary axles and wheels continually affixed, that can be towed, hauled, or driven, and are designed as temporary living accommodations for recreational camping and travel use, including but not limited to travel trailers, truck campers, camping trailers, fifth wheel trailers, and self-propelled motor homes.

RESIDENCE. A dwelling.

RESIDENTIALLY ZONED PROPERTY. A property located in the RS, RSV, RSM and RG zoning districts.

RESTAURANT. An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

RETAIL SALES. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of the goods.

RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses.

ROAD CLASSIFICATION. Functional road classification is the process by which streets and highways are grouped into classes according to the character of service they are intended to provide. Classifications are provided and updated regularly by the SC Department of Transportation and are based on criteria that include road type and traffic volume.

(1) **ARTERIAL ROAD.** A road of regional importance or a main road of the community that is expected to carry either heavy vehicular traffic volumes or high-speed traffic or both. Arterial roads form a connected network of continuous routes that provide countywide and regional linkages. Arterials are characterized as having access control, channelized intersections, and signalization. Service to abutting land is subordinate to the provision of travel service.

(2) **COLLECTOR ROAD.** A road that is used or intended to be used for moving traffic from local roads to arterial roads. Collectors are generally shorter than arterials, but carry high volumes of traffic. Collector roads carry primarily residential traffic, but provide no or limited residential frontage.

(3) **LOCAL ROAD.** Local roads primarily provide access to adjacent land and road systems of higher classification and travel over relatively short distances as compared to collector roads. The local street system comprises all facilities not assigned a higher classification and offers the lowest level of mobility.

ROAD FRONTAGE. Any strip of land adjacent to a public or private road right-of-way.

ROOMING AND BOARDING HOUSE. Any dwelling, other than a hotel or motel, in which 3 or more persons who are not members of the owner's or operator's family are housed or lodged in rooms used or intended to be used for living and sleeping but not for cooking or eating purposes, for compensation, with or without meals being provided. Any dwelling in which the accommodations are offered in 4 or more rooms shall be considered to be a hotel or motel.

SALVAGE YARD. See **JUNK YARD.**

SATELLITE DISH ANTENNA. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. The device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, television reception only satellite dish antennas, and satellite microwave antennas.

SCRAP YARD. See **JUNK YARD.**

SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SCREENING, OPAQUE. An opaque screen is intended to exclude visual contact with the feature, land use or activity that is required be screened from any property, public street, or right-of-way that is afforded such protection.

SETBACK LINE. The linear distance that establishes buildable and non-buildable area measured inward from the road right-of-way or adjoining property lines. Buildings and other principal structures comprising the activity of the site may not encroach upon this space. However, an accessory activity such as parking or a driveway may be located within the setback unless superseded by a buffer.

SEXUALLY-ORIENTED BUSINESS. An establishment so defined in Chapter 111 of the Newberry County Code of Ordinances.

SHOPPING CENTER. One or more commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

SHRUB. A deciduous or evergreen perennial woody plant of relatively low height, smaller than a tree, with several major branches arising from near the base of the main stem.

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

(1) **SIGN, ANIMATED.** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

(2) **SIGN AREA.** The area of a sign face.

(3) **SIGN, BANNER (OUTDOOR ADVERTISING).** A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, educational, or corporate organizations.

(4) **SIGN, BEACON.** Any sign with 1 or more beams directed into the atmosphere or directed at 1 or more points not on the same zoning lot as the light source; also, any light with 1 or more beams that rotate or move.

(5) **SIGN, BILLBOARD.** A type of off-premises sign, generally, but not always, consisting of a rigidly assembled sign, display, or devise, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters.

(6) **SIGN, BUILDING.** Any sign attached to any part of a building, as contrasted to a freestanding sign. Examples include, but are not limited to: wall, projecting, suspended, and roof (including integral roof) signs; marquees, canopies, banners, and building markers.

(7) **SIGN, CAMPAIGN OR ELECTION.** A sign that advertises a candidate or issue to be voted upon on a definite election day and in a local, state, or federal election process.

(8) **SIGN, CANOPY.** Any sign that is a part of, or attached to, an awning, canopy, fabric or plastic, or structural protective cover over a door, entrance, window, or service area. A marquee is not a canopy (see **SIGN, MARQUEE**).

(9) **SIGN, CHANGEABLE COPY.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the remaining face or the surface of the sign.

(10) **SIGN, CONSTRUCTION.** A sign placed at a construction site identifying or announcing the names of the building, contractors, architects, engineers, owners, and financial, selling, and development agencies for work involving construction, alteration, or removal.

(11) **SIGN COPY.** Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign face.

(12) **SIGN, DIRECTIONAL OR INSTRUCTIONAL.** An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "entrance," "exit," "parking," "one-way," "warning," "no trespassing," or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

(13) **SIGN, DIRECTION OR INSTRUCTIONAL - PRIVATE.** Off-premises signs indicating the location and direction to property available for or under development erected on private property, which may display the names of the owner, developer, builder, or agent.

(14) **SIGN, DIRECTORY.** A sign other than an identification sign, listing the names, uses, or locations of the various businesses or activities conducted within a building or group of buildings that is centrally located and intended to provide direction

(15) **SIGN FACE.** That part of the sign that is or can be used to identify, advertise, or communicate information or that is used to attract the attention of the public for any purpose. This definition includes any frame, structural member, or other part of the sign when such is designed or used, including the use of color or lighting, to attract the attention of the public.

(16) **SIGN, FLAG.** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other business entity.

(17) **SIGN, FLASHING.** A sign that uses an intermittent or flashing light source to attract attention.

(18) **SIGN, FREESTANDING.** Any sign supported by structures or supports that are placed on, or anchored in the ground and that are independent from any building or other structure. Examples include, but are not limited to, ground and pole signs.

- (19) **SIGN, GOVERNMENT.** Any temporary or permanent sign erected and maintained for any governmental purposes.
- (20) **SIGN, GROUND OR MONUMENT-TYPE.** A freestanding sign that extends from the ground or is attached directly to the ground generally for the entire length of its bottom sign face dimension, or that has a support which places the bottom of the sign less than 12 inches from the ground.
- (21) **SIGN HEIGHT.** The distance from the base of the sign at normal grade to the top of the highest attached component of the sign.
- (22) **SIGN, IDENTIFICATION.** A sign that displays only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.
- (23) **SIGN, INCIDENTAL.** A sign, generally informational, that has a purpose secondary to the use of the zoning lot where it is to be located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives which are free of any commercial, advertising, or similarly unrelated message.
- (24) **SIGN, INTEGRAL ROOF.** Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than 6 inches.
- (25) **SIGN, KIOSK.** A freestanding sign consisting of 3 to 5 sides that lists names of businesses located on a property, in a building, or within the immediate area.
- (26) **SIGN, KNOCKOUT.** An internally illuminated sign on which only the lettering and graphics are transparent to the light.
- (27) **SIGN, MARQUEE.** Any sign attached to, in any manner, a marquee. For purposes of this definition, a marquee is defined as a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- (28) **SIGN, MEMORIAL OR PLAQUE.** A sign designating the name of a building and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface.
- (29) **SIGN, MONUMENT.** A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or solid structural features other than support poles where the base of the sign is on the ground or no more than twelve inches above the adjacent grade.
- (30) **SIGN, MULTI-FACED.** A sign having more than 1 face.
- (31) **SIGN, NONCONFORMING.** Any sign that was legally in existence prior to this chapter and made illegal by this chapter.
- (32) **SIGN, OFF-PREMISES ADVERTISING.** A sign that directs attention to a business or profession conducted, or to a commodity or service sold, offered, or manufactured or to an entertainment offered on a site not where the sign is located.
- (33) **SIGN, ON-PREMISES.** A sign that directs attention to a business, commodity, or service, that is conducted, sold, or offered on the premises on which the sign is erected.
- (34) **SIGN, PENNANT.** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- (35) **SIGN, POLE.** A freestanding sign that is supported by a pole(s) and otherwise separated from the ground by air.
- (36) **SIGN, PORTABLE.** Any sign not permanently attached to the ground or other permanent structures, or a sign designed to be transported including but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T- frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used in the normal day-to-day operations of the business.
- (37) **SIGN, PROJECTING.** A sign affixed to a building or wall in such a manner that its leading edge extends more than 6 inches beyond the surface of such building or wall.
- (38) **SIGN, REAL ESTATE.** A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.
- (39) **SIGN, RIDER.** A sign designed to accommodate other signs suspended from its frame.
- (40) **SIGN, ROOF.** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- (41) **SIGN STRUCTURE.** The frame supporting a freestanding sign, wall sign, projecting sign, suspended sign, portable sign, marquee sign, or roof sign and poles or supports used to elevate or support the frame.
- (42) **SIGN, SUSPENDED.** A sign that is suspended from the underside of a horizontal plane surface which is supported by such surface.
- (43) **SIGN, TEMPORARY.** A sign that is not permanently installed in the ground or affixed to any structure or building.

(44) **SIGN, WALL.** Signs attached to, projecting from, or painted on the surface of the wall.

(45) **SIGN, WINDOW.** Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SITE PLAN. The development plan for 1 or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways, landscaping and open spaces, walkways, means of ingress and egress, circulation, utility services, parking, structures and buildings, signs and lighting, berms, buffers, screening devices, surrounding development, and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

SLAUGHTERHOUSE OPERATION, NEW. An operation, established after May 30, 2006, that slaughters or processes more than 200 million pounds of livestock, hogs, aquatic animals, equine, chickens, turkeys, poultry, or other fowl normally raised for food, mules, cattle, sheep, goats, rabbits, or similar farm animals for commercial purposes (S.C. Code § 46-45-20).

SOLAR COLLECTOR. A device, structure or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy for direct power consumption, which may or may not include interconnection with the power grid to offset energy consumption of a principal use.

SOLAR ENERGY. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector

SOLAR ENERGY SYSTEM. A complete assembly consisting of 1 or more solar collectors and associated mounting hardware or equipment.

(1) **BUILDING-INTEGRATED SOLAR ENERGY SYSTEM.** A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to active photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights, and awnings, or passive systems that are designed to capture direct solar heat.

(2) **BUILDING-MOUNTED SOLAR ENERGY SYSTEM.** A solar energy system affixed to either a principal or accessory structure on a lot.

(3) **GROUND-MOUNTED SOLAR ENERGY SYSTEM.** A solar energy system with a supporting framework that is placed on, or anchored in, the ground and that is structurally independent from any building.

SOLAR FARM. A series of 3 or more ground-mounted solar collectors installed on a site for the purpose of converting energy into electrical or thermal energy for on-site and/or off-site energy consumption. The area of the system includes all land inside the perimeter of the system and extends to any fencing. This term does not include building-integrated or building-mounted systems.

SPECIAL EXCEPTION. A use permitted in a particular zoning district upon showing to the Board of Zoning Appeals that the use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in this chapter and authorized by the Board of Zoning Appeals.

STACKING SPACE. A stacking lane is an on-site queuing lane for vehicles associated with a drive-through facility, fuel island, car wash, automatic teller machine (ATM), or similar facility. A stacking space is the area needed for 1 vehicle within the stacking lane.

STAY. To stop; to suspend, also known as a stay of proceedings. A stay is a suspension of a case or of a particular proceeding within a case. In the legal context, a stay prevents further action until a prescribed future event occurs.

STREET. A public thoroughfare designed to provide the principal means of access to abutting property, or designed to serve as a roadway for vehicular travel, or both, but excluding alleys.

STRUCTURAL DEFECT, TREE. Any naturally occurring or secondary condition such as cavities, weak branch attachments, cracks or decayed wood in the trunk, crown or roots or a tree that may contribute to structural failure. Structural defects can lead to risk-tree designation based on the type, location, severity and/or number of the defect(s).

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground, including for purposes of this chapter buildings, mobile manufactured homes, travel trailers, signs, swimming pools, fences, and antennae, but excluding from definition as structures minor landscaping features such as ornamental pools, planting boxes, bird baths, paved surfaces, walkways, driveways, recreational equipment, flagpoles, and mailboxes.

SUBSTANTIAL ENLARGEMENT. The increase in floor area(s) occupied by a use by more than 25%, as the floor area(s) existed at the time of permitting or on December 5, 2001, whichever is later.

SUBSTANTIAL REHABILITATION. The act of rehabilitating a structure or dwelling to the extent necessary to bring the structure or dwelling into compliance with the International Building Code or the Department of Housing and Urban Development's standards for construction of manufactured housing units, whichever applies.

TATTOO. Tattoo or "tattooing" means to indelibly mark or color the skin by subcutaneous introduction of nontoxic dyes or pigments.

TATTOO OR BODY PIERCING ESTABLISHMENT. Any room, space, location, area, structure, or business, or any part of any of these places, where tattooing and/or body piercing is practiced or where the business of tattooing and/or body piercing is conducted.

TEMPORARY. A use that is not permanent. When the term is applied to a residence, a temporary use is not a substitute for a fixed abode.

THOROUGHFARE. Any major arterial road; 1 of the principal routes into and through the community.

TRANSFER OF BUSINESS OWNERSHIP OR CONTROL. This term shall include any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.

TRANSPORT CONTAINER.

- (1) A reusable, fully enclosed and securable unit that is or appears to be:
 - (a) Originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities;
 - (b) Designed or capable of being mounted or moved on a rail car; or
 - (c) Designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded onto a ship.
- (2) Such containers may have been repurposed as storage after primary use, or intended use, for shipping of goods by truck or ship as described above. A transport container shall not be used for temporary portable on-demand storage as defined by this chapter.

TREE. A woody perennial plant, generally with a single trunk but sometimes having multiple trunks, with the potential to attain a mature size of at least 5 inches in trunk diameter at 4.5 feet above the ground and a height of at least 15 feet.

(1) **TREE, LARGE MATURING.** A tree, either single or multi-stemmed, which is of a species that at maturity has the potential to reach a height of at least 45 feet during normal growing conditions.

(2) **TREE, MEDIUM MATURING.** A tree, either single or multi-stemmed, which is of a species that at maturity has the potential to reach a height of at least 25 feet during normal growing conditions.

(3) **TREE, SMALL MATURING.** A tree, either single or multi-stemmed, which is of a species that at maturity has the potential to reach a height of at least 15 feet during normal growing conditions.

TREE MAINTENANCE. Routine, periodic or occasional activities directed at maintaining or improving a tree's health and condition. Maintenance activities include but are not limited to mulching, pruning, irrigation, fertilization, pest control, cabling and bracing and lightning protection system installation and/or any other accepted arboricultural practice.

TREE PROTECTION. The active protection of a tree's roots, trunk and crown for the purpose of avoiding damage to the living structure and to maintain tree health and structural integrity.

TREE PROTECTION ZONE (TPZ). A defined area within which certain activities are prohibited or restricted to prevent or minimize potential injury to designated trees before, during and after construction activities. The TPZ is defined by a physical barrier such as fencing, soil berms and signs.

TREE REMOVAL. The cutting of a tree near ground line which removes the tree's trunk and crown. The tree stump and roots may or may not be removed along the trunk and crown.

TREE ROOTS. The below ground portion of a tree that includes large, woody roots that anchor and support the trunk and crown as well as the small, fibrous roots responsible for water and mineral uptake and gas exchange. Roots are generally located within the top 18 inches of soil and may extend out from the trunk 2 to 3 times the width of the crown.

TREE TRUNK. The main woody stem of a tree that connects the roots to the crown and which supports the crown. It functions in the transport of water, minerals and carbohydrates from the crown to the roots and the roots to the crown.

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

VEGETATION. A living organism of natural growth, including, but not limited to, trees, shrubs, groundcovers, vines, grasses (both lawn and ornamental), herbaceous perennials, biennials, annuals, bulbs, ferns, mosses and lichens.

YARD. A required open space established by required setbacks, unoccupied and unobstructed by structures except those

specifically permitted.

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

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

YARD, SIDE. A yard situated between the side building line and the side lot line and extending from the front yard to the rear yard.

ZONE. A specifically delineated area or district within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

ZONING ADMINISTRATOR. The person designated by the County Administrator to administer this zoning ordinance. Such person may or may not be a county employee.

(Ord. 06-11-16, passed 9-21-2016; Am. Ord. 12-23-18, passed 2-6-2019)