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Adopted 10/9/18

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Adopted 10/9/18

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Adopted 10/9/18

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Article 1. Authority and Purpose

100. ZONING ORDINANCE PUBLISHED SEPARATELY.

The Zoning Ordinance shall be published in a separate volume, a copy of which shall be filed with the City Clerk.

101. AUTHORITY.

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

102. TITLE.

This Ordinance may be cited as *City of Newberry Zoning Ordinance*, or *Zoning Ordinance*.

103. PURPOSE.

The purposes of the Zoning Ordinance are to implement the land use element of the Comprehensive Plan and for those purposes set forth in S.C. Code § 6-29-710.

104. 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. The official copies of the Zoning Map shall be dated and attested by the City Clerk, and shall be available for public inspection. The official Zoning Map and any amendments adopted by City 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.

104.1. Amendments to the Official Zoning Map. Amendments to the official zoning map shall be adopted as provided for by §408 - *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.

105. SEVERABILITY.

Should any specific section, standard or provision of this Zoning Ordinance, 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 Ordinance 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.

106. RELATION TO OTHER ORDINANCES.

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

107. REPEAL OF CONFLICTING ORDINANCES.

All ordinances and parts of ordinances in conflict herewith are repealed to the extent necessary to give this Ordinance full force and effect.

108. EFFECTIVE DATE.

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

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108. EFFECTIVE DATE.

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

Article 2. Applicability and Conformity

200. JURISDICTION.

The provisions of this Ordinance shall apply to all land and improvements within the corporate limits of the City of Newberry, South Carolina.

201. APPLICATION OF REGULATIONS.

Except as specifically provided in this Zoning Ordinance, 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 or changed for any building, structure, or land, unless in conformity with the requirements of this Zoning Ordinance and the specific provisions for the district in which it is located.

201.1. Uniform Application of Regulations. Within each zoning district, the regulations set forth in this Zoning Ordinance shall apply uniformly to each class or kind of use, structure, or land.

202.2. Interpretation and Application. In their interpretation and application, the provisions of this Zoning Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare.

202. CONFORMITY WITH 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 city, county, state and federal laws pertaining to such. Wherever the requirements of this Ordinance 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. Nothing herein shall require the City 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.

203. APPLICATION OF DEED RESTRICTIONS.

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

Article 3. General Regulations

300. 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.

301. STRUCTURES REQUIRED TO BE ON LOTS OF RECORD.

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

302. REDUCTION OF LOT AREA PROHIBITED.

302.1. No yard or lot existing on the effective date of this Zoning Ordinance shall be reduced in dimension or area below the applicable district minimum requirements.

302.2. New lots or yards shall meet the applicable district minimum requirements

303. ANNEXATION.

Zoning designation for all lots annexed by ordinance shall be determined as follows:

303.1. The Planning Commission shall consider and provide a recommendation to City Council on the appropriate zoning designation for each lot proposed to be annexed.

303.2. City Council, after receiving the recommendation from the Planning Commission, shall specify an interim zoning district classification or classifications in the annexation ordinance. Such classification or classifications shall become effective upon the effective date of the annexation and permits for permitted uses may be issued at that time.

303.3. If the zoning district classification recommended by the Planning Commission for the annexed area is different in character and standards from the existing zoning district of the area, the Planning Commission report shall contain the reasons for the recommendation and City Council shall hold a public hearing on the proposed annexation and proposed interim zoning of the lot to be annexed.

303.4. Notice of public hearing shall be published in the same manner as required for a zoning map amendment.

303.5. Immediately after the effective date of the annexation, the Zoning Administrator shall initiate zoning amendment procedures to confirm the designation of the appropriate zoning classification by City Council for the annexed area.

304. NONCONFORMITIES.

304.1. In general.

- A. Nonconformities as defined in this section are declared to be incompatible with permitted uses in the districts established by this ordinance. It is the intent of this ordinance to allow nonconformities to continue until they are removed, but not to encourage their survival.
- B. Any parcel of land, use of land, easement, building or structure lawfully existing on the date of any text amendment in this Ordinance, or on the date of a zoning map amendment that does not conform to the use or dimensional requirements of the zoning 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 Ordinance.
- C. 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 ordinance.
- D. A nonconformity shall only be extended, enlarged, or intensified in conformity with this section.
- E. Nonconforming off-premises advertising signs may be rebuilt provided all structural requirements detailed in this section are met.

304.2. Nonconforming lots.

- A. Vacant lots in general. Vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds for Newberry County, which fail to comply with the minimum area or other dimensional requirements of the zoning districts in which they are located may be used for any of the uses permitted in the zoning district in which it is located, provided that:
 - 1. Where the lot area is not more than 20 percent below the minimum specified in this ordinance, and other dimensional requirements are

otherwise complied with, the Zoning Administrator is authorized to issue a certificate of zoning compliance.

2. Where the lot area is more than 20 percent below the minimum specified in this ordinance, 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.
- B. Recombination of nonconforming vacant lots. If two or more adjoining lots with continuous frontage are in a single ownership at any time after the adoption or amendment of this Ordinance and such lots individually are too small to meet the yard, width, or area requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subject to the requirements of this ordinance.
 - C. 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 ordinance shall not be construed as prohibiting the conversion of an existing building which does not meet the minimum yard requirements to another permitted use, so long as no further encroachment is made into the existing yards.
 - D. Nonconforming single-family lots. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of this Ordinance, provided that all applicable setback requirements of the zoning district are met.

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

- A. A nonconforming use or characteristic of use shall not be expanded except in conformity with this ordinance, provided however, that any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building. 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 ordinance.

- B. A nonconforming use shall not be moved from one location on a site to another location on the same site unless the lot 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 lots, and will not have the effect of making the nonconformity more permanent.
- C. 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.
- D. A nonconforming use or characteristic of use shall not be reestablished after vacancy, abandonment, or discontinuance for any period of six consecutive months, except where § 304.04(D) applies.
- E. No structural changes shall be made in any structure integral to, and occupied by, a nonconforming use except as follows:
 - 1. Structural changes ordered by an authorized official in order to ensure the safety of the structure shall be permitted.
 - 2. Maintenance and repairs to keep a structure in sound condition shall be permitted.
 - 3. Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
 - 4. 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.
 - 5. 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.
 - 6. 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 ordinance, but no such use shall be extended to occupy any land outside such structure.

304.04. Nonconforming structures. 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.

- A. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- B. Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
- C. A nonconforming structure shall not be moved to another location unless it thereafter conforms to the standards of the zoning district in which it is located.
- D. A nonconforming structure shall not be rebuilt, altered, or repaired except in conformity with this ordinance after sustaining damage or necessitating repair exceeding 50 percent of the replacement cost of the structure at the time of damage or wear, provided that any permitted reconstruction shall begin within six months from the time of damage or notice of wear and shall be completed within 12 months after the issuance of a building permit.
- E. A nonconforming structure shall not be demolished and rebuilt as a nonconforming structure.
- F. 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.
- G. Nonconforming Manufactured Homes. Individual manufactured homes are permitted only in Manufactured Home Parks, per the requirements of *Appendix C – Manufactured Home Parks* of the *City of Newberry Code of Ordinances*, except as provided in this subsection. Manufactured homes erected on individual lots prior to November 15, 1995 shall be governed by the following requirements.
 - 1. Non-conforming manufactured homes, which are lawfully occupied as of April 20, 1999 may continue to be occupied provided that the home is maintained in compliance with applicable City codes.
 - 2. As a non-conforming use, the manufactured home shall not be:

- a. Re-occupied after vacancy, abandonment, or discontinuance for any period of six (6) months or more;
 - b. Repaired after sustaining damage exceeding 50 percent of the replacement cost; or
 - c. Extended, enlarged, or intensified except where *Section 304.04(D)* of this Ordinance applies.
3. Non-conforming manufactured homes vacated or abandoned for a period of six months or more or non-conforming manufactured homes damaged by 50 percent or more of the replacement cost of the manufactured home shall be removed from the lot. Removal shall be completed within six months of the issue date of the removal order.
 4. Non-conforming manufactured homes removed pursuant to *§ 304.4(G)(3)* may be replaced with a conforming manufactured home erected in compliance with the replacement provisions contained in this subsection provided that the replacement home is installed within six months of the issue date of the removal order. A replacement manufactured home shall meet all of the following criteria. However, manufactured homes used for government training purposes in the D-1 Development District are allowed and are exempt from the following setup provisions, with the exception of subsections b and f.
 - a. Have a manufacture date within 20 years of the date of installation.
 - b. Be tied-down in compliance with applicable building codes.
 - c. Have brick or stuccoed block underpinning.
 - d. Have a minimum 3:12 pitch roof constructed of a material compatible with other residential housing units in the immediate neighborhood. (Ord. No. 2023-1004, 4-11-23)
 - e. Have siding material which is compatible with other residential housing units in the immediate neighborhood.
 - f. Have permanent steps and hand rails complying with applicable building codes.
 - g. Have all towing devices removed.
 - h. Have a separate water and wastewater taps and may not share water and wastewater taps with any other dwelling or structure.

- i. Be located on a lot of record in the R-6 Residential District and must comply with all other requirements of the City Zoning Ordinance, unless approved by the Zoning Board of Appeals. Lots previously occupied by multiple manufactured homes must be subdivided in compliance with requirements of the R-6 Residential Zoning District. The total number of mobile homes allowed may not exceed the number which existed prior to the effective date of this Ordinance.
 - j. All used replacement homes shall be inspected prior to set-up for compliance with the International Property Maintenance Code. Any deficiencies must be corrected within thirty (30) days of being placed on the lot or the home shall be ordered to be removed.
 - k. A “Certificate of Occupancy” will only be issued to a manufactured home, which is classified as a conforming use.
5. Appeals of cases involving the involuntary vacancy or removal of manufactured homes may be reviewed by the Board of Zoning Appeals to determine eligibility for replacement homes. Review of hardship cases shall be limited to a period of not more than three years prior to the effective date of this Ordinance.
6. Non-conforming manufactured homes, which are lawfully occupied, may be replaced, at any time, with a conforming manufactured home erected in compliance with the replacement provisions contained in *§ 304.04(G)4*.
7. A permit shall be required to install a manufactured home in accordance with the provisions of the City Zoning Ordinance. If installation of the manufactured home is begun prior to obtaining the permit, the permit fee shall be double the normal amount.
8. A fee will be charged for re-inspections resulting from work not being ready for inspection when the city inspector is called to the job or from work being disapproved by the city inspector.
9. All manufactured homes classified as a non-conforming use shall be required to display in conspicuous location visible from the street a non-conforming use notice. City code enforcement officials shall be authorized to affix the notice to non-conforming manufactured homes. This notice shall not exceed three inches by five inches in dimension. Failure to display the required notice or remove a posted notice shall be unlawful.

304.05. 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.

304.06. Additional requirements for nonconforming manufactured home parks.

- A. Nonconforming manufactured home parks may not be expanded or increased in size. This requirement shall include adding spaces to the park.
- B. When a site at a nonconforming manufactured home park is vacated, another manufactured home may not be placed on that site.

304.06. 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 ordinance are met (e.g., parking, screening, landscaping, etc.).

304.07. Temporary nonconformances. A temporary use permit may be issued by the Zoning Administrator for an appropriate period of time not to exceed 12 month increments for nonconforming buildings, structures or uses incidental to building construction or land development or deemed to be generally beneficial, provided that the owner of such temporary nonconforming use agrees to remove the temporary nonconforming use upon expiration of the permit.

305. LOT COVERAGE.

Any terrace, balcony, breeze way, 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.

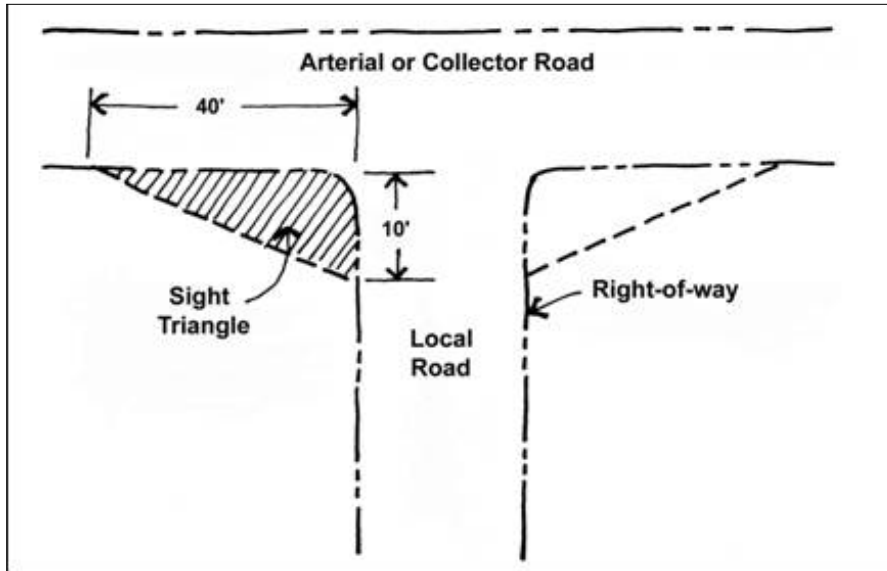
306. VISIBILITY REQUIREMENTS, SIGHT TRIANGLE.

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 three feet and 10 feet measured from the upper face of the nearest curb or pavement within any required sight triangle.

306.1 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 two 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 two 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



306.2. Driveways. Sight triangles shall be maintained where driveways intersect streets. These sight triangles shall be defined as a 10 x 10 foot triangle bounded on one side by the edge of pavement or curb of the street, one side by the edge of driveway, and on the third side by a straight line connecting the endpoints of the other two 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.

307. FENCES AND WALLS

307.1. In general. The following standards shall apply to all fences and walls in all zoning districts unless otherwise noted.

- A. Fences and walls shall be maintained in good order by the owner.
- B. Fences shall not contain advertising, signs, or logos on the exterior of the fence unless deemed necessary by the Zoning Administrator.
- C. Fences and walls shall be installed and maintained so as not to interfere with the sight distance requirements of this ordinance or the sight distance needs of drivers in parking areas, at entrance and exit locations, and at street intersections.

- D. Fences and walls shall be constructed such that the “finished” part of the fence or wall is located to the exterior of the lot.
- E. 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.

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

- A. Fences and walls within a development must be compatible in design, materials, and construction.
- B. Walls and fences shall be constructed of masonry, stone, wood, vinyl or similar material commonly used for fence construction.
- C. 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 § 1004 – *Screening* and § 307 – *Fences and Walls*.

307.3. 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 City shall be repaired, replaced, or removed by the owner. Fences shall be maintained by the lot owner.

308. LIGHT AND GLARE

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

308.2. Exemptions. The following are exempted from the requirements of this section.

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

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

- A. All exterior light fixtures shall be fully shielded and installed in such a way that no light spills over onto adjacent lots or rights-of-way.
- B. 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 lots.
- C. No flashing lights shall be permitted.
- D. No installation or erection of any lighting which may be confused with warning signals, emergency signals or traffic signals shall be permitted.

308.4. 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 lot line or right-of-way.

- A. 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.
- B. Nuisance. Any artificial light source which creates glare observable within the normal range of vision, under normal weather conditions, from any lot other than the lot where the light source is located is considered a nuisance and is prohibited.

Article 4. Administration and Enforcement

400. ZONING ADMINISTRATOR.

- 400.1.** 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.
- 400.2.** The duties of the Zoning Administrator shall include:
- A. Interpretation of terms and provisions of this Zoning Ordinance;
 - B. Administration of this Zoning Ordinance by the issuance of zoning permits and certificates of compliance, including the collection of authorized fees;
 - C. Review and issuance of administrative waivers per the requirements of § 405 – *Administrative Waivers*.
 - D. Processing applications for appeals to the Board of Zoning Appeals from the decision of the Zoning Administrator, variances, and special exceptions;
 - E. Preparation of the record for appeal to the circuit court from the decisions of the Board of Zoning Appeals;
 - F. Maintenance of the Official Zoning Map, amendments to the Zoning Ordinance, and all public records related to zoning and planning;
 - G. Enforcement of the Zoning Ordinance, and investigation and resolution of zoning complaints;
 - H. Serve as staff and provide administrative assistance to the Board of Zoning Appeals, the Planning Commission, and the Architectural Review Board with regard to their functions under this Zoning Ordinance; and
 - I. Any other duties as may be authorized by this Zoning Ordinance or assigned by the City Manager.

401. CITY MANAGER.

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

402. ELECTED AND APPOINTED BOARDS AND COMMISSIONS.

- 402.1.** City Council. The City Council shall have the following duties related to this Zoning Ordinance:
- A. To review and from time to time initiate changes to this Zoning Ordinance.

- B. To decide upon any application or request for amendment to this Zoning Ordinance or the official zoning maps.
- C. To take any other action not otherwise delegated to staff, the Planning Commission or the Board of Zoning Appeals as the City Council may deem desirable and necessary to implement the provisions of this Zoning Ordinance.

402.2. Planning Commission. The Planning Commission, as established in §§ 2-51 through 2-56 of the *City of Newberry Code of Ordinances*, shall have certain duties related to this Zoning Ordinance including, but not limited to, the following:

- A. To review and from time to time initiate changes to this Zoning Ordinance.
- B. To review and make recommendations on applications for amendments to this Zoning Ordinance or the zoning maps.
- C. Any other duties as may be assigned by the City Council consistent with state law.

402.3. Board of Zoning Appeals.

- A. Board established. A Board of Zoning Appeals is hereby established which shall consist of five members appointed by City Council. Members shall serve a three-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.
- B. Elections and appointments. The Board shall elect or re-elect one of its members as Chairperson for a term of one year. The Board may elect other officers as provided by its rules of procedure. The Board shall appoint a Secretary who may be an officer of the City approved by the City Manager.
- C. Rules of procedure. The Board shall adopt rules of procedure and bylaws for the conduct of its meetings and hearings in accordance with *South Carolina Code of Laws § 6-29-790*.
- D. Quorum. A quorum shall be required to take any official action. A majority of the Board shall constitute a quorum.
- E. 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 City. Notices for meetings involving variances or special exceptions, and appeals from a determination of

the Zoning Administrator that have a site-specific effect on a particular lot, shall be posted on or adjacent to lots affected with at least one notice visible from each public street abutting the lot.

- F. Powers and duties. The Board of Zoning Appeals has the following powers and duties.
1. Appeal from Zoning Administrator. The Board may hear and decide appeals from a decision of the Zoning Administrator. Any person aggrieved by such a decision may appeal that decision to the Board of Zoning Appeals in writing on a form provided by the Zoning Administrator within 30 days after actual notice of the decision. An appeal stays the implementation of the decision of the Zoning Administrator unless he certifies to the Board that a stay would cause imminent peril to life or property. The Board may affirm or reverse, wholly or in part, or may modify the decision by a written order separately stating findings of fact and conclusion of law.
 2. Variances. The Board may grant variances from the terms of this Zoning Ordinance according to the standards and procedures prescribed in § 406 - *Variances*.
 3. Special Exceptions. The Board may permit uses by special exception subject to the terms and conditions set forth for such uses by this Zoning Ordinance and according to the procedures prescribed in § 407 - *Special Exception Regulations*.
- G. Decisions of the Board of Zoning Appeals.
1. 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 Zoning Ordinance, 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.
 2. 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 City of Newberry Planning and Zoning Department office as public record.

- H. Appeals from a Decision of the Board of Zoning Appeals. A person who has a substantial interest in any decision of the Board of Zoning Appeals, or an officer or agent of the city authorized by City Council, may appeal to circuit court in and for the County of Newberry 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 City 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 *South Carolina Code of Laws § 6-29-825*.

402.4. Architectural Review Board.

- A. Authority. The Architectural Review Board is established by the legislative body of the City of Newberry, consisting of five residents of the City, in accordance with the provisions of *South Carolina Code of Laws § 6-29-870*.
- B. Appointment. Members of the Architectural Review Board (ARB) shall be nominated and appointed by City Council. Membership of the Board shall consist of persons with a demonstrated interest in historic preservation that are able to prepare for and attend scheduled meetings. It shall be the policy of City Council to seek persons who have educational backgrounds or work experience related to the Architectural Review Board (ARB). It shall further be the policy of City Council that all five of the positions on the Architectural Review Board (ARB) be restricted to residents of the City of Newberry.

Members of the Architectural Review Board (ARB) shall assume their duties and be installed at the first regular meeting of the Board following appointment. Members shall serve without compensation, except for reimbursement for authorized expenses attendant to the performance of their duties.

- C. Terms of Office.
1. The term of office for each member of the Board shall be two years.
 2. Place numbers one through five shall identify membership. Terms of office in the three odd-numbered places shall expire in odd-numbered years and those in even-numbered places shall expire in even-numbered years; provided, that each member of the Board shall serve until his/her successor is appointed and duly installed.

3. In the event of a vacancy on the Board due to removal, resignation, or any other cause, the City Council shall appoint a replacement within 60 days for the remainder of the unexpired term.
- D. Officers. The Board shall elect from its membership a chairperson and vice-chairperson who shall serve for one year or until their successors are elected. No member shall be elected chairperson or vice-chairperson for more than three consecutive years. The Board shall request the City Manager to appoint a secretary, who may be an officer or employee of the City. The secretary shall be a non-voting member of the Board, and shall assist the Chairperson in the coordination of the activities of the Board.
- E. Conflicts of Interest. Any member of the Board who has a direct or indirect interest in any property, which is the subject of matter of, or affected by, a decision of the Board, shall be disqualified from participating in the decision of the Board in connection therewith.
- F. Liability of Members. Any member of the Board acting within powers granted by this Zoning Ordinance shall be relieved from personal liability for any damage and held harmless by the City of Newberry. A legal representative shall defend any such suit brought against any member of the Board by the City of Newberry until termination of the proceedings.
- G. Duties and Powers, General. It shall be the duty of the Board to promote the purposes and objectives of this Zoning Ordinance and to review plans and applications, as hereinafter provided, for all construction within the Historic Buildings Preservation Overlay District, including both modifications to existing buildings, demolitions, and new construction. The Board shall have the power to approve, approve with modifications, or deny approval of such applications in accordance to prescribed procedures and guidelines.
- H. Regular Meetings. Regular meetings for transaction of business of the Board may be held with such frequency as the Board may determine, but not less than four times a year. The first regular meeting following the beginning of the City's fiscal year shall be designated the annual organization meeting for the election of officers and organization of the Board. The Chairperson may hold special meetings of the Board at any time upon call.
- I. Public Hearing and Notice. When required under the provisions of this Zoning Ordinance, the Board shall hold public hearings. Unless postponed for reasonable cause, any such hearing shall be held within 30 days after the Board has been notified of the filing of appropriate application or petition concerning the matter in question. All meetings of the Board shall be open to the public, and reasonable notice of the time and place shall be given to the public. Notices of

the meeting shall be posted at City Hall and sent to the news media as required by the *Freedom of Information Act*.

- J. Rules and Records. The Board shall adopt rules of procedure and shall keep records or minutes of its recommendations, findings, approvals and denials. These rules will govern the application process for a Certificate of Appropriateness and will be in compliance with South Carolina law and due process requirements of the United States Constitution. Such rules and all records will be a public record. A quorum, consisting of a majority of the total membership of the Board, shall be required to conduct business.

Decisions or actions by the Board shall be by a majority vote of qualified members present and voting. Proxy votes shall not be permitted.

- K. Annual Report. The Board shall annually present to the Newberry City Council a summary of the activities and initiatives it has undertaken during the period of time that has elapsed since its last presentation. Such presentation shall be at a regular meeting of the council and shall be public record kept with the Board's minutes.
- L. Maintenance and Repair. Nothing in this Zoning Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of structures in the Historic Buildings Preservation Overlay District which does not involve a change in design, material, color or outer appearance thereof, not to prevent the construction, reconstruction, alteration or demolition of any such feature of the structure which the building inspector or similar official shall certify is required because of an unsafe or dangerous condition.
- M. Certificate of Appropriateness. Prior to the issuance of a building or demolition permit, new construction, alteration, modification or addition to a structure within the Historic Buildings Preservation Overlay District, a Certificate of Appropriateness shall be required. The chairperson or vice-chairperson of the Board, stating that the Board has approved the request by majority vote, shall direct the City Manager, or his designee, to sign and issue a Certificate of Appropriateness. Application for a Certificate of Appropriateness must be made by the owner of the property or by their authorized agent. Any building permit or other permit not issued in conformity with this section shall be considered void.
- N. Interior Alterations to Structures. The interior arrangement or any alteration to the interior of any structure shall not be considered when issuing a Certificate of Appropriateness.

- O. Criteria for Consideration by Architectural Review Board.
1. Construction and renovation. In reviewing an application for construction and renovation, the Board shall consider among other things, the general design, character, and appropriateness of design, scale of building, arrangement, texture, materials and color of structure in question, and the relation of such elements to similar features of structure in the immediate surroundings.
 2. Demolitions. In reviewing an application to demolish, remove or alter the exterior architectural appearance of any existing structure in the Historic Buildings Preservation Overlay District, the Board shall consider, among other things, the historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the citizens of the City of Newberry.
 3. Signs. In reviewing an application for a sign, the Board shall consider color, lighting, scale, placement, and material in order to determine appropriateness.
 4. Painting. The Board shall be responsible for approving paint colors to be used on the exterior of buildings. All approved paint colors must conform to a color chart approved by City Council. Approval shall be secured prior to painting.
 5. Hardship. The Board shall consider applications for hardship that would allow the performance of work for which a Certificate of Appropriateness would be denied.
 6. Expenditures. The Board shall recommend to City Council expenditures of such gifts, grants and money as may be appropriate for the purposes of this Zoning Ordinance.
 7. Recognition. The Board may confer recognition upon the owners of structures or properties designated under the Historic Buildings Preservation Overlay District by means of certificates, plaques or marker.
- P. Guidelines and Standards. In reviewing an application for a Certificate of Appropriateness, the Architectural Review Board shall take into account the architectural significance of the structure under consideration, the exterior form and appearance of any proposed additions or modification to the structure, and the effect of such change or additions upon other structures in the vicinity. The Architectural Review Board shall use the following standards in reviewing and acting upon applications for Certificates of Appropriateness:

1. Modifications. All modifications to exterior architectural features and all new construction within the Historic Buildings Preservation Overlay District shall generally comply with the standards comprising the Newberry Commercial District Design Review Guidelines adopted by Newberry City Council and the City of Newberry Architectural Review Board.
- Q. Exception to Design Review Standards. The City of Newberry recognizes that from time to time, the Newberry Commercial Design Review Standards may present difficulties to property owners who wish to repair and adaptively use structures within the Historic Buildings Preservation Overlay District. Accordingly, the Architectural Review Board may, but is not required to, grant an exception to the adopted design review guidelines if it expressly finds:
1. The proposed action will maintain the overall appearance of period authenticity;
 2. New, repaired or replacement features will be consistent with the architectural features of the structure; and
 3. The proposed action will not adversely affect adjacent structures, nor diminish the character of the Historic Buildings Preservation Overlay District as a whole.

In reviewing a request for an exception, the Board may require the property owner to provide materials and documents regarding the condition of the structure, available alternatives to the proposed action, costs, and financing options. All exceptions must be specified in a written attachment to the Certificate of Appropriateness.

- R. Requirement of Municipality, County Government and Public Utilities. The City of Newberry, County of Newberry, and all public utility companies shall be required to obtain approval from the Board in accordance with this Zoning Ordinance prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures, and buildings on property in the Historic Buildings Preservation Overlay District.
- S. Required Procedure. An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the appropriate administrative official as designated by the Board. Applications shall be filed, completed in form and content, at least seven calendar days prior to the regular meeting.
- T. Contents of Application.
1. Drawing required for alterations and additions to existing structures or for new construction. Applications involving (a) alterations or additions to

existing structures, or (b) the erection of any new structures shall be accompanied by drawings signed by the architect or draftsman and submitted in duplicate for the proposed work. As used herein, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show, as far as they regulate: exterior appearances, the architectural design, including proposed materials, textures and colors, and the site plan, including all improvements affecting accessory buildings, signs, lights, or other elements. Such documents shall be filed with the Board.

2. Photographs required with application for the demolition of existing structures. In the case of demolition, the applicant shall submit legible photographs of all sides of the building under consideration and photographs showing contiguous properties.
3. Drawing required with application for a sign or sign change. Every sign application shall be accompanied by drawings to scale with sufficient detail to determine the relationship of the sign to the building and neighboring properties.

U. Action on the Application.

1. Upon application approval, the secretary of the ARB shall cause a Certificate of Appropriateness to be issued to the applicant, stating the basis upon which such approval was made. If the Board shall fail to take final action upon any case within 90 days after the receipt of an application, it shall be deemed to be approved.
2. In case of disapproval, the Board shall state the reasons in a written statement to the applicant and may give verbal advice and illustrative drawing to the applicant and make recommendations with regards to appropriateness of design, arrangement, texture, material, color, and the like. The Board shall issue no permit in the event of disapproval. The permit may be denied when such design is not in compliance with the requirements of this Zoning Ordinance. The Board shall place in the minutes of its meetings the reasons for its actions, whether it is approval, approval with modifications, or denial.

- V. Copies of Drawings. The Board shall submit to the Building Official and any other affected department copies of all proposed work drawings concerning projects within the Historic Buildings Preservation Overlay District. The Board in rendering its decision shall consider any recommendations from these departments.

- W. Submission of a New Application. If the Board denies a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantial change is made in the plans for the proposed construction, reconstruction, alteration, or restoration.
- X. Appeals. Any persons, officer, department, or board aggrieved by any final decision of the Board must follow procedures for Appeal as outlined in the *South Carolina Code of Laws § 6-29-900*.

403. ZONING PERMITS.

- 403.1. 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 Zoning Ordinance or for a use authorized by order of the Board of Zoning Appeals.
- 403.2. 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 § 403.1 – *Permit required* above.
- 403.3. Fees for permits.** A fee established by regulation of City Council shall be paid for each zoning permit or certificate of zoning compliance issued by the Zoning Administrator.
- 403.4. Application requirements for permits.**
 - A. An application for a zoning permit must be made on a form provided by the City of Newberry Planning and Development Department.
 - B. Applicants must be 18 years of age or older.
 - C. The fact that a person, business or corporation possesses other types of state, or city permits or licenses does not exempt them from the requirement of obtaining a zoning permit.
 - D. 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.

- E. The application shall include any other information as may be required by the Zoning Administrator to determine conformance with this Zoning Ordinance, 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, and existing conditions on adjacent properties. Application requirements may be found on the City's website or obtained from the Zoning Administrator.
- F. A 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.

403.5. Denial of permit request. Any one of the following conditions shall result in denial of a zoning permit request.

- A. The applicant failed to provide information reasonably necessary for issuance of the permit or has falsely responded to a question or request for information on the application.
- B. The application fails to meet one or more of the requirements of this code.
- C. The applicant has failed to obtain proof of compliance with the requirements of another applicable regulating agency pertaining to the use or construction.
- D. The permit fee has not been paid as required by resolution of City Council.

403.6. Expiration of permits. If the work described in a zoning permit has not begun within six 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.

404. CERTIFICATES OF ZONING COMPLIANCE.

404.1. Certificates required. It shall be unlawful for any person to use, occupy, or permit the use or occupancy of any building or lot 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 Zoning Ordinance.

404.2. 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.

- 404.3. 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.

405. ADMINISTRATIVE WAIVERS.

In cases where a minor waiver is needed to accommodate development, a zoning permit or certificate of zoning compliance may be issued by the Zoning Administrator without the approval of a variance from the Board of Zoning Appeals or an exception from the Architectural Review Board under the following conditions:

- 405.1.** If a setback waiver of less than 18 inches is desired, and:
- A. The adjoining property owner affected certifies in writing his or her agreement to the requested waiver; and
 - B. 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.
- 405.2.** If a minimum lot width waiver of less than three percent of the required lot width is desired and:
- A. The waiver request is for only one new lot on any present lot of record;
 - B. The waiver request is for a platted subdivision containing not more than two planned lots in total, one of which will meet the required lot width;
 - C. The adjoining property owners affected certify in writing their agreement to the requested waiver; and
 - D. The adjoining properties are vacant or there exists double the required lot width on both adjoining properties.
- 405.3.** If a minimum lot size waiver of less than five percent of the required lot size is desired:
- A. The waiver request is for only one new lot on any present lot of record;

- B. The waiver request is for a platted subdivision containing not more than two potentially planned lots in total, all but one of which will meet the required lot width;
- C. The adjoining property owners affected certify in writing their agreement to the requested waiver; and
- D. The adjoining properties are vacant or there exists double the required lot size on both adjoining properties.

406. VARIANCES.

- 406.1.** When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Zoning Ordinance, the Board of Zoning Appeals shall have the power to vary or modify any of the regulations or provisions of this Zoning Ordinance relating to the use, construction or alteration of buildings or structures or the use of the land so the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- 406.2.** An owner or authorized agent may request a variance by filing such with the Zoning Administrator on a form provided by the Zoning Administrator. Applications shall be filed before the first workday in the month prior to the Board of Zoning Appeals meeting at which it will be heard. Posting and notification requirements for hearings are provided in § 402.3(E). At the hearing, any party may appear in person or by agent or attorney.
- 406.3.** A variance may be granted if the Board makes and explains in a written order all of the following findings and conclusions:
- A. There are extraordinary and exceptional conditions pertaining to a particular piece of property;
 - B. These conditions do not generally apply to other property in the vicinity or in that district;
 - C. Because of these conditions, the application of the Zoning Ordinance to a particular piece of property would effectively prohibit or unreasonably restrict use of the property;
 - D. The authorization of the variance will not be 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

- E. The effect of the variance would not allow the establishment of a use not otherwise permitted in the zoning district; would not extend physically a nonconforming use of the land; would not change the zoning district boundaries shown on the official zoning map.

406.4. The fact that property may be used more profitably, should a variance be granted, may not be considered grounds for a variance.

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

406.6. 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.

407. SPECIAL EXCEPTIONS.

407.1. 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.

407.2. 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. Application requirements may be found on the City's website or obtained from the Zoning Administrator.

407.3. The Board shall review the request to determine compliance with this Zoning Ordinance and all applicable regulations within the City's planning jurisdiction.

407.4. 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.

- A. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to the information submitted.
- B. The use complies with all regulations and standards of this Zoning Ordinance.
- C. The use will not substantially injure the value of adjoining properties, or the use is a public necessity.

- D. 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.
- E. The use will not create traffic impacts that will endanger public safety, or create or contribute to congestion.
- F. The use will not create noise, light, glare, odor, or obstruction of air flow on adjoining properties.
- G. That the proposed use will not be in conflict with but will further the objectives of the City of Newberry Comprehensive Plan for the area in which it is located.

407.5. 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.

408. AMENDMENTS.

408.1. Authority. This Zoning Ordinance, including the official zoning map, may be amended from time to time by the City 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.

408.2. Initiation of Amendment.

- A. An amendment to the official zoning map may be initiated by adopted motion of City Council, adopted motion of the Planning Commission, the Zoning Administrator, the owner of the property affected, or an authorized agent with written authorization from the property owner.
- B. 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 Planning Commission, and a filing fee established by resolution of City Council.
- C. Any citizen may make a request for a text amendment to either the City Council or the Planning Commission. 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.

- D. 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 Planning Commission determines either:
 - 1. There has been a substantial change in the character of the area; or
 - 2. Evidence or factors exist which were not considered in the previous deliberations which might substantially alter the basis for the Planning Commission recommendation.
- E. A complete application for amendment must be received at least two weeks prior to the Planning Commission meeting in order to be considered at the meeting.

408.3. Minimum District Size.

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

408.4. Amendment Procedure.

The following procedural steps are required for adoption of a text or map amendment; amendments shall be initiated pursuant to § 408.2.

- A. Amendment ordinance shall be prepared in written form required by City Code.
- B. The proposed amendment shall be referred to Planning Commission for review and recommendation.
- C. The Planning Commission shall not conduct a public hearing, but the property owners whose land is the subject of a proposed amendment shall be allowed to present oral or written comments to the 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.

- D. Planning Commission review shall include a determination of whether the proposed amendment is in conformity with the City of Newberry Comprehensive Plan.
- E. The Planning Commission shall file with City 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.
- F. Notice of a public hearing before City Council shall be published in a newspaper of general circulation in the City at least 15 days prior to hearing.
- G. Notices of public hearing shall be posted on or adjacent to property to be rezoned at least 15 days prior to the hearing, with one notice visible from each street bordering the property. Posted notices shall contain letters not less than one inch in height.
- H. 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.
- I. City Council may introduce an amendment ordinance for first reading and hold a public hearing on the same date. Planning Commission recommendation shall be reviewed and considered.
- J. City Council, after receiving the recommendation of the Planning Commission, shall within a reasonable time reject the proposed amendment, approve the proposed amendment, with or without modifications, or defer action until it has time to consider any new evidence. City Council may adopt or reject the amendment ordinance on second reading at least six days after first reading. Map amendments may be adopted or rejected for all or any portion of the property; however, a zoning district designation which was not included in the public notices shall not be adopted. An amendment may be withdrawn in writing by the initiator at any time prior to final action by City Council. A withdrawn amendment is not subject to the 12-month limitation in § 408.2(D).
- K. All amendments shall be noted and placed in the copy of the Zoning Ordinance maintained by the Zoning Administrator and in the official copy of the City Code maintained by the Zoning Administrator. Map amendments shall be reflected on the Official Zoning Map.

409. ENFORCEMENT.

- 409.1. 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 Zoning Ordinance, the Zoning Administrator may in accordance with the provisions of *South Carolina Code of Laws § 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.
- 409.2. Specific remedies.** Specific remedies for the violation of any provision of this Zoning Ordinance include the following:
- A. Permit revocation. The Zoning Administrator may revoke any zoning permit issued by staff after written notification to the permit holder when violations of this Zoning Ordinance 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 Zoning Ordinance.
 - B. 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 Zoning Ordinance. Conviction for violation of this Zoning Ordinance is punishable as a misdemeanor under the general penalty provisions of the City code.
 - C. Withholding of permits. The Zoning Administrator shall deny a zoning permit for any use or work which fails to comply with this Zoning Ordinance. The Zoning Administrator or other appropriate official shall withhold all other City permits for work which violates this Zoning Ordinance.
 - D. Stop-work orders. The Zoning Administrator is authorized to issue a stop work order pursuant to *South Carolina Code of Laws § 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 City code. Issuance of a stop work order may be appealed to the Board of Zoning Appeals.
 - E. Criminal penalties. Any person violating any provision of this Zoning Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined as determined by the court for each offense.

- F. **Injunction.** Enforcement of the provisions of this Zoning Ordinance 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.
- G. **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:
1. Buildings or other structures on the property be closed, demolished, or removed;
 2. Fixtures, furniture or other moveable property be moved or removed entirely;
 3. Improvements, alterations, modifications or repairs be made; or
 4. Any other action be taken that is necessary to bring the property into compliance with this Zoning Ordinance.
- 409.3. Complaints.** A written complaint specifying facts showing a violation of this Zoning Ordinance filed by any person shall be investigated by the Zoning Administrator. Upon determination that a violation has occurred, the Zoning Administrator shall take appropriate enforcement action authorized by this Zoning Ordinance.
- 409.4. Ordinance summons.** The Zoning Administrator is authorized to issue an ordinance summons pursuant to City code provisions for violations of this Zoning Ordinance.

Article 5. Zoning District Regulations

500. ESTABLISHMENT OF ZONING DISTRICTS.

500.1 The following zoning districts are hereby established.

District	Primary Uses	Minimum Lot Area
Primary Zoning Districts		
R-10	Low Density Residential	10,000 sq. ft.
R-8	Medium Density Residential	8,000 sq. ft.
R-6	High Density Residential	Single-Family/Duplex Residential - 6,000 sq. ft. Multi-family Residential - 7,000 sq. ft.
RD	Residential Development	5,500 sq. ft.
R-MX	Mixed Residential	Single-Family Residential - 5,000 sq. ft. Multi-family Residential - 6,000 sq. ft. for first unit, plus area for additional units as required
OC	Office Commercial	Commercial Use - none Single-family Residential - 6,000 sq. ft. Duplex Residential – 9,000 sq. ft.
NC	Neighborhood Commercial	Commercial Use - none Single-family Residential - 6,000 sq. ft. Duplex Residential – 9,000 sq. ft.
CC	Core Commercial	none
GC	General Commercial	none
LI	Light Industrial	½ acre
BI	Basic Industrial	1 acre
D1	Development District	1 acre for first unit, plus 3,000 sq. ft. for each additional unit
CM	Campus Main	none
PDD	Planned Development	2 acres (site)
OS	Open Space	none
Overlay Districts		
HBO	Historic Buildings Preservation Overlay	none
CTO	Campus Transition Overlay	10,000 sq. ft.
ISO	Interstate Sign Overlay	none
MSIO	Main Street/Interstate Sign Overlay	none

500.2. No amendment shall be initiated which would create a new zoning district with an area of less than two acres. However, this minimum acreage does not apply to the extension of an existing district, or to the addition of NC or OC districts adjacent to CC or GC districts.

501. PURPOSE OF ZONING DISTRICTS.

501.1. Generally.

- A. The zoning districts established in this Zoning Ordinance 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. Section 501* 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 *§ 506 – Zoning District Table of Permitted uses, Article 6 – Conditional Uses, and Article 7 – Special Exception Regulations.*
- B. 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 Ordinance includes only the R-10, R-8, R-6, and RMX districts.

501.2. 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 City.

- A. R-10 –Low Density Residential District. The R-10 District is intended to be residential with single-family, site-built detached dwellings and modular homes and low population densities. Limited compatible uses such as home occupations, K-12 education, government services, public safety, and religious organizations are also allowed.
- B. R-8 –Medium Density Residential District. The R-8 District is intended to be residential with single-family, site-built detached dwellings and medium population densities. Limited compatible uses such as home occupations, K-12 education, government services, public safety, and religious organizations are also allowed.
- C. R-6 – High Density Residential District. The R-6 District is intended to be residential with a variety of dwelling types at higher densities including single-family detached units, duplexes, multi-family developments, patio and zero lot line homes, and townhouses. Compatible uses such as home occupations, K-12 education, government services, public safety, religious uses, and limited recreation uses are also allowed.

- D. RD – Residential Development District. The RD District is intended to be higher density residential limited to single-family, site-built detached dwellings and modular homes. Limited compatible uses such as home occupations, K-12 education, government services, public safety, and religious organizations are also allowed.
- E. RMX – Mixed Residential District. The purpose of the RMX District is to accommodate a mixture of a wide range of residential types at medium densities including single-family detached units, duplexes, multi-family developments, patio and zero lot line homes, and townhouses, and compatible non-residential uses. Non-residential uses allowed include K-12 schools, limited healthcare, assisted living facilities, day care centers, government services, public safety, limited recreation uses, and religious uses.
- F. NC – Neighborhood Commercial District. The NC District is intended to accommodate commercial and service uses that are small in size and service area and oriented primarily to serving the needs of persons who live or work in nearby areas. A variety of dwelling types including single-family detached units, duplexes, multi-family developments, patio and zero lot line homes, and townhouses developed at medium densities and government services, public safety, and religious uses are also allowed.
- G. OC – Office Commercial District. The OC District is intended to primarily accommodate office and personal service uses. Two-family detached, three and four family, and single-family attached (patio homes, townhouses, zero lot line) dwellings; day care centers; limited cultural and recreational uses; religious uses; eating and drinking establishments; hotels and motels; and limited retail uses are also allowed.
- H. CC – Core Commercial District. The CC district is intended to accommodate a variety of general commercial uses, characterized primarily by retail, wholesale, office, and service establishments; and limited healthcare and government services; in the central business area. Residential uses on the upper levels of commercial structures, existing single-family residences, K-12 schools, colleges, nursing homes, assisted living facilities, and limited cultural and recreational uses are also allowed.
- I. GC – General Commercial District. The GC District is intended to accommodate a variety of general commercial and nonresidential uses engaged primarily in the sale of durable goods, equipment, and services. Recreational, cultural and healthcare facilities, K-12 schools, colleges, government and public safety services, nursing homes, assisted living facilities, day care centers, eating and drinking establishments, and hotels and motels are also allowed.

- J. LI – Limited Industrial District. The LI District is intended to permit light industrial, warehousing, and commercial uses which do not create noise or emissions that create nuisances beyond the premises. K-12 schools, colleges, healthcare facilities, nursing homes, assisted living facilities, day care centers, government and public safety services, cultural and recreation facilities, eating and drinking establishments, limited service uses, offices, transportation uses, utilities, landfills, and nursery and tree production are also allowed.
- K. BI – Basic Industrial District. The BI District is intended to accommodate a wide variety of industrial uses involving research, manufacturing, processing, assembly, and warehousing. Limited commercial uses, K-12 schools, colleges, healthcare facilities, nursing homes, assisted living facilities, day care centers, government and public safety services, cultural and recreation facilities, eating and drinking establishments, limited service uses, offices, transportation uses, utilities, landfills, and nursery and tree production are also allowed.
- L. D-1 – Development District. The D-1 district is intended to accommodate the transitional nature of large tracts of land located primarily on the fringe of urban growth where the predominant character of urban development has not yet been fully established, but where the current characteristics of use are predominantly residential or agricultural along with scattered related uses. Future demand for developable land in this district is expected to generate requests for zoning amendments that change the zoning classification from D-1 to other more intensely developed classifications as a natural consequence of urban expansion.
- M. CM – Campus Main District. The CM district encompasses the campus of Newberry College. The goals of the district are to:
1. Recognize and accommodate existing uses and structures on campus;
 2. Permit new campus growth in areas where conflicts with other established uses are minimal or non-existent; and
 3. Stipulate minimal limitations and requirements.
- N. 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 City.

- O. OS - Open Space District. The primary use of the land in the open space district is predominantly reserved for flood control, future thoroughfare right-of-way, public recreation, community facility sites, airport approaches, natural or man-made bodies of water, forests, and other similar open space uses. The specific purpose of the OS District is to:
 - 1. Encourage the preservation and continued use of, the land for conservation purposes;
 - 2. Prohibit residential, commercial, and industrial use of the land, and any other use which would substantially interfere with the preservation of the district; and
 - 3. Encourage the discontinuance of uses that would not be permitted as uses in the district.

501.3. 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 additionally zoned as an overlay district.

- A. CTO – Campus Transition Overlay District. The purpose of the CTO is to establish requirements that allow for the gradual expansion of the Newberry College campus while protecting, to the maximum extent feasible, the integrity of the residential neighborhoods that surround it. The CTO permits limited campus uses to extend into residential areas with sufficient buffering of adjacent lots and mitigation of associated impacts. Specifically, the goals of the CTO are:
 - 1. Encourage a stable, healthy, peaceful environment that supports and protects single family uses and neighborhoods in transition to college uses;
 - 2. Provide for controlled, planned expansion of limited, specifically authorized college uses onto adjacent lots, until such time as transitional areas become fully integrated as part of the main campus;
 - 3. Provide for a reasonable, limited, amount of land upon which Newberry College may implement its plan for projected needs, within a reasonable, coordinated, timeframe; and

4. Minimize the negative impacts of campus growth.
- B. HBO - Historic Buildings Overlay District. The purpose of the HTO is to:
1. Protect, preserve, and enhance the distinctive architectural heritage and history of the City of Newberry;
 2. Encourage preservation of existing structures and remains of structures;
 3. Ensure new construction, alterations and uses of structures within the zone are appropriate to the character of downtown Newberry;
 4. Promote the educational, cultural, economic, and general welfare of the people of Newberry;
 5. Ensure harmonious, orderly and efficient growth and development;
 6. Strengthen the local economy; and
 7. Stabilize and improve the value of property.
- C. ISO - Interstate Sign Overlay District. The purpose of the ISO district is to regulate signage on lots located within 500 feet of the right-of-way of Interstate 26, except for lots within the Main Street/Interstate Overlay District.
- D. MSIO - Main Street/Interstate Sign Overlay District. The purpose of the MSIO district is to overcome sight-line issues at the I-26/SC Highway 219/Main Street intersection by providing sign standards that increase the visibility of businesses located in the area that cater to Interstate traffic.

502. DISTRICT BOUNDARIES ON OFFICIAL ZONING MAP.

The boundaries of the zoning districts established by this Zoning Ordinance are hereby established on a map or maps entitled Official Zoning Map of the City of Newberry, S.C., which map or maps is declared to be a part of this Zoning Ordinance.

503. 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 City 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.

504. INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

504.1. 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 § 402.3(F)(1).

504.2. General rules of interpretation.

- A. District boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow the center lines.
- B. District boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.
- C. District boundaries indicated as approximately following City limits shall be construed as following the City limits.
- D. District boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. District boundaries indicated as following center lines of stream beds or other bodies of water shall be construed to follow the center lines.
- F. 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.
- F. 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.
- G. 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 Zoning Ordinance or subsequent amendment into two 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.

505. 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 two or more zoning districts unless the structure or use conforms to the requirements of all applicable districts.

506. ZONING DISTRICT TABLE OF PERMITTED USES

506.1. Establishment of table. The uses permitted in the residential, mixed use and non-residential zoning districts established by § 501.2 are set forth in the *Zoning District Table of Permitted Uses* provided in § 506.4.

506.2. Determination of use category.

- A. The *North American Industry Classification System (NAICS), 2017*, as amended, is the basis for determining the use of property permitted by the various zoning districts. The Zoning Administrator shall make a determination as to whether or not any proposed use is permitted within the city's zoning jurisdiction based on the uses listed in § 506.4 – *Zoning District Table of Permitted Uses*. 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 § 506.4 – *Zoning District Table of Permitted Uses* and any proposed use not substantially similar to a listed use as determined by the Zoning Administrator shall be deemed to be prohibited.
- B. Uses not listed in the NAICS codes are identified by the symbol "NA" (Not Applicable) in the NAICS column.
- C. 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 Zoning Ordinance.
- D. 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 *Article 6 - Conditional Use Regulations*. Conditional uses are subject to all other applicable regulations of this Zoning Ordinance.
- E. 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 *Article 7 - Special Exception Regulations* 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.

- F. Where a dash (-) is shown on the table, the use to which it refers is not permitted in the indicated district.
- G. Where a use is conditionally (C) permitted or permitted by special exception (SE), a reference to the corresponding section in *Article 6 - Conditional Use Regulations* or *Article 7 - Special Exception Regulations* is provided under “C/SE Reference.”

506.3. 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.

506.4. Zoning district table of permitted uses.

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted																
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference	
RESIDENTIAL USES																
Cluster Development, Single-Family	NA	SE	SE	SE	SE	SE	SE	SE	-	-	-	-	SE	-	700.1	
Dwelling, Above Non-residential use	NA	-	-	-	-	-	-	-	C	-	-	-	-	-	600.1	
Dwelling, Two Family Detached	NA	-	-	P	-	P	P	P	-	-	-	-	-	-		
Dwelling, Existing	NA	-	-	-	-	-	-	-	C	-	-	-	-	P	600.2	
Dwelling, Multi-Family	NA	-	-	-	-	P	-	-	-	-	-	-	-	-		
Dwelling, Multi-Family, Existing	NA	-	-	P	-	P	P	P	-	-	-	-	-	-		
Dwelling, Patio Home	NA	-	-	P	P	P	P	P	-	-	-	-	-	-		
Dwelling, Three and Four Family	NA	-	-	P	-	P	P	P	-	-	-	-	-	-		
Dwelling, Single-Family Attached - Townhouse - Zero Lot Line	NA	-	-	-	-	P	P	P	-	-	-	-	-	-		
Dwelling, Single-Family Detached	NA	P	P	P	P	P	P	P	C	-	-	-	P	-	600.2	
Manufactured Home Park	531190	-	-	-	-	SE	-	-	-	-	-	-	-	-	700.2	
Rooming and Boarding House	721310	-	-	-	-	-	-	-	P	-	-	-	-	-		
ACCESSORY USES TO RESIDENTIAL USES																
Accessory Apartment, ≤ 800 sq. ft.	NA	-	-	-	-	C	-	-	-	-	-	-	-	-	600.3	
Accessory Uses on the same lot with the existing residential use	NA	-	-	-	-	-	-	-	-	-	-	-	-	P		

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted																
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference	
Disaster Shelter	NA	P	P	P	P	P	P	-	-	-	-	-	P	-		
Family Day Care Home	624410	C	C	C	C	C	C	C	C	-	-	-	C	-	600.4	
Kennel, Private	NA	C	C	C	C	C	C	-	-	-	-	-	C	-	600.5	
Garage for Motor Vehicle, Private	NA	P	P	P	P	P	P	-	-	-	-	-	P	-		
Garden, Private (non-commercial)	NA	P	P	P	P	P	P	-	-	-	-	-	P	-		
Greenhouse or Slathouse, Private (non-commercial)	NA	P	P	P	P	P	P	-	-	-	-	-	P	-		
Home Occupation	NA	C	C	C	C	C	C	-	-	-	-	-	C	-	600.6	
Non-commercial Horticulture or Agriculture, including the keeping of poultry or animals		-	-	-	-	-	-	-	-	-	-	-	P	-		
Open Parking Area for two motor vehicles per DU, may be used for one Commercial Motor Vehicle (one ton in capacity) per DU	NA	P	P	P	P	P	P	-	-	-	-	-	P	-		
Private Swimming Pool including Deck, Bath House or Cabana	NA	P	P	P	P	P	P	-	-	-	-	-	P	-		
Private Tennis Court, Picnic Facilities, Other Outdoor Recreation	NA	P	P	P	P	P	P	-	-	-	-	-	P	-		
Private Residential Community Recreation, Community Center, Common Area, or Storage Area (within residential community or development)	NA	C	C	C	C	C	C	-	-	-	-	-	-	-	600.11	
Structure for Storage of Building or Lot Maintenance Equipment	NA	P	P	P	P	P	P	-	-	-	-	-	P	-		
EDUCATIONAL USES																
College, University, Technical or Community College	6113	-	-	-	-	-	SE	SE	P	P	P	P	SE	P	700.4	
College or University Dormitory	6113	-	-	-	-	-	-	-	SE	P	P	P	SE	P		
Educational Support Services	6117	-	-	-	-	-	P	-	P	P	P	P	-	-		
Elementary, Intermediate or Middle School, Public and Private	6111	P	P	P	P	P	P	-	P	P	P	P	-	-		
Kindergarten, Public and Private	6111	P	P	P	P	P	P	-	P	P	P	P	-	-		
Other Schools and Places of Instruction	6116	-	-	-	-	-	C	C	P	P	P	P	-	-	600.8	
Preschool	624410	SE	SE	SE	SE	P	-	-	P	P	P	P	SE	-	700.6	

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted																
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference	
Professional, Vocational, Technical or Trade School	6114 6115	-	-	-	-	-	SE	SE	P	P	P	P	SE	-	700.3	
High School, Public and Private	6111	P	P	P	P	P	P	-	P	P	P	P	-	-		
HEALTHCARE AND SOCIAL SERVICE USES																
Ambulance and EMS Services	621910	-	-	-	-	-	-	-	-	-	P	P	-	-		
Community Care Retirement Communities and Assisted Living Facilities for the Elderly	6233	SE	SE	SE	SE	P	-	-	P	P	P	P	-	-	700.5	
Day Care Centers, Adult and Child	624120 624410	SE	SE	SE	SE	P	-	P	-	P	P	P	SE	-	700.6	
Home Health Care services	6216	-	-	-	-	-	-	-	P	P	P	P	-	-		
Hospitals	6221 6222 6223	-	-	-	-	-	-	-	-	P	P	P	-	-		
Intellectual and Developmental Disabilities Residential Facilities - 10 or more residents	623210	-	-	-	-	P	-	-	-	P	P	P	-	-		
Laboratory, Medical and Diagnostic	6215	-	-	-	-	-	-	-	P	P	P	P	-	-		
Mental Health and Substance Abuse Residential Facilities	623220	-	-	-	-	P	-	-	-	P	P	P	-	-		
Nursing Home	6231	SE	SE	SE	SE	SE	-	SE	P	P	P	P	-	-	700.7	
Other Residential Care Facilities	6239	-	-	-	-	P	-	-	-	P	P	P	-	-		
Other Ambulatory Health Care Services	6219	-	-	-	-	P	-	-	P	P	P	P	-	-		
Outpatient Care Centers	6214	-	-	-	-	-	-	-	P	P	P	P	-	-		
Physician, Dentist, Other Health Care Practitioner Office	6211 6212 6213	-	-	-	-	-	P	P	P	P	P	P	-	-		
Social Services and Assistance	6241 6242 6243	-	-	-	-	P	P	P	P	P	P	P	-	-		
GOVERNMENT																
Correctional Institution, City or County	922140	-	-	-	-	-	-	-	-	-	P	P	P	-		
Correctional Institution, Other	922140	-	-	-	-	-	-	-	-	-	P	P	P	-		
Executive, Legislative, General Government	921 923 924 925 926	C	P	P	P	P	P	-	P	P	P	P	C	-	600.7	
Fire Services	922160	P	P	P	P	P	P	-	P	P	P	P	P	-		
Judicial Building	922110 922130	P	P	P	P	P	P	-	P	P	P	P	P	-		
Police Services	922120	P	P	P	P	P	P	-	P	P	P	P	P	-		

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted															
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference
Post Office	491	-	-	-	-	-	-	-	P	P	P	P	-	-	
ARTS, ENTERTAINMENT, AND RECREATION															
Amusement Arcade	713120	-	-	-	-	-	-	-	P	P	P	P	-	-	
Amusement Ride	713990	-	-	-	-	-	-	-	P	P	P	P	-	-	
Art Gallery	712110	-	-	-	-	-	-	P	P	P	-	-	-	-	
Artists, Writers and Performers	7115	-	-	-	-	-	-	P	P	P	P	P	-	-	
Ball Field	713990	-	-	C	-	C	-	-	C	C	C	C	-	-	600.11
Botanical Garden	712130	-	-	-	-	-	-	P	P	P	-	-	-	-	
Bowling Center	713950	-	-	-	-	-	-	-	P	P	P	P	-	-	
Dance Studios	713990	-	-	-	-	-	C	C	P	P	P	P	-	-	600.8
Driving Range, Standalone	713990	-	-	-	-	-	-	-	-	P	P	P	-	-	
Fairs	711310	-	-	-	-	-	-	-	-	P	P	P	-	-	
Fitness and Recreational Sports Center	713940	-	-	-	-	-	-	-	P	P	P	C	-	-	600.9
Golf Course, Regulation	713910	-	-	P	-	P	-	-	-	P	P	P	-	-	
Golf Course, Regulation or Par 3, unlighted	713910	SE	SE	P	SE	P	-	-	-	P	P	P	SE	-	700.8
Miniature Golf	713990	-	-	-	-	-	-	-	-	C	C	C	-	-	
Museum	712110	-	-	-	-	-	-	P	P	P	-	-	-	-	
Nature Park	712190	-	-	-	-	-	-	-	P	P	-	-	-	-	
Outdoor Assembly	713990	-	-	-	-	-	-	-	C	C	C	C	-	C	600.10
Park with Playground	713990	-	-	C	-	C	-	-	C	C	C	C	-	-	600.11
Park and Recreation Facilities	713940 713990	-	-	-	-	-	-	-	P	P	P	P	-	-	
Performing Arts Facilities	7111	-	-	-	-	-	-	-	P	P	P	P	-	-	
Racetracks	711212	-	-	-	-	-	-	-	-	-	-	P	-	-	
Recreational Day Camp	611620	-	-	-	-	-	-	-	P	P	P	P	-	-	
Shooting or Archery Range	713990	-	-	-	-	-	-	-	P	P	P	P	-	-	
Spectator Sport Complex	71121	-	-	-	-	-	-	-	-	C	C	C	-	C	600.10
Stadium	711310	-	-	-	-	-	-	-	-	C	C	C	-	C	600.10
Swimming	713940	-	-	C	-	C	-	-	C	C	C	C	-	-	600.11
Tennis	713940	-	-	C	-	C	-	-	C	C	C	C	-	-	600.11
Zoo	712130	-	-	-	-	-	-	-	-	P	-	-	-	-	
RELIGIOUS, SERVICE, CIVIC, AND PROFESSIONAL ORGANIZATIONS															
Grant Making and Giving Services, Social Advocacy Organizations	8132 8133	-	-	-	-	P	-	P	P	P	-	-	-	-	
Membership Organizations - Civic and Social, Business, Professional, Labor, Political, and Similar Organizations	8134 8139	-	-	-	-	-	P	P	P	P	-	-	-	-	
Religious Organizations and Customary Accessory Uses	8131	C	P	P	P	P	P	P	P	P	-	-	C	-	600.7

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted																
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference	
ACCOMMODATION AND FOOD SERVICES																
Bed and Breakfast Inn	721191	P	P	-	P	-	-	-	P	P	-	-	P	-		
Brewpub	7225/ 312120	-	-	-	-	-	-	P	P	P	P	-	-	-		
Drinking Places, Bars	7224	-	-	-	-	-	-	P	P	P	P	-	-	-		
Hotels and Motels	72111	-	-	-	-	-	-	P	P	P	-	-	-	-		
Restaurants and Other Eating Places	7225	-	-	-	-	-	SE	P	P	P	P	-	-	SE	700.9	
Special Food Service	7223	-	-	-	-	-	-	P	P	P	P	-	-	-		
OTHER SERVICES																
Administrative and Support Services	561	-	-	-	-	-	-	-	P	P	-	-	-	-		
Automotive Repair and Maintenance	8111	-	-	-	-	-	-	-	-	C	C	P	-	-	600.12	
Car Wash	811192	-	-	-	-	-	SE	-	-	P	P	P	P	-	700.10	
Carpet and Upholstery Cleaning	561740	-	-	-	-	-	-	-	P	P	-	-	-	-		
Cemetery	812220	C	C	-	C	-	-	-	P	P	P	-	C	-	600.13	
Commercial and Industrial Machinery and Equipment Repair and Maintenance	8113	-	-	-	-	-	-	-	-	P	P	P	P	-		
Dry Cleaning and Laundry, excluding coin operated, drop-off and pickup sites	812320	-	-	-	-	-	P	-	P	P	-	-	-	-		
Dry Cleaning and Laundry, coin operated	812310	-	-	-	-	-	P	-	P	P	-	-	-	-		
Dry Cleaning and Laundry Plants	812320	-	-	-	-	-	-	-	P	P	P	P	-	-		
Electronic and Precision Equipment Repair and Maintenance	8112	-	-	-	-	-	-	-	-	P	P	P	P	-		
Funeral Home, Crematories	812210 812220	-	-	-	-	-	-	-	P	P	-	-	-	-		
Gunsmith	811490	-	-	-	-	-	-	-	-	P	-	-	-	-		
Kennel, Other Pet Care Services	812910	-	-	-	-	-	-	-	-	P	P	P	P	-		
Landscaping Service	561730	-	-	-	-	-	-	-	-	P	-	-	-	-		
Locksmith	561622	-	-	-	-	-	-	-	-	P	P	P	P	-		
Other Personal Services, excluding Astrologers and fortune tellers (NAICS 812990)	8129	-	-	-	-	-	-	-	P	P	P	P	P	-		
Personal Care Services (including Barber & Beauty shops, Nail Salons, Day Spas), excluding Tattoo Parlors and Sexually Oriented Businesses (NAICS 812199)	8121	-	-	-	-	-	P	-	P	P	-	-	-	-		

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted																
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference	
Personal and Household Goods Repair	8114	-	-	-	-	-	-	-	P	P	P	P	P	-		
Sexually Oriented Business	812199	-	-	-	-	-	-	-	-	C	-	-	-	-	600.14	
Social Advocacy, Business, Professional and Similar Organizations	8133 8139	-	-	-	-	-	P	P	-	P	-	-	-	-		
Tailor, Dress Maker, Alterations	315220 315240 811490	-	-	-	-	-	-	-	P	P	P	P	P	-		
Tattoo or Body Piercing Establishment	812199	-	-	-	-	-	-	-	-	P	-	-	-	-		
COMMERCIAL - RETAIL																
Automotive Parts, Accessories and Tire Stores	4413	-	-	-	-	-	-	-	-	P	P	-	-	-		
Automobile Service Station, Gasoline Station	447	-	-	-	-	-	SE	-	SE	SE	SE	SE	-	-	700.12	
Bakery	445291	-	-	-	-	-	P	P	P	P	P	P	-	-		
Beer, Wine and Liquor Store	4453	-	-	-	-	-	-	-	P	P	P	-	-	-		
Building Materials and Supplies	4441	-	-	-	-	-	-	-	P	P	P	P	-	-		
Clothing and Accessories Store	448	-	-	-	-	-	P	P	P	P	P	P	-	-		
Commercial Activities visible from public right-of-ways or adjacent private property in the CM zoning district, excluding NAICS 7225 Restaurant and Other Eating Places	44 45	-	-	-	-	-	-	-	-	-	-	-	-	SE		
Convenience Store with Fuel Pumps	447110	-	-	-	-	-	SE	-	SE	SE	SE	SE	-	-	700.12	
Convenience Store w/o Fuel Pumps	445120	-	-	-	-	-	SE	P	P	P	P	-	-	-	700.13	
Courier Services	492	-	-	-	-	-	-	-	-	-	P	P	-	-		
Furniture, Home Furnishings, Electronics, Appliance Store	442 443	-	-	-	-	-	-	-	P	P	P	P	-	-		
Flea Market - Open Yard for Sale, Rental or Storage of New or Used Junk or Salvaged Materials or Equipment	453310	-	-	-	-	-	-	-	-	-	-	SE	-	-	700.14	
Gasoline Station, w/o convenience store	447190	-	-	-	-	-	SE	-	SE	C	C	C	-	-	700.12	
General Merchandise Stores	452	-	-	-	-	-	-	-	P	P	P	P	-	-		
Grocery and Beverage Store	445	-	-	-	-	-	-	-	P	P	P	P	-	-		
Hardware Store	444130	-	-	-	-	-	-	-	P	P	P	P	-	-		
Health and Personal Care Store	446	-	-	-	-	-	P	P	P	P	P	P	-	-		
Jewelry Store	448310	-	-	-	-	-	-	-	P	P	P	P	-	-		

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted															
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference
Manufactured Home Dealer	453930	-	-	-	-	-	-	-	-	P	P	P	-	-	
Mini-warehouse and Commercial Personal Storage	531130	-	-	-	-	-	-	-	-	P	P	P	-	-	
Motor Vehicle Dealers	4411 4412	-	-	-	-	-	-	-	-	P	P	-	-	-	
Non-store Retailers	454	-	-	-	-	-	-	-	P	P	P	P	-	-	
Nursery, Lawn/Garden Equipment and Supplies, Farm Supplies	4442	-	-	-	-	-	-	-	P	P	-	-	-	-	
Roadside Fruit and Vegetable Markets	445230	-	-	-	-	-	-	-	P	P	-	-	-	-	
Sporting Goods, Hobby, Music, Book Store	451	-	-	-	-	-	P	P	P	P	P	P	-	-	
Store Retailers, Other Miscellaneous (excluding NAICS 453930 Manufactured Home Dealer)	453	-	-	-	-	-	P	P	P	P	P	P	-	-	
Tobacco, Cigar, Cigarette, Vape, and CBD Stores	453991 453998	-	-	-	-	-	-	-	P	P	-	-	-	-	
Vending Machine Operators	4542	-	-	-	-	-	-	-	P	P	P	P	-	-	
COMMERCIAL - WHOLESALE															
Durable and Nondurable Goods, Wholesale Trade (excluding NAICS 424690, 423930, 423140, 424710)	42	-	-	-	-	-	-	-	P	P	P	-	-	-	
Other Chemical and Allied Products Wholesalers	424690	-	-	-	-	-	-	-	-	P	P	-	-	-	
Petroleum Bulk Stations and Terminals, Wholesale	424710	-	-	-	-	-	-	-	-	P	P	-	-	-	
Salvage and Scrap Operations; Recyclable Materials Merchant, Wholesale; Used Motor Vehicles Parts, Wholesale; Junkyards	423930 423140	-	-	-	-	-	-	-	-	C	C	SE	-	-	600.15 700.15
INFORMATION															
Broadcasting and Telecommunication (except NAICS 517312 communications towers)	515 517	-	-	-	-	-	-	-	P	P	P	P	-	-	
Information and Data Processing	518 519	-	-	-	-	-	-	-	P	P	P	P	-	-	
Libraries, Archives	519120	-	-	-	-	-	-	P	P	P	P	P	-	-	
Motion Picture Production (except 512131 and 512132)	5121	-	-	-	-	-	-	-	-	P	-	-	-	-	
Movie Theater (not drive-in)	512131	-	-	-	-	-	-	-	P	P	-	-	-	-	

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted																
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference	
Movie Theater (drive-in)	512132	-	-	-	-	-	-	-	-	-	-	-	-	-		
Newspaper and Software Communications and publishing	511	-	-	-	-	-	-	-	-	-	P	P	-	-		
Communication Tower, Cell, and Antennas	517312	C/SE	C/SE	C/SE	C/SE	C/SE	C/SE	C/SE	C/SE	C/SE	C/SE	C/SE	C/SE	-	600.16 700.16	
Small Wireless Facilities	517312	C	C	C	C	C	C	C	C	C	C	C	C	-	600.28	
PROFESSIONAL AND OFFICE																
Architecture Office	541310	-	-	-	-	-	-	P	P	P	P	P	-	-		
Engineering or Surveyor Office	541330 541370	-	-	-	-	-	P	C	P	P	P	P	-	-	600.17	
Branch Bank, Savings and Loan, Small Loan Company	522	-	-	-	-	-	P	P	P	P	P	P	-	-		
Contractors, All Types	23	-	-	-	-	-	C	C	-	-	-	-	-	-	600.17	
Finance and Insurance	52	-	-	-	-	-	-	P	P	P	P	P	-	-		
Funds, Trusts and Other Financial Vehicles	525	-	-	-	-	-	-	-	P	P	P	P	-	-		
Insurance Agents	524	-	-	-	-	-	P	P	P	P	P	P	-	-		
Financial Planning, Investment Broker	523	-	-	-	-	-	P	P	P	P	P	P	-	-		
Offices of Bank Holding and Other Holding Companies	551111 551112	-	-	-	-	-	-	P	P	P	P	P	-	-		
Pawn Shops	522298	-	-	-	-	-	-	-	P	P	P	P	-	-		
Professional, Scientific and Technical Services and Offices (excluding NAICS 541940 Veterinary Services)	54	-	-	-	-	-	P	P	P	P	P	P	-	-		
Real Estate, Sales and Leasing	531	-	-	-	-	-	P	P	P	P	P	P	-	-		
Rental and Leasing	532	-	-	-	-	-	-	-	P	P	P	P	-	-		
Veterinary Services	541940	-	-	-	-	-	-	-	-	P	P	P	-	-		
INDUSTRIAL - Processing, Manufacturing, Warehousing, Distribution																
Fuel dealer	454310	-	-	-	-	-	-	-	-	-	C	C	-	-	600.18	

Zoning District Table of Permitted Uses

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Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference
Manufacturing, Processing and Packing, Limited	311212 311340 31135 3114 3118 3119 31211 314 315 3169 323 325620 327110 337110 339910 5111 519130	-	-	-	-	-	-	-	-	-	P	-	-	-	
Manufacturing, Processing and Packing, All Types - <u>except</u> those uses listed under <i>Manufacturing, Processing and Packing, Limited</i>	31, 32, 33	-	-	-	-	-	-	-	-	-	SE	-	-	-	700.17
Manufacturing, Processing and Packing, All Types - <u>except</u> those involving open storage of junk/salvage or producing noise, vibration, smoke, gas, odor, dust, fire hazard, radiation, or other conditions that could adversely affect adjacent lots	31, 32, 33	-	-	-	-	-	-	-	-	-	P	-	-	-	
Manufacturing, Processing and Packing - involving open storage of junk/salvage or producing noise, vibration, smoke, gas, odor, dust, fire hazard, radiation, or other conditions that could adversely affect adjacent lots	31, 32, 33	-	-	-	-	-	-	-	-	-	SE	-	-	-	700.18
Manufacturing, Petroleum and Coal Products	324	-	-	-	-	-	-	-	-	-	C	P	-	-	600.19
Manufacturing, Explosives	325920	-	-	-	-	-	-	-	-	-	C	P	-	-	600.19
Micro-brewery	312120	-	-	-	-	-	-	-	-	-	P	P	-	-	
Micro-distillery	312140	-	-	-	-	-	-	-	-	-	P	P	-	-	
Warehousing and Storage	493	-	-	-	-	-	-	-	-	-	P	P	-	-	
TRANSPORTATION															

Zoning District Table of Permitted Uses

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Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference
Air Transportation and Support	4811 48121 4881	-	-	-	-	-	-	-	-	-	-	-	-	-	
Bus and Rail Terminals	488490 488210	-	-	-	-	-	-	-	SE	-	P	P	-	-	
Railroad Transportation	482	-	-	-	-	-	-	-	-	-	P	P	-	-	
Scenic and Sightseeing Transportation	487	-	-	-	-	-	-	-	-	-	P	P	-	-	
Transit and Ground Passenger Transportation	485	-	-	-	-	-	-	-	-	-	P	P	-	-	
Transportation Support Activities (excluding NAICS 4881, 488490, 488210)	488	-	-	-	-	-	-	-	-	-	P	P	-	-	
Truck Transportation	484	-	-	-	-	-	-	-	-	-	P	P	-	-	

UTILITIES AND INFRASTRUCTURE															
Alternative Solar Energy Generation, Non-Commercial	NA	C	C	C	C	C	C	C	C	C	C	C	C	C	600.25
Compost Facilities	562219	-	-	-	-	-	-	-	-	-	P	P	-	-	
Electric Power Generation, not including solar farm (NAICS 221114)	22111	-	-	-	-	-	-	-	-	-	P	P	-	-	
Landfill, Class One and Two, except hazardous waste disposal	562212	-	-	-	-	-	-	-	-	-	P	P	-	-	
Public Telecommunications Utility Substation	517	-	-	-	-	-	-	-	-	P	P	P	-	-	
Public Electric, Gas, Water, Sewer, Refuse Utility Substation	22	C	C	C	C	C	C	C	P	P	P	P	C	-	600.20
Renewable Power Generation, Non-commercial, not including solar farm (NAICS 221114)	22111	-	-	-	-	-	-	-	-	-	P	P	-	-	
Sewage Treatment Facilities	221320	-	-	-	-	-	-	-	-	-	P	P	-	-	
Solar Farm	221114	-	-	-	-	-	-	-	-	-	C	C	-	-	600.26
Waste Management and Remediation Services (excluding NAICS 562212 - Landfill)	562	-	-	-	-	-	-	-	-	-	P	P	-	-	
Water Tower	221310	C	C	C	C	C	C	C	P	P	P	P	C	-	600.20
Water Treatment Plants	221310	-	-	-	-	-	-	-	-	-	P	P	-	-	
Utility, Public Utility Office or Operations Center only	22	-	-	-	-	-	-	-	P	P	P	P	-	-	
NATURAL RESOURCES - Agriculture, Forestry, Mining/Extractive															
Farmer's Markets per DHEC	445230	-	-	-	-	-	-	-	-	-	-	-	-	-	

Zoning District Table of Permitted Uses

P = Permitted C = Conditional SE = Special Exception Dash (-) = Not Permitted															
Description of Use	2017 NAICS	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	D-1	CM	C/SE Reference
Nursery and Tree Production, Floriculture Production (including retail sale of plants grown on and offsite and associated compatible products)	111421 111422	-	-	-	-	-	-	-	-	-	P	P	-	-	
ASSESSORY USES TO NON-RESIDENTIAL USES															
Completely Enclosed Building for Storage of Supplies or Merchandise for Use in the Principal Business or Industry	NA	-	-	-	-	-	P	P	-	-	-	-	-	-	
Shed for Storage of Building or Lot Maintenance Equipment for Nonresidential use	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
Solar Farm, Accessory Use	221114	-	-	-	-	-	-	-	-	-	C	C	-	-	600.26

TEMPORARY USES															
Christmas Tree Sales	NA	-	-	-	-	-	C	C	C	C	C	C	-	-	600.21
Contractor Office and Equipment Shed - Temporary	23	C	C	C	C	C	C	C	C	C	C	C	C	-	600.22
Garage Sales	NA	P	P	P	P	P	P	-	-	-	-	-	P	-	
Group Assembly in a Tent or other Temporary Structure	NA	-	-	-	-	-	-	-	-	-	C	C	-	-	600.23
Mobile Vendor Trucks	722330	-	-	-	-	-	-	-	C	C	-	-	-	-	600.27
Portable On-demand Storage Container (POD)	NA	C	C	C	C	C	C	C	C	C	C	C	C	C	600.24

507. PDD – PLANNED DEVELOPMENT DISTRICT REGULATIONS.

507.01. Planned Development Districts.

- A. Planned development districts may permit a mixture of different types of housing with compatible commercial uses, shopping centers, office parks and other mixed use developments.
- B. 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.
- C. The approved plan shall constitute the district regulations for a particular planned development district.

507.02. PDD Requirements. The following regulations shall apply in all Planned Development Districts. Whenever there is a conflict between these regulations and any other regulations in this Zoning Ordinance, the most stringent shall prevail.

- A. 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 City Council. Once approved, these uses and no others shall be permitted. Said uses shall be identified as listed per § 506.4 – *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 Ordinance.

- B. Mixture of uses required. For PDDs that are or are planned to be primarily residential, a minimum of 10 percent 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 percent of the total gross area of the PDD must be reserved for residential uses.

- C. Pre-application Meeting. A pre-application conference to discuss a proposed PDD is encouraged, but not required.

- D. Establishment of Planned Development Districts.
 - 1. PDDs shall be established on the official zoning map by the same procedure as for amendments generally as provided in § 408 - *Amendments* and in accordance with the requirements of this section.

 - 2. The Planning Commission will review the conceptual plan and text to ensure conformity with this section and applicable requirements of the *City of Newberry Land Development Regulations*; to consider the comments of the staff review; to obtain and consider public comments concerning the proposed PDD; and to provide a recommendation to City Council on the zoning amendment.

 - 3. Upon approval by City Council, the conceptual plan along with all supporting documentation and text shall constitute the PDD ordinance.

 - 4. Zoning and building permits shall not be issued until the PDD is approved by City Council, and approved plats, the approved descriptive statement and all required restrictive covenants are filed for record with the Municipal Clerk and the Clerk of Court for Newberry County and all required bonds are posted with the Municipal Clerk.

- E. Infrastructure. The developer is authorized to begin construction of streets and infrastructure following verification that the preliminary plat complies with all requirements specified by City Council, the Planning Commission, SC DHEC, the *City of Newberry Land Development Regulations*, and other approved conditions including recording of restrictive covenants.
- F. Plat approval. Preliminary and final plat approval shall also comply with *City of Newberry Land Development Regulations*.
- G. 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.
- H. Conceptual Plan and Text Requirements.
1. A conceptual site development plan meeting the requirements for site plans contained in § 403.4 – *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:
 - a. Additional site plan information provided to scale, to include at a minimum:
 - i. Legal description of site boundaries, total area of site;
 - ii. Area and location of each proposed type of use;
 - iii. Proposed number and density of dwelling units by type;
 - iv. Existing topography, vegetation, drainage, floodplains, wetlands, and waterways;
 - v. Location and capacity of existing utilities and streets;
 - vi. Types and location of surrounding development;
 - vii. Proposed landscaping, berms, open spaces (noting if proposed to be dedicated for public use), and walkways;
 - viii. Proposed buffers, setbacks, and screening devices;
 - ix. Means of ingress and egress, vehicular circulation, including ownership and maintenance of streets and proposed dedication to public;
 - x. Proposed parking and traffic impact both within the site and on adjacent districts and streets;
 - xi. Steps proposed to comply with sediment control and storm drainage regulations;

- xii. Existing and proposed structures and buildings;
 - xiii. Historic structures and other historic resources;
 - xiv. Proposed signs and lighting;
 - xv. Design standards, procedures, and methods demonstrating that the development will be compatible with the surrounding area; and
 - xvi. Any other information that may reasonably be required for review.
- b. 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, the City of Newberry has no authority or responsibility to enforce deed restrictions.
- c. A preliminary development schedule for the completion of roads, infrastructure, buffer yards, parks, trails, and any other proposed improvements for general use. This schedule shall include any proposed development phasing with anticipated time frames.
2. 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.
- I. Minimum area required. Minimum area requirements for establishing a PDD shall be 10 contiguous acres in all districts.
- J. Development standards.
1. 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; however:
- a. Buildings may not exceed a height of 60 feet as measured to the roof line. This height requirement is not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, and antennae, however height regulations for these structures may be provided in *Article 6 – Conditional Use Regulations* or *Article 7 – Special Exception Regulations*.

- b. A 20-foot setback will be required along the perimeter of all lot lines. The setback from any existing street shall be the lesser of 35 feet or the average setback of existing adjacent single-family dwellings that front on the same street within 100 feet in either direction of the proposed building. Non-single-family dwellings and non-residential uses may be granted a lesser setback to achieve more urban densities and building wall patterns desired by the City.
 - c. Maximum single-family residential density is eight units per acre. Non-single-family residential density shall be established on a case-by-case basis by the City consistent with the context of its location.
2. Maximum lot coverage. The maximum impervious surface ratio is 70 percent.
3. Lot sizes. Lot width, minimum lot size, and street frontage shall be as established in the approved plan. Dimensional standards should be consistent and compatible with the context in which the lots are located and the purposes they serve.
4. 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.
5. Parking and loading. Off-street parking and loading spaces for each PDD shall comply with the requirements of *Article 11 – Parking and Loading Regulations*, as applicable, for the various uses proposed for the PDD unless waived by the Planning Commission based upon development site characteristics and context. Dense development may require supplemental parking areas or wider streets to allow on-street parking in addition to off-street parking requirements.
6. Buffers and landscaping. A buffer area at least 20 feet in width shall be provided along the exterior perimeter lot line unless waived or reduced by the Planning Commission based upon the context of the site. Buffers are not required in the interior of the PDD. Landscaping shall, at a minimum, meet the requirements established in *Article 10 – Landscaping, Buffers and Open Space Requirements*.
7. Streets and infrastructure. Streets within a PDD must meet the design and construction standards required by the *City of Newberry Land Development Regulations*.

8. Signage. Signage permitted shall be consistent, appropriately scaled and aesthetically compatible with the proposed PDD and shall comply with the requirements of *Article 9 - Sign Regulations*.
9. Open Space. The site design shall include designated common open space equal to a minimum of 20% of the gross land area of the site. Such open space shall comply with the requirements of *Article 10 – Landscaping, Buffers and Open Space Requirements*.
- K. Subdivision approval required. Whenever a land subdivision, as regulated by the *City of Newberry Land Development Regulations*, 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 City.
- L. Installation of improvements; financial guarantees. Where public improvements, such as 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 the *City of Newberry Land Development Regulations*. The City may accept financial guarantees in lieu of installation of required improvements for the purposes of building construction. Such guarantees must be in a form and an amount acceptable to the City and posted with the Municipal Clerk prior to the release of any building or zoning permits authorizing construction.
- M. Administrative action. Building and zoning permits shall not be issued until the PDD is approved by City Council; 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 Municipal Clerk.
- N. Changes in approved PDD plans. Except as provided below, approved PDD plans shall be binding on the owner and any successor in title.
 1. Minor changes. Changes proposed in writing by the applicant which do not alter district boundaries and which involve revision of minor characteristics of the PDD such as revision of floor plans, facades, landscaping; or relocation of 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 subsection (2) below.

2. 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.
 3. Permits. No zoning or building permits involving a minor or major change of the PD descriptive statement or map shall be issued until the written change is filed with the Municipal Clerk and recorded in the office of the Clerk of Court for Newberry County.
- O. Expiration of time limits on PDD Amendments. The final approved plan for a PDD shall be in effect for a period of two years or other specified development schedule included within the approved plan. The owner of an approved PDD may apply in writing before the end of the approval period to the Planning Commission for an annual one-year extension. The Planning Commission may approve applications for up to five annual extensions of the approval period if a timely and proper written application has been filed with the Planning Commission and if progress is being made towards project execution. If no such application is made, the approval period or extension shall expire at the end of the approval or extension period.
- P. 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, City Council may charge the property owner with violation of the Zoning Ordinance, may rezone the property, or may take any combination of these actions. In any event, if the planned development is not initiated within two years of its establishment, the Planning Commission shall initiate the rezoning of the property to an appropriate zoning district classification in conformity with the comprehensive plan.

508. OVERLAY DISTRICTS.

508.1. Requirements. The requirements of this section shall apply to the following Districts established by § 500.1.

- CTO – Campus Transition Overlay
- HBO – Historic Buildings District Preservation Overlay
- ISO – Interstate Sign Overlay
- MSIO – Main Street/Interstate Sign Overlay

508.2. Establishment. Overlay districts shall be established on the official zoning map by the

same procedure as amendments generally, as provided in § 408 by defining the boundaries of each district.

508.3. 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.

508.4. CTO - Campus Transition Overlay

A. General Requirements.

1. Occupancy.

a. No Institutional Office and Professional Uses may be occupied until all parking and buffer/landscaping requirements have been met, as approved by the Zoning Administrator.

2. Parking. Design of all parking lots, spaces, and drive lanes shall be as provided in *Article 11 – Parking and Loading Regulations*, except as provided in the following subsections.

a. On-site Parking.

i. Parking areas shall not occupy more than 40% of the available front yard.

ii. Parking areas shall be defined by a well-established border.

iii. Parking surface areas shall be constructed of impervious materials and/or all-weather, dustless, permeable materials provided that the surface is regularly maintained by the institution such that its permeability remains constant.

b. Off-site Parking. Total or partial off-site parking, in lieu of on-site parking, may be provided, subject to written approval of the Zoning Administrator. To obtain authorization, the institution shall, at a minimum, demonstrate the existence of unreserved, general parking

within 800 linear feet of the site, sufficient to meet the parking requirement.

- c. *Surface parking lots.*
 - i. Use of parking lots shall be restricted to parking only.
 - ii. Social uses and other temporary uses shall be prohibited except those temporary uses associated with athletic events, fundraising activities, and other similar special events officially sanctioned by the institution and conducted on an infrequent basis.
 - iii. Parking lots shall be constructed of impervious materials or all-weather, dustless, permeable materials provided that the surface is regularly maintained by the institution.
 - iv. Ingress and egress shall be prohibited from residential streets where suitable access can be provided from a thoroughfare or another College-owned property.
 - v. The institution shall be responsible for the parking area and landscape maintenance including routine litter control.
3. *Dimensional and Height Requirements.* See Article 8 – Area, Setback and Dimensional Requirements.
4. *Sign Regulations.* See Article 9 – Sign Regulations.
6. *Lighting.* The following lighting restrictions shall apply unless all adjoining properties are college-owned, with uses allowed in the CTO district.
 - a. The intensity and timing of lighting shall be the minimum level and hours necessary to provide a safe environment during authorized hours of use.
 - b. Lighting shall meet the requirements of § 308 – Light and Glare.
7. *General Landscaping, Perimeter Yards, and Buffer Yards.*
 - a. Properties devoted to institutional classrooms and institutional office and/or other professional uses shall meet the applicable requirements of Article 10 – Landscaping, Buffers and Open Space Requirements, except as provided below.

- i. For existing structures – where possible, Type A buffer yards shall be planted. Where there is insufficient area to accommodate Type A buffers, the Zoning Administrator shall require as much consistency with that requirement as is practicable.
 - ii. For new construction – Type C buffer yards shall be required on all lot lines unless adjoining lots are occupied by other permitted institutional facilities within CM or CTO.
 - iii. If adjoining lots are occupied by permitted institutional facilities or border public rights-of-way, at a minimum, Type A buffer yards shall be provided.
- B. Institutional Office and Professional Use (faculty, administrative, professional use) Requirements.
 - 1. Occupancy.
 - a. Offices within the CTO shall not be occupied more than 40-hours per week on average annually, with standard hours of occupancy limited to a work day period between 7:00 AM and 8:00 PM.
 - b. The intensity of occupation within the CTO shall be limited to the number of habitable interior rooms (i.e. excluding bathrooms, kitchens, and hallways) within the principal structure. Under this formula, the maximum permissible number of occupants shall equal the number of habitable rooms in the principal structure.
 - 2. On-site Parking. Where on-site parking is provided, one space per 375 square feet of gross floor area (i.e. 75% of the Office Commercial District requirement for similar uses) shall serve as the minimum requirement. However, parking areas shall not occupy more than 35% of the legally defined lot. This calculation excludes the aggregate square area occupied by the principal structure and accessory structures as allowed in the underlying zoning district.
- C. Institutional Classroom Use Requirements.
 - 1. Occupancy.
 - a. Institutional Classroom Uses within the CTO shall be limited to between 8:00 AM and 5:00 PM.

- b. The intensity of occupation within the CTO shall be limited to the number of students permitted by the National Fire Protection Association (NFPA) occupancy standards, not to exceed 20 students in existing structures and 40 students in new construction.
 - c. Office space shall be limited to not more than one office per 500 square feet of gross classroom building square footage.
 - 2. On-site Parking. On-site parking shall be sufficient to meet a minimum of one half of the maximum classroom seating capacity and one space per classroom building office. However, parking areas shall not occupy more than 40% of the legally defined lot. This calculation excludes the aggregate square area occupied by the principal structure and accessory structures as allowed in the underlying zoning district.
- D. Grandfathered Uses. The Lee Atwater Practice Soccer Field shall be considered a non-conforming, grandfathered use in the CTO and as such shall comply with all applicable requirements as provided in § 304 - *Nonconformities*.
- E. Contiguity. All CTO zoned property must be contiguous to CM or other CTO-zoned property. CTO uses are permitted in RD, R-6, R-8 and R-10 as stipulated in each districts' Special Exception provisions, where they also meet the contiguity requirement. For purposes of this overlay district "contiguity" is defined as two separate, legally defined lots, physically touching at least one point, or if the only intervening property is public right-of-way.
- F. CTO Expansion and Contraction Criteria. The original CTO boundary line was adopted with careful consideration and with the direct input of Newberry College and its surrounding neighborhoods, recognizing existing College ownership of many of the properties. Expansion or contraction of the CTO District should only be considered in the presence of significant justification and facts. The specific circumstances should meet a preponderance of the following minimum criteria.
 - 1. Expansion.
 - a. Significant unforeseen events, opportunities and/or needs have occurred since the original boundary adoption.
 - b. The inclusion of the new property corrects a significant oversight in the original or subsequent boundary adoption.
 - c. The current CTO acreage cannot accommodate the new need.

- d. The new need can only be accommodated by the addition of more acreage into the CTO.
- e. The property proposed for inclusion in the CTO provides unique opportunities, currently not found in the CTO.
- f. The expansion is justified by a written, adopted plan, stated need and associated commitments by the College and any associated stakeholders.
- g. The expansion is not proposed primarily for political expediency or gain.
- h. The acreage proposed for expansion is being traded for acreage being deleted from the CTO.

2. Contraction.

- a. Significant unforeseen events, opportunities and/or needs have occurred since the original boundary adoption.
- b. The deletion of the new property corrects a significant oversight in the original or subsequent boundary adoption.
- c. The current CTO acreage exceeds the foreseeable needs of the College.
- d. The acreage proposed for deletion from the CTO does not meet the needs of the College.
- e. The acreage proposed for deletion from the CTO has specific negative characteristics associated with it that make it undesirable for College use.
- f. The acreage proposed for deletion is being traded for land better suited to the College’s needs.

508.5. HBDO - Historic Buildings District Overlay. The boundaries of the HBO are as shown on the Official Historic Buildings District Zoning Overlay Map and are incorporated herein by reference. The jurisdiction of the Architectural Review Board in all matters related to the HBO is hereby restricted to the boundaries of the overlay zone as herein defined, excepting any individual historic landmark identified by Newberry City Council as deserving of similar protection, which shall be depicted on the Official Historic Buildings District Zoning Overlay Map or on an addendum thereto.

- A. Permitted Uses. As an overlay zone, the primary zoning district determines permitted uses with the HBDO. Where the HBDO overlays the Core Commercial

(CC) Zoning District, the list of permitted uses is determined by the Core Commercial District, subject to the additional requirements and standards of the Historical Buildings District Overlay.

- B. Certificate of Appropriateness. Prior to the issuance of a building or demolition permit, new construction, alteration, modification or addition to a structure within the Historic Buildings District, a Certificate of Appropriateness from the ARB shall be required, per the provisions of *§ 402.4 – Architectural Review Board*. Any building permit or other permit not issued in conformity with the requirements of that section shall be considered void. The system of fines applied by the City of Newberry for violations of its building code will apply to violations of this Ordinance.
- C. Maintenance and Repair. Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of structures in the Historic Buildings District which does not involve a change in design, material, color or outer appearance thereof, or to prevent the construction, reconstruction, alteration or demolition of any such feature of the structure which the building inspector or similar official shall certify is required because of an unsafe or dangerous condition
- D. Interior Alterations To Structures. Alterations involving interior arrangement or any alteration to the interior of any structure in the Historic Buildings District are not required to be submitted to the Architectural Review Board for review.
- 508.6. ISO – Interstate Sign Overlay.** The ISO overlay shall include all land within 500’ of the right-of-way of the interstate highway, except within the Main Street/Interstate Overlay. All other sign standards are as provided in *Article 9 – Sign Regulations*.
- 508.7. Main Street/Interstate Sign Overlay – MSIO.** The MSIO shall include all land within a 1,500 foot radius from the center of the I-26/S.C. Highway 219/Main Street intersection. All sign standards are as provided in *Article 9 – Sign Regulations*. Changes to the requirements of the MSIO may only be made by Zoning Ordinance amendment Nothing in this section shall prohibit the use of Planned Development (PDD) designations in the MSIO.

Article 6. Conditional Use Regulations

600. APPLICATION OF CONDITIONAL USES.

The requirements of this Article shall apply to all conditional uses listed in § 506.4 – *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.

- 600.1. Dwelling, Above Non-residential Use.** Dwellings units above non-residential uses on Main and Boyce Streets and on Caldwell Street fronting the Community Hall block in the Core Commercial Zoning District shall meet the following requirements where conditionally permitted.
- A. The dwelling unit(s) on these specified streets must be located above grade floor level within a permitted principal use building.
 - B. All exterior modifications must be approved by the City of Newberry Architectural Review Board.
- 600.2. Dwelling in Core Commercial District.** Existing residential dwelling units in the Core Commercial Zoning District shall be allowed to continue residential occupancy if they meet the following requirements.
- A. The existing dwelling unit was in use at the time of the original adoption of the City of Newberry Zoning Ordinance on April 20, 1999. An inventory of such existing residential units is included in Appendix A of this Ordinance.
 - B. Such existing residential dwelling units may be at grade floor level.
 - C. There shall be no expansion of the residential use.
- 600.3. Apartment, Accessory to Residential Use.** An apartment, accessory to the principal use and on the same lot, shall be allowed in the RMX Zoning District if the dwelling unit is 800 square feet or less in size.
- 600.4. 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 six 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 percent 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.

600.5. Kennel, Private. A private kennel shall meet the following requirements where conditionally permitted.

- A. No more than three dogs or three cats shall be boarded or kept in the private kennel.
- B. A fence at least six feet in height, installed per the requirements of § 307 – *Fences and Walls*, shall be erected between an outdoor kennel and all lot lines and road rights-of-way.

600.6. Home Occupation. Customary home occupations accessory to single-family residential use shall meet the following requirements where conditionally permitted.

- A. The home occupation shall be conducted wholly within the principal residence or accessory structure.
- B. Only persons residing in the dwelling shall be employed in the home occupation on the premises, however in the RMX Zoning District one additional person not residing in the principle residence may be employed on the premises.
- C. The floor area utilized by such use shall not exceed 25 percent of the total floor area of the principal residence or 50 percent of an accessory building.
- D. There is no alteration whatsoever of the residential character of the building(s) and/or premises.

- D. No merchandise or articles shall be displayed so as to be visible from outside the principal residence.
- E. No activity shall be conducted out of doors, and no associated outdoor storage, display, or refuse area shall be allowed in the yard.
- F. 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.
- G. The occupation, profession, or trade shall not generate any health, safety or traffic hazard; any noise, glare, heat, vibration, smoke, dust, or odor or other offensive emissions; or unsightly conditions or nuisances.
- H. In the R-10 Zoning District, the sale of antiques is allowed as a home occupation within the boundaries of the Main Street Historic District, provided that the lot fronts on Main or Johnstone Streets.
- I. 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.
- J. Signage for the home occupation shall be limited to one wall-mounted, non-illuminated wall sign with a maximum sign surface area of one square foot.

600.7. Group Assembly. In applicable zoning districts, uses not otherwise addressed by this Ordinance that include the gathering of persons for purposes such as civic, social, recreation, or religious functions shall meet the following requirements where conditionally permitted.

- A. The use is conducted in a permanent structure.
- B. The use is located on a lot no less than 20,000 square feet in size.
- C. Buildings associated with the use must be setback 25 feet from all adjacent residential lots.

600.8. Other Schools and Places of Instruction. In applicable zoning districts, schools of instruction such as dance, art, music, drama, and martial arts, shall meet the following requirements where conditionally permitted.

- A. No more than 40 students shall be enrolled in a school of instruction located in the NC Zoning District and no more than 25 students shall be enrolled in a school of instruction located in the OC Zoning District.
- B. Instruction is limited to art, music, dancing, drama, martial arts, or similar cultural activity.

600.9. Fitness and Recreational Sports Center. In applicable zoning districts, physical fitness and/or recreation facilities shall meet the following requirements where conditionally permitted.

- A. The use must be incidental to a permitted manufacturing use.
- B. The use must be located on the same premises as the permitted manufacturing use.

600.10. Outdoor Assembly; Spectator Sport Complex; Stadium. Spectator sports complexes, stadiums, amphitheatres, and similar uses involving outdoor assembly shall meet the following requirements where conditionally permitted.

- A. All structures, outdoor assembly areas, and fields of play shall be setback a minimum of 100 feet from any adjacent residential lot.
- B. All outdoor lighting shall be fully shielded and installed in such a way that no light spills over onto adjacent residential lots and adjacent residential zoning districts per the requirements of § 308 – *Light and Glare*.
- C. Hours of operation are limited to between 8 a.m. and 11 p.m.
- D. Site design shall ensure safe, predictable vehicular parking, access and movement onto and off of the site.

600.11. Recreational Facilities Adjacent to Residential Uses. Outdoor recreation facilities for public use or private community use that are adjacent to lots that are zoned for residential use shall meet the following requirements where conditionally permitted.

- A. No swimming pool, playground, miniature golf course, ball field, or game court shall be closer than 50 feet from the lot line of a lot zoned for residential use.
- B. Lighting in connection with outdoor recreational facilities shall be installed no closer than 50 feet to the lot line of a lot zoned for residential use, unless such lighting is determined by the Zoning Administrator to be fully shielded and installed in such a way that no light spills over onto adjacent residential lots per

the requirements of § 308 – *Light and Glare*, and does not otherwise present a potential nuisance to adjacent residential uses.

- C. Opaque screening per the requirements of § 1004 - *Screening* shall be provided for any adjacent residential lot to reduce the impact of noise and light on adjacent residential lots.
- D. No commercial activities shall be permitted in conjunction with recreational uses in residential zoning districts except in the following situations.
 - 1. Charges and fees for the use of recreational facilities.
 - 2. Other activities that are directly in conjunction with the recreational facility and which, in the judgment of the Zoning Administrator, would not be in conflict with the residential nature of the neighborhood such as concession stands and pro shops.

600.12. Automotive Repair and Maintenance. In applicable zoning districts, a facility for repair and servicing of motor vehicles, including body work, shall meet the following requirements where conditionally permitted.

- A. All operations shall be conducted within a fully enclosed building.
- B. An opaque screen at least 6’ high adjacent to all residential areas.
- C. There shall be no open storage of wrecked vehicles or dismantled parts that is visible at or beyond adjacent lot lines or road rights-of-way.
- D. Additional conditions may be imposed to ensure that the use will not create a safety, health, or traffic concern.

(Ord.2024-1015, 7-19-24)

600.13. Cemeteries. In applicable zoning districts, cemeteries, including gravesites, mausoleums, and columbariums, shall meet the following requirements where conditionally permitted.

- A. Minimum size of the lot shall be five acres in the R10 and D1 Zoning Districts and one acre in the R8 Zoning District.
- B. Crematoriums are not allowed on the lot.
- C. Dwellings, except for one for a caretaker, are not allowed on the lot.

- D. The use, including gravesites, shall be setback 70 feet from the center of any adjoining street or 10 feet from the adjoining street right-of-way, whichever is greater.
- E. One non-illuminated sign not over 30 square feet in area and 10 feet in height is allowed.

600.14. Sexually Oriented Businesses. Sexually oriented businesses shall meet the following requirements where conditionally permitted.

- A. Purpose. The purpose of this section is to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City of Newberry, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the town. The provisions of this 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 Ordinance 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. Definitions. Definitions related to sexually oriented businesses, including explanations of various types of such uses, are provided in *Article VIII - Sexually Oriented Businesses, § 10-25 and § 10-26* of the *City of Newberry Code of Ordinances*.
- C. Permit required. Sexually oriented businesses are subject to the permit requirements of *§ 403 - Zoning Permits* of this code. In addition to the requirements contained in that section, sexually oriented business shall also be required to meet the location conditions specified in *§ 600.14(D)* below.
- D. Location of Sexually Oriented Businesses.
 - 1. A sexually oriented business may be located only within a General Commercial (GC) zoning district.
 - 2. A lot containing a sexually oriented business may not be located within 1,000 feet of the closest portion of a lot containing any of the following

uses. For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures, lots or objects.

- a. A church.
 - b. A public or private elementary or secondary school.
 - c. A boundary of any residential zoning district.
 - d. A public park.
 - e. A day care center.
 - f. A residential use.
- E. Nonconformities. Any sexually oriented business in lawful operation on the date this Ordinance is made effective, but which is made non-conforming in some aspect by this Ordinance, shall be deemed to be a legal nonconformity and shall be subject to all of the non-conforming provisions as contained in § 304 - *Nonconformities*. However, a sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of one of the uses specified in § 600.13(D) above. In such instance, should a license to operate the sexually oriented business be revoked or expire, it must meet all of the requirements of this Ordinance anew including locational requirements and may not be grandfathered under the previous license for the purpose of zoning compliance.

600.15. Salvage and Scrap Operations; Recyclable Materials Merchant, Wholesale; Used Motor Vehicles Parts, Wholesale; Junkyard. In applicable zoning districts, salvage and scrap operations, recyclable materials wholesalers, junkyards, and similar used motor vehicle parts wholesalers shall meet the following requirements where conditionally permitted.

- A. The use shall be setback at least 100 feet from any adjoining lot line and the public right-of-way and a 50-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. 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.
- D. All paper, rags, cloth and other fibers, and activities involving the same other than loading and unloading shall be within fully enclosed buildings.

- E. All materials and activities not within fully enclosed buildings shall be enclosed by an opaque screen at least eight feet in height, excluding points of ingress or egress. Such screening shall adhere to the requirements of *§1004 - Screening*.
- F. Open dumping of garbage is prohibited.

600.16. Communications Tower, Cell and Antennas. In applicable zoning districts, communications towers and antennas shall meet the following requirements where conditionally permitted except for small wireless facilities addressed separately in this Article.

- A. Permit required. A permit is required for construction, placement, or substantial change to a communication tower or commercial telecommunication antenna.

(Ord. No. 2022-1023, 10-11-22)

- B. Variances limited. In all districts, variances from conditions imposed by this section may not be granted by the Zoning Board of Appeals. Variances from other general district regulations may be granted under standards in the South Carolina Code of Laws *§ 6-29-800*.

C. Application requirements. In addition to applicable application requirements detailed in Article 4, Administration and Enforcement, the applicant for a conditional use zoning permit for uses and activities permitted by this section of the Code must file with the Zoning Administrator the following documents:

1. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material;
2. A site plan, drawn to scale, showing lot 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 lot;
3. A current map, or update for an existing map on file, showing locations of applicant's antennas, facilities, existing towers, and proposed towers which are reflected in public records, serving any lot within the City;

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 lot owner for the application;
7. Evidence that a valid FCC license for the proposed activity has been issued;
8. A line of site analysis showing the potential visual and aesthetic impacts on adjacent residential districts;
9. A written agreement to remove the tower and/or antenna within ninety (90) days after cessation of use;
10. Evidence that applicable conditions in Section 600.16(D) are met; and
11. Additional information required by the Zoning Administrator for determination that all applicable zoning regulations are met.

(Ord. No. 2022-1023, 10-11-22)

- D. Conditions. Applicant must show that for all permits, all applicable conditions as provided in this subsection 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. The 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 non-residential district for valid technical reasons.
4. The new tower is designed to accommodate additional antennas equal in number to applicant's present and future requirements and must submit a statement that the applicant will act in good faith in negotiating use of the tower by other entities.
5. 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 § 600.16(D)(11)(c).
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 provide certificate from a registered engineer verifying that the proposed facility will contain only equipment meeting FCC rules, and must file with the Zoning Administrator a written indemnification of the City 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 City, in form approved by the City Attorney. Co-locators proposing to locate on an existing structure are exempt from this requirement. This proof of coverage shall thereafter be filed annually with the City Zoning Administrator and shall name the City of Newberry, S.C. as an additional insured.
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 granted and maintained by the lot 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 (R-10, R-8, R-6, RD, and RMX), commercial (OC, NC, CC, GC), and D1 and CM zoning districts. Towers on the tops of buildings or structures in

the industrial (LI, BI) zoning districts may be permitted provided the following criteria are met.

- a. 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 tower, and the proposed method of affixing it to the primary structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated, for review by the City.
 - b. Towers on roofs may be allowed when the tower height:
 - (i) Does not exceed more than 30 percent of the height of the building, or is no more than 30 feet above the structure, whichever is less; and
 - (ii) Does not exceed maximum tower height for the district in which it is located. For the purposes of determining compliance with tower height limitations, the height of the tower shall be measured from grade at the highest point adjacent to the primary structure.
 - c. Towers on roofs or walls shall be screened, constructed, and colored to match the structure to which they are attached.
11. Applicants building new towers shall plan the fence and landscaping per the requirements of § 600.16(D)(13 and 14) to accommodate all future providers on the site such that the fence and landscaping materials surround the land designated for all current and future equipment, buildings, and the tower.
 12. Fencing. A minimum six-foot high chain link fence, installed per the requirements of § 307 – *Fences and Walls*, is required.
 13. 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 [one-third 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 six 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 the health of the plants.
 - 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.
14. 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 herein, § 600.16(D).
15. A tower must be a minimum distance equal to one-half of the height of the tower from lot officially designated as historically or architecturally significant, and must be set back from all lot lines distances equal to the district setback requirements or 25 percent 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.
16. The City recognizes that telecommunications facilities (both towers and co-locators) cannot be prohibited, nor can a request for a telecommunications tower be denied based on environmental or health concerns relating to radio emissions if the telecommunications equipment and facility complies with the federal radio frequency emission standards. The City requires that each applicant must provide sealed documentation that proves their telecommunications equipment complies with the Federal radio frequency emission standards.
17. 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 § 407 – *Special Exceptions*.
18. Signs. Freestanding signs in association with this use are prohibited. 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 nine 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.

Wall signs shall be installed and mounted on the perimeter fence, or on the tower at its base.

19. Prior to issuing a permit, the City may consult with a communications expert for technical review to determine that these standards have been met.

600.17. Contractors, All Types; Engineering or Surveyor Office. In applicable zoning districts, offices for contractors, engineers and surveyors shall meet the following requirements where conditionally permitted.

- A. There shall be no storage of vehicles, equipment, or materials on the premises.

600.18. Fuel Dealer. Establishments primarily engaged in the retail sale of fuels including fuel oil (excluding retail sale of motor fuels), bottled gas, and other fuels shall meet the following requirements where conditionally permitted.

- A. Tanks and tank storage areas shall be located at least 100 feet from any existing residential lot, residentially zoned lot, or road right-of-way.

600.19. Manufacturing, Petroleum and Coal Products and Explosives. In applicable zoning districts, the manufacturing of petroleum and coal products (NAICS 324) and explosives (NAICS 325920) shall meet the following requirements where conditionally permitted.

- A. The lot on which the use will be located must be at least one 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 lot or residentially zoned lots and 100 feet from all other adjacent lots and any road right-of-way.
- C. A 50-foot buffer shall be provided around the perimeter of the site.
- D. All materials and activities not within fully enclosed buildings shall be enclosed by an opaque screen at least eight feet in height, excluding points of ingress or egress. Such screening shall adhere to the requirements of § 1004- Screening.

600.20. Public Electric, Gas, Water, Sewer, Refuse Utility Substation or Water Tower. In applicable zoning districts, public electric, gas, water, sewer, and refuse utility

substations and water towers shall meet the following requirements where conditionally permitted.

- A. Such structures must be enclosed by a six-foot fence chain-link fence that meets the requirements of *§ 307 – Fences and Walls*.
- B. No office, commercial operation, or storage of vehicles or equipment is permitted.
- C. A landscaped area at least five feet in width is required along all exterior lot lines and shall meet the requirements of *§ 1001- Landscaping Requirements*.

600.21. Christmas Tree Sales. Christmas tree sales as a temporary use shall meet the following requirements where conditionally permitted.

- A. Christmas tree sales must be on a vacant lot.
- B. The temporary sale of Christmas trees shall not exceed 45 consecutive days.

600.22. Contractor Office and Equipment Shed, Temporary. The temporary use of contractors 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 one year after permit is issued and the permit for temporary use may be renewed once.

600.23. Group Assembly in a Tent or other Temporary Structure. Uses that include the gathering of persons for purposes such as civic, social, recreation, or religious functions in a tent or other temporary structure shall meet the following requirements where conditionally permitted.

- A. Such use shall not exceed 60 consecutive days.

600.24. 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. Location. PODs may be located in side, rear, or front yards, however use of such container for more than 15 consecutive days shall require a temporary zoning

permit. 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 three 30 day extensions may be granted within any twelve month period.
- C. Number of units. No more than one POD may be located on any lot at any point in time.
- D. Location. POD location must meet the setback requirements for the zoning district and shall not obstruct sight distance for a driveway or road as required by § 306 – *Visibility Requirements, Sight Triangle*. PODs shall not be placed within any public right-of-way.
- E. Maintenance and safety. The owner and operator of any lot 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 lot in the vicinity of the structure.
- F. 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.

600.25. Alternative Solar Energy Generation, Non-Commercial. Alternative solar energy systems shall meet the following requirements where conditionally permitted.

- A. General Standards.
 - 1. Alternative solar energy systems that are visible by a person standing on the ground are prohibited on the façade of a structure that faces areas open to common or public access unless the systems, installation, and location comply with the recommended guidelines published by the applicable provisions of this Ordinance.

2. The total height of the system, including any mounts, shall not exceed 12 feet above the ground when orientated at maximum tilt. If the solar energy system is intended to provide power for outdoor lighting, the system shall not extend higher than the permitted height of the structure to which it is attached or interconnected.
3. Any glare generated by the system must be mitigated or directed away from an adjoining lot or adjacent road when it creates a nuisance or safety hazard.
4. If the manufacturer's color and finish do not blend in with the structure to which the system is attached, or the surrounding area, in the case of a ground-mounted system, frames, and other surfaces that do not collect solar energy, shall be painted in a color that mitigates the standout appearance of the system.
5. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a solar energy system shall be prohibited. Not more than one manufacturer label bonded to or painted upon the solar energy system shall be permitted.
6. The construction and installation of small solar energy systems shall comply with the manufacturer's instructions and recommendations, with applicable building codes and permitting requirements and with relevant provisions of this Ordinance that might apply.

B. Ground-mounted systems.

1. Ground-mounted systems shall not be placed within the setbacks applicable for the district in which it is located. For lots fronting Main Street, College Street, Harrington Street, and Johnstone Street, such systems may not be visible from the street right-of-way.
2. Ground-mounted small solar energy systems shall be mounted onto a pole, rack or suitable foundation, in accordance with manufacturer specifications, in order to ensure the safe operation and stability of the system. The mounting structure (fixed or tracking capable) shall be comprised of materials approved by the manufacturer, which are able to fully support the system components and withstand adverse weather conditions.

3. Any glare generated by the system must be mitigated or directed away from an adjoining lot or adjacent road, when it creates a nuisance or safety hazard.
 4. It shall be demonstrated that the small solar energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as a public park, a state designated scenic road, or historic site.
 5. All electrical wiring used in the system shall be underground (trenched).
 6. No ground-mounted small solar energy system shall be affixed to a block wall or fence.
- C. Roof and façade-mounted small solar energy systems.
1. Roof-mounted small solar energy systems shall include integrated solar shingles, tiles, or panels as the surface layer of the roof structure with no additional apparent change in relief or projection (the preferred installation), or separate flush or frame-mounted solar panels attached to the roof or a façade surface.
 2. Separate flush or frame-mounted small solar energy systems installed on the roof or façade of a building or structure shall not:
 - a. Project vertically above the peak of the sloped roof to which it is attached;
 - b. Project horizontally beyond the eaves of the roof; or
 - c. Project vertically more than five feet above a flat roof installation.
 - d. For structures fronting Main Street, College Street, Harrington Street, and Johnstone Street, such solar systems may not be visible from the street right-of-way.
 3. The combined height of a roof-mounted or façade-mounted system and the principal structure to which it is attached may not exceed the maximum height for the district in which it is located as specified in § 807 – *Lot Area, Coverage, and Height Table*.
 4. It shall be demonstrated that the placement of the system shall not adversely affect safe access to the roof, pathways to specific areas of the roof, and safe egress from the roof.

- D. **Removal.** All obsolete or unused systems and those that are obviously in disrepair or partially dismantled shall be removed within twelve months of cessation of operations by the lot owner.
- E. **Additional site plan requirements.** In addition to all other site plan submittal requirements, site plans for alternative solar energy systems shall include the following:
1. A solar site survey that demonstrates the feasibility of the type and location of the collectors and demonstration that the location and type are the least intrusive options available and do not significantly exceed the requirements to supply solar energy to the lot in question.
 2. If the system is to be attached to a building, the plans shall include an elevation or rendering prepared by a qualified professional. The architectural design shall incorporate a design and materials that will be compatible with the architecture of the lot where it is to be installed.

600.26. Solar Farm. New solar farms or solar farms proposed to be expanded by more than 10 percent 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 §600.26 - *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. Lot 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 lot lines, noting lots that include existing residential uses or residentially zoned lots 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 lot lines.
- C. Buffer.** A buffer of at least 50 feet shall be required from any adjacent lot with an existing residential use or adjacent residentially zoned lot line and a buffer of 20 feet is required for all other adjacent lot lines including road rights-of-way, per the requirements for type E buffer yards and type C buffer yards provided in *§1002 – Buffer Yards*.
- D. Screening.** Screening per the requirements of *§1004 - Screening* shall be provided for any adjacent lot with an existing residential use or adjacent residentially zoned lot 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 six feet in height shall be provided around the perimeter of the solar farm facility and shall meet the requirements of *§307 - 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. Existing vegetation may be used to meet landscaping requirements as provided in *§1001.4 - Use of Existing Vegetation Encouraged*. 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 lot line or right-of-way as required by *§308 - 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 six 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 City with a performance guarantee in the form of an irrevocable letter of credit in the amount of 125 percent 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.

600.27. Mobile Vendor Trucks. Mobile Vendor Trucks 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 vendor trucks must be located on private property unless approved by the City 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. Business License Required. A valid business license issued by the City of Newberry is required for all mobile vendor trucks operating in the City.
- C. S.C. DHEC Requirements. Mobile food trucks must meet all applicable South Carolina Department of Health and Environment Control requirements.
- D. Sales. Mobile food truck sales are limited to food and non-alcoholic beverages.
- E. Noise. No amplified or other loud sounds or music may be produced by or from the vehicle to attract customers, for entertainment, or other purposes.

- F. Supervision. The mobile vendor truck must be occupied by the owner or operator thereof at all times.
- G. General Commercial (GC) Zoning District. Mobile vendor trucks temporarily permitted in the GC zoning district must meet the following conditions.
1. Hours of operation are limited to between 7:00 a.m. to 9:00 p.m. Overnight parking of a mobile vendor truck at a vending site is not permitted. Mobile vendor trucks and all associated equipment, refuse containers, and other materials must be removed from the temporary location before 9:30 pm.
 2. All mobile vendor trucks must be at least 100 feet from the principle public entrance or associated outdoor dining area of any established “brick-and-mortar” commercial establishment trading in similar products or services, unless written permission is obtained from the establishment owner to locate closer than 100 feet. Such written permission must be displayed or readily available in the mobile vendor truck at all times.
 3. Mobile vendor trucks must be at least 100 feet from any residential use or primarily residential zoning district (R-10, R-8, R-6, RD, R-MX, and residential PDDs).
 4. No structures, tables, or chairs are allowed outside of the vehicle, except for awnings that are attached to the mobile vendor truck and can be removed or retracted.
 5. The exterior of the mobile vendor truck 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 vendor truck.
 7. On-site food preparation must be performed inside the mobile food truck. No grills or other cooking facilities are allowed outside of the vehicle.
 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 vendor truck and its customers must be maintained in a clean, attractive and safe condition at all times.

10. For any location where the mobile vendor truck 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 vendor trucks shall not operate in loading zones, public rights-of-way, sidewalks, or alleys, or obstruct or impede traffic flow or access to neighboring businesses or residences.
 12. Access to adequate parking for the use must be provided as determined by the Zoning Administrator. Mobile vendor trucks shall not be parked in a way that reduces available parking spaces for established businesses, occupies required handicapped parking, or interferes with the flow of traffic in parking lots.
- H. Core Commercial (CC) Zoning District. Mobile vendor trucks temporarily permitted in the CC zoning district must meet the following conditions.
1. The use is approved by the City of Newberry as part of an authorized public or private event.
 2. The mobile vendor truck is placed in a predetermined location as approved by the City.

600.28. Small Wireless Facilities.

- A. **Applicability.** The following standards, requirements, and exceptions shall apply to all small wireless facilities not otherwise covered by Article VIII, §§ 4-85 through 4-93 of the City of Newberry Code of Ordinances.
- B. **Permit required.** A permit issued by the City of Newberry is required for the construction or placement of any facility covered by this section of the Zoning Ordinance.
- C. **Exceptions to permit requirements.** The following uses, structures, and activities shall not require the issuance of a permit.
1. Routine maintenance;
 2. Replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size and weight or smaller, provided that the communications service provider notifies the planning director at least ten calendar days, but no more than sixty calendar days, prior to commencing the replacement; and

3. Installation, placement, operation, or replacement of micro wireless facilities that are strung on cables between utility poles, in compliance with the National Electrical Safety Code.

D. Permitted uses and activities.

1. Collocation of a small wireless facility or a collocation that qualifies as an eligible facilities request provided it meets all applicable requirements of the Zoning Ordinance.
2. Modification of a pole, tower or support structure, or replacement of a pole or tower, for collocation of a communications facility that qualifies as an eligible facilities request or involves a small wireless facility that meets the design requirements set forth in this section.
3. Modification of a pole, tower or support structure, or replacement of a pole or tower, for collocation of a communications facility that qualifies as an eligible facilities request or involves a small wireless facility that meets the design requirements set forth in this section and which is similar in design, size and scale to those of the existing, adjacent poles.
4. Construction of a communications facility, other than those set forth in subparagraphs 1, 2, or 3 in this subsection, involving the installation of coaxial, fiber-optic or other cabling, that is installed underground (direct buried or in conduit) or aboveground between two or more poles or a pole and a tower or support structure, and related equipment and appurtenances.

E. Design requirements. Each new, modified, or replacement pole, tower, or support for a small wireless facility shall not exceed the greater of:

1. Five feet above the tallest existing pole, tower, or support structure not exceeding 50 feet that is located within 500 feet of the proposed new, modified, or replacement facility;
2. Ten feet on utility distribution poles where required by electrical utility separation requirements; or
3. Fifty feet above ground level.

- F. **Application requirements.** In addition to any other applicable application requirements listed in Article 4, Administration and Enforcement, the following shall apply.
1. Application Content. All applications must include the following information:
 - a. A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed.
 - b. Detailed construction drawings regarding the proposed facility.
 - c. To the extent the proposed facility involves collocation on a pole, tower or support structure, a structural report performed by a qualified professional evidencing that the pole, tower or support structure will structurally support the collocation or that the pole, tower or support structure will be modified to meet structural requirements in accordance with applicable codes.
 - d. For any aboveground facilities, visual depictions or representations, if not included in the Construction drawings sufficient to determine compliance with this Ordinance.
 2. Batch applications. An Applicant may submit simultaneously not more than five (5) applications for a network of multiple communications facilities within adjacent, related geographic areas of the City. Alternatively, applicant may file a single, consolidated application covering such facilities.
 3. Proprietary or confidential information in application. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each portion of such materials accordingly, and the City shall treat the information as proprietary and confidential, subject to applicable state and local “freedom of

information” laws and the City’s determination that the applicant’s request is reasonable.

- G. **Information updates.** Any material change to information contained in a permit application shall be submitted in writing to the City within 30 days after the need for the material change.

- H. **Administrative procedures.** In addition to any other applicable administrative procedures listed in Article 4, Administration and Enforcement, the following shall apply.
 - 1. **Review.**
 - a. Within twenty (20) days of receiving an application, the City must determine and notify the applicant whether the application is complete; or if an application is incomplete, the City must specifically identify the missing information, and may toll the approval interval in subsection 2 below. The applicant may resubmit the completed application within twenty (20) days without additional charge, and the subsequent review will be limited to the specifically identified missing information subsequently completed, except to the extent material changes to the proposed facility have been made by the applicant (other than those requested or required by the City or other authority) in which case a new application and application fee must be submitted;

 - b. The City must make its final decision to approve or deny the application within sixty (60) days for a collocation, and ninety (90) days for any new structure, after the application is complete (or deemed completed by the City); and

 - c. The City must advise the applicant in writing of its final decision, and in the final decision document the basis for a denial, including specific code provisions on which the denial was based. A decision to deny an application shall be in writing and supported by substantial evidence contained in a written record, publicly released, and sent to the

applicant. The written decision, supported by such substantial evidence, shall constitute final action by City. The review period or “shot clock” shall run until the written decision, supported by substantial evidence, is released and sent to the applicant contemporaneously. The applicant may cure the deficiencies identified by the City and resubmit the application within thirty (30) days of the denial without paying an additional application fee unless denial was issued due to non-compliance with the Design Guidelines or other applicable dimensional requirements (in which case a new application fee must be paid). The City shall approve or deny the revised application within thirty (30) days of receipt of the revised application. The subsequent review by the City shall be limited to the deficiencies cited in the original denial.

2. Failure by the City to act. If the City fails to act on a application in the review period referenced in Section 1 above, the applicant may provide the City written notice that the time period for acting has lapsed, and the City then has twenty (20) days after receipt of such notice within which to render its written decision, failing which the application is then deemed approved by passage of time and operation of law.
3. Batch application alternative. An applicant seeking to construct, modify or replace a network of communications facilities may, at the applicants discretion and subject to the batch application requirements and process under subsection F.2. above, file a consolidated application and receive a single permit for multiple communications facilities, or multiple permits. The City’s denial of an site or sites within a consolidated application shall not affect other sites submitted in the same application. The City shall grant a permit for any and all sites in a consolidated application that it does not otherwise deny, subject to the requirements of this section.
4. Effect of Permit.
 - a. Authority granted; no property right or other interest created. A Permit from the City authorizes an Applicant to undertake only certain activities in accordance with this Section and does not create a property right or grant authority to the Applicant to impinge upon the rights of others who may own or have other interests in the utility easement or other privately owned property.

- b. Duration. Any permit for construction issued under this Ordinance shall be valid for a period of six (6) months after issuance, provided that the six (6) month period shall be extended for up to an additional six (6) months upon written request of the Applicant (made prior to the end of the initial six (6) month period) if the failure to complete construction is delayed as a result of circumstances beyond the reasonable control of the applicant.
- 5. Eligible facilities request. Notwithstanding any other provision of this Ordinance, the City shall approve and may not deny applications for eligible facilities requests within sixty (60) days according to the procedures outlined in this section of the code.
- 6. Discretionary review required. The collocation of wireless facilities that do not qualify as eligible facilities and any other use or activity not expressly permitted according to this section of the code shall also require application, review, and approval as a special use permit under the requirements of such permits detailed in this Ordinance.
- i. **Interference with public safety equipment.** Small wireless facilities must not interfere with public safety communications (e.g., law enforcement, fire response, ambulance service, etc.). To the extent an interference is identified by the City or a communications service provider, it must be resolved pursuant to the applicable requirements and procedures of the Federal Communications Commission following written notification of an interference.

(Ord. No. 2022-1023, 10-11-22)

Article 7. Special Exception Regulations

700. APPLICATION OF SPECIAL EXCEPTIONS.

The requirements of this Article shall apply to all special exceptions listed in § 506.4 – *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 § 407 – *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.

700.1. Cluster Development, Single-Family. To encourage open space, residential cluster subdivisions may be permitted by special exception provided that the Board of Zoning Appeals finds that the following conditions are met.

- 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 two 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 three 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 two times the setbacks required for the district in which the subdivision is proposed to be located.
- E. A minimum of 25 percent of the development site shall be designated as open space and shall be so arranged as to mitigate the impacts of clustering on adjoining lots. Such open space shall meet the requirements of § 1005 – *Open Space*.
- F. The minimum lot size and interior lot setbacks may not be reduced to less than 50 percent 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 and adequate onsite vehicular parking, access and movement onto and off of the site.
- H. The development shall be in compliance with the *City of Newberry Land Development Regulations*, except as provided in § 700.1 – *Cluster Development, Single-Family*.

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

700.2. Manufactured Home Park. Manufactured home parks shall meet the requirements of *Appendix C – Manufactured Home Parks* of the City of Newberry Code of Ordinances.

700.3. College, University, Community College, Professional, Vocational or Trade School. In applicable zoning districts, college, university, community college, professional, vocational, or trade school facilities may be permitted by special exception provided that the Board of Zoning Appeals finds that the following conditions are met.

- A. All structures must be setback at least 25 feet from adjacent residential lot lines.
- B. Any structures located on lots adjacent to residential lots may be no more than 30 feet in height.
- C. The use will not substantially injure the value of adjoining lots.
- D. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- E. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

700.4. College or University Dormitory. In applicable zoning districts, college and university dormitories may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.

- A. Opaque screening at least 6 feet in height shall be provided between parking and service areas and adjoining residential lot lines. Such screening shall meet the requirements of *§ 1004 - Screening*.
- B. Exterior modifications to such structures are subject to approval by the City of Newberry Architectural Review Board.
- C. Site design shall ensure safe, predictable onsite vehicular parking, access and movement onto and off of the site.
- D. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

- 700.5. Community Care Retirement Communities and Assisted Living Facilities for the Elderly.** In applicable zoning districts, community care retirement communities and assisted living facilities may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.
- A. All structures shall be setback a minimum of 25 feet from any adjacent residential lot line.
 - B. The use will not substantially injure the value of adjoining lots.
 - C. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
 - D. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.
- 700.6. Day Care Facilities, Adult and Child.** In applicable zoning districts, day care facilities for adults or children, including preschools, may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.
- A. Care is provided to seven or more children and/or adults.
 - B. The lot upon which the day care facility is located must be a minimum of 20,000 square feet in size.
 - C. All structures shall be setback a minimum of 25 feet from any adjacent residential lot line.
 - D. No play area for a day care center shall be closer than 20 feet to any residential lot line.
 - E. 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.
 - F. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
 - G. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard, and that the use is compatible with the surrounding area.

- 700.7. Nursing Home.** In applicable zoning districts, nursing homes may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.
- A. The lot upon which the nursing home is located must be a minimum of two acres in size.
 - B. All structures shall be setback at least 50 feet from any adjacent residential lot.
 - C. A buffer of at least 25 feet shall be required from any adjacent residential lot.
 - D. The use will not substantially injure the value of adjoining lots.
 - E. Primary vehicular access to the facility must be from a paved road with sufficient capacity to accommodate traffic associated with the nursing home.
 - F. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
 - G. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.
- 700.8. Golf Course, Regulation or Par 3, Unlighted.** In applicable zoning districts, an unlighted par 3 or regulation golf course may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.
- A. Adequate off-street parking per the requirements of *§ Article 11 – Parking and Loading Regulations* is provided onsite.
 - B. Associated buildings allowed on the lot are limited to maintenance shed, clubhouse (including limited eating facility and pro shop), golf cart storage, rain shelters, and gate house.
 - C. No permitted building or parking shall be located within 100 feet of an existing residential lot line.
 - D. Exterior lighting shall be fully shielded and installed in such a way that no light spills over onto nearby residential lots per the requirements of *§ 308 – Light and Glare*.
 - E. Adequate measures shall be installed to protect adjacent uses from golf balls hit from associated driving range.
 - F. The use will not substantially injure the value of adjoining lots.

- G. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- H. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

700.9. Restaurant and Other Eating Places. In applicable zoning districts, restaurants and other eating places may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.

- A. No outside-speakers are allowed.
- B. Parking must be designed so that vehicle lights will be directed away from nearby residential lots.
- C. Exterior lighting shall be fully shielded and installed in such a way that no light spills over onto nearby residential lots per the requirements of § 308 – *Light and Glare*.
- D. An opaque screen at least six feet in height is required between the use and all adjacent residential lots. Such screening shall adhere to the requirements of § 1004 - *Screening*.
- E. Hours of operation are limited to between 5 am and 7 pm.
- F. Design of building(s) and grounds, including building height, setbacks and landscaping, shall be compatible with nearby College buildings in the CM zoning district.
- G. The use will not substantially injure the value of adjoining lots.
- H. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- I. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

700.10. Car Wash. In applicable zoning districts, car washes, either automatic or self-service, may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.

- A. The use will not substantially injure the value of adjoining lots.

- B. Site is designed to provide adequate and appropriate space for vehicles awaiting entry to the car wash.
- C. An opaque screen is required between the use and all adjacent residential lots. Such screening shall adhere to the requirements of § 1004 - *Screening*.
- D. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- E. Hours of operation are limited to between 6 a.m. and 10 p.m.

700.11. Commercial Activities Visible from Public R.O.W or adjacent private lot. Commercial activities, not including restaurants, that are visible from the public right-of-way or adjacent private lot(s) in the CM zoning district may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.

- A. Design of building(s) and grounds, including building height, setbacks and landscaping, shall be compatible with nearby College buildings in the CM zoning district.
- B. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- C. The use will not substantially injure the value of adjoining lots.
- D. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

700.12. Automobile Service Station, Gasoline Station, Convenience Store with Fuel Pumps.

Automobile service stations and gasoline stations, including the limited sale of groceries, and convenience stores with fuel pumps, may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.

- A. The use will not substantially injure the value of adjoining lots.
- B. An opaque screen at least six feet in height is required between the use, including parking and service areas, and all adjacent residential lot lines. Such screening shall be vegetation, fencing, or a wall, or any combination thereof, and shall meet the requirements of § 1004 – *Screening*.
- C. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.

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

700.13. Convenience Food Store without Fuel Pumps. In applicable zoning districts, convenience stores that do not have associated fuel pumps may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.

- A. The use will not substantially injure the value of adjoining lots.
- B. An opaque screen at least six feet in height is required between the use and all adjacent residential lots. Such screening shall adhere to the requirements of § 1004 – Screening.
- C. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- D. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

700.14. Flea Market. An open air venue intended for the sale, rental or storage of new, used, junk or salvaged materials or equipment may be permitted by special exception provided the Board of Zoning Appeals finds that the following conditions are met.

- A. The use will not substantially injure the value of adjoining lots.
- B. The use is on a lot at least one acre in size.
- C. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- D. No nuisance or hazard related to the use will extend beyond the premises.
- E. Additional conditions may be imposed to ensure that the use will not create a safety, health or traffic hazard.

700.15. Salvage and Scrap Operations; Recyclable Materials Merchant, Wholesale; Used Motor Vehicles Parts, Wholesale; Junkyard. In applicable zoning districts, salvage and scrap operations, recyclable materials wholesalers, junkyards, and similar used motor vehicle parts wholesalers may be permitted by special exception, provided the Board of Zoning Appeals finds that the following conditions are met.

- A. The use will not substantially injure the value of adjoining lots.

- B. The use is on a lot at least one acre in size.
- C. The use shall be setback at least 100 feet from any adjoining lot line and the public right-of-way and a 50-foot buffer shall be provided around the perimeter of the site.
- D. No nuisance or hazard related to the use will extend beyond the premises.
- E. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- F. 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.
- F. All paper, rags, cloth and other fibers, and activities involving the same other than loading and unloading shall be within fully enclosed buildings.
- G. All materials and activities not within fully enclosed buildings shall be enclosed by an opaque screen at least eight feet in height, excluding points of ingress or egress. Such screening shall adhere to the requirements of *§1004 - Screening*.
- H. Open dumping of garbage shall be prohibited.
- I. Additional conditions may be imposed to ensure that the use will not create a safety, health, or traffic hazard.

700.16. Communications Towers and Antennas. In applicable zoning districts, communications towers and antennas may be permitted by special exception, provided the Board of Zoning Appeals finds that the following conditions are met.

- A. Purpose. The Board of Zoning Appeals may approve special exceptions for new towers, poles, and antennas, when such antennas do not meet the standards for a permitted use, that are located in residential zoning districts R-10, R-8, R-6, and RD and commercial zoning districts NC and OC. The Board may also approve special exceptions to height in other districts as well as waivers to fencing and landscaping requirements. The granting of a special exception will require a public hearing and findings of fact as specified in *§ 407 – Special Exception Regulations* of this Ordinance.
- 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 of this Ordinance 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 § 600.16(D) 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 percent 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 landscaping requirements for one or all sides of the site if it determines that the landscaping serves no useful purpose. Examples of where additional landscaping may serve no useful purpose include, but are not limited to, cases where onsite existing buildings, landscaping, or preserved forest effectively provides the same or greater screening, or where topographical characteristics of the site render the required landscaping ineffective. Such a waiver may not be sought to relieve the landscaping requirement for towers located adjacent to vacant lots simply because that lot is vacant, or along lot lines abutting public right-of-way where required landscaping will provide a useful screen.
 4. 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 this Ordinance.
- E. Variations limited. In all districts, variances from the conditions and requirements imposed by this section for a communication tower or antenna may not be granted by the Board of Zoning Appeals.

700.17. Manufacturing, Processing and Packing. Limited manufacturing, processing and packing as listed in § 506.4 – *Zoning District Table of Permitted Uses* may be permitted by special exception, provided the Board of Zoning Appeals finds that the following conditions are met.

- A. The use will not substantially injure the value of adjoining lots.

- B. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- C. No outdoor storage of trash, junk or salvage is permitted.
- D. No nuisance will be created beyond the premises including, but not limited to, noise, vibrations, smoke, gas, fumes, odor, and dust.
- E. Additional conditions may be imposed to ensure that the use will not create a safety, health, or traffic hazard.

700.18. Manufacturing, Processing and Packing – involving open storage of junk/salvage or producing conditions that could adversely affect adjacent lots. Manufacturing, processing and packing operations that involve open storage of junk or salvage, or that produce noise, vibration, smoke, gas, odor, dust, fire hazard, radiation, or other conditions that could adversely impact adjacent lots, may be permitted by special exception, provided that the Board of Zoning Appeals finds that the following conditions are met.

- A. The use will not substantially injure the value of adjoining lots.
- B. The use is on a lot at least five acres in size.
- C. Site design shall ensure safe, predictable and adequate onsite vehicular parking, access and movement onto and off of the site.
- D. No nuisance or hazard related to the use will extend beyond the premises.
- E. Additional conditions may be imposed to ensure that the use will not create a safety, health, or traffic hazard.

Article 8. Area, Setback and Dimensional Requirements

800. 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.

801. 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.

802. MODIFICATION OF REQUIREMENTS.

The requirements of this Article may be further modified by other applicable sections of this Zoning Ordinance, including, but not limited to, those provided in *Article 6 - Conditional Use Regulations* and *Article 7 - Special Exception Regulations*. Where requirements differ, the more restrictive requirement shall apply.

803. ORIENTATION OF REQUIRED YARDS.

- 803.1. Generally.** In interpreting requirements related to establishment of required yards, the Zoning Administrator shall apply the following interpretation to the orientation of the yards.
- A. Through lots. Unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages for through lots. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern on the adjoining lots, the Zoning Administrator may waive the required depth for the front yard and substitute a yard requirement that shall not exceed the average of the depth of the yards on adjacent lots.
 - B. Corner lots with two frontages. In the case of corner lots with two 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.

- C. Corner lots with more than two frontages. In the case of corner lots with more than two frontages, the Zoning Administrator shall determine the front yard requirements, subject to the following limitations:
 - 1. At least one front yard shall be provided having full depth required generally in the district; and
 - 2. No other front yard on the lot shall have less than half of the full depth required for a front yard.

- D. 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 Ordinance 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.

- E. Appropriateness of Orientation. The Zoning Administrator may determine that the most appropriate orientation for any required yard is different from the orientation as set forth in §§ 803.1(A) through (D) where it appears that such different orientation will further the intent of this Ordinance. When a structure is to be built which will contain more than one dwelling unit, the orientation of required yards shall be based upon both the orientation of the lot and the orientation of the structure. The Zoning Administrator may impose an orientation of yards different from the orientation set forth in this Section and elsewhere in this Ordinance subject only to appeal of such administrative decision to the Board of Zoning Appeals.

804. STRUCTURES AND PROJECTIONS INTO REQUIRED YARDS, BUFFER 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 or buffer yard.

- C. Permitted security gates, paths, walkways, handicap ramps, mailboxes, utility poles, 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. Screening walls and fences not over seven feet in height are permitted in side and rear yards.
- E. Retaining walls that do not project more than 30 inches above the grade level at the lot lines of adjoining lots are permitted in required yards.
- F. Screening between commercial or industrial uses and lots zoned for residential use as required by this Ordinance is permitted in required yards.
- G. 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 are permitted to project into any required yard or setback.
- H. Steps and open porches without roofs shall be permitted in any required yard or setback.
- I. Permitted signs may be placed in required yards and setbacks per the requirements set forth in *Article 9 – Sign Regulations*. However, permitted signs may not extend into or over any existing public right-of-way.
- J. In GC, LI, and BI Districts, structures and devices incidental to servicing, such as guard houses and 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 such 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.
- K. Apparatus needed for the operation of active and passive solar energy systems, including but not limited to overhangs, movable insulating walls and roofs, the attached solar collectors, reflectors, and piping are permitted.

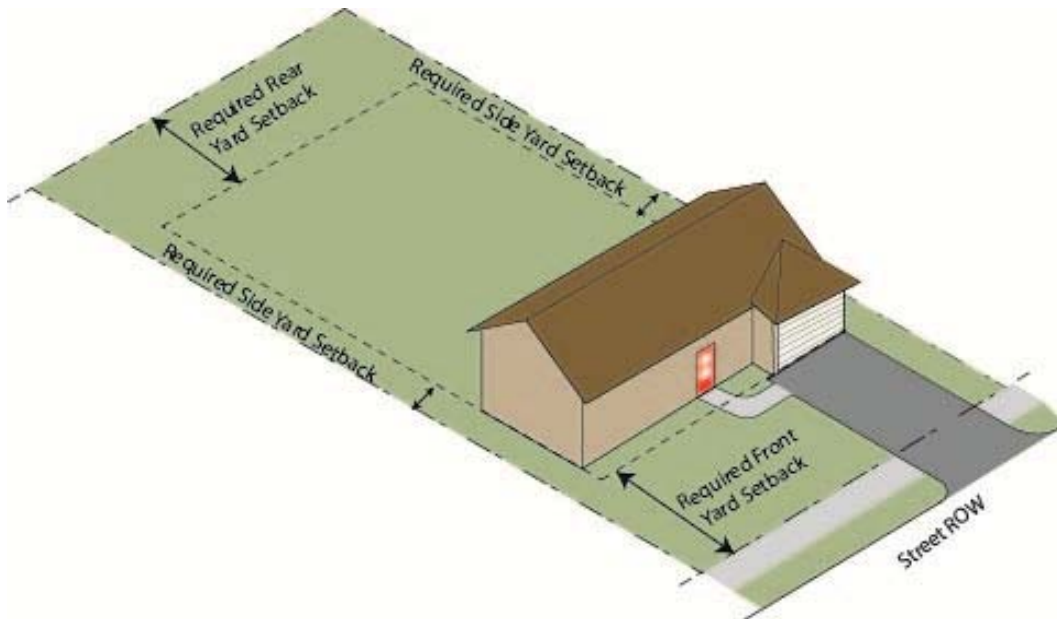
805. REDUCTION OF LOT AREA PROHIBITED.

- 805.1.** No yard or lot existing on the effective date of this Zoning Ordinance shall be reduced in dimension or area below the applicable district minimum requirements.
- 805.2.** New lots or yards shall meet the applicable district minimum requirements.

806. SETBACK AND YARD MEASUREMENTS, BUILDABLE AREA.

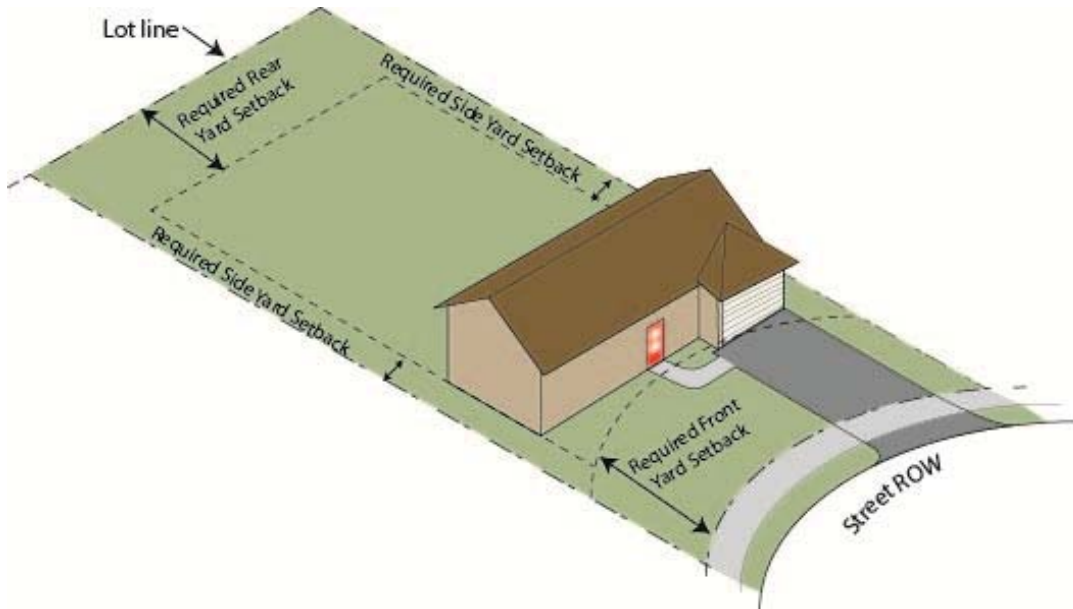
806.1. General setback and yard measurements. The required front, side and rear setbacks (yards) for individual lots, as set forth for the particular zoning district within which a given lot is located, shall be measured inward toward the center of said lot from all points along the front, side and rear lot lines of the lot. 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 lot 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



806.2. 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



807. LOT AREA, COVERAGE, AND HEIGHT REQUIREMENTS TABLE.

Zoning Districts	Min. Lot Area ^A (sq. ft.)	Min. Lot Area Per DU ^A	Max. DU Per Acre	Maximum Lot Coverage		Maximum Structure Height ^A
				Residential Units and Accessory	Other Buildings and Accessory	
R-10	10,000	---	---	30%	35%	35' ^B
R-8	8,000	---	---	30%	35%	30' ^B
R-6	6,000 SF and 2F 7,000 MF	---	---	40%	40%	30' ^B
RD	5,500	---	---	40%	40%	30' ^B
R-MX	6,000 ^C 5,000 - min. per DU	---	---	40%	40%	60' ^B MF
NC	6,000 SF 9,000 2F	---	7	---	---	40' ^B
OC	6,000 SF 9,000 2F	---	7	50%	50%	40' ^B
CC	---	---	---	---	---	60' ^B
GC	---	---	---	---	---	---
LI	½ acre	---	---	---	---	50' ^B
BI	1 acre	---	---	---	---	50' ^B
D-1	1 acre	1 acre – 1st DU 3,000 sq. ft. - each add'l DU	---	---	---	35' ^B
CM	---	---	---	D		E
CTO	10,000 Off/Pro 20,000 Inst/Class	---	---	---	---	35' ^B

^A DU = dwelling unit, SF = single-family residential, 2F = two family, MF = multi-family residential, Off/Pro = office/professional, Inst/Class = institutional classroom

^B Height measures to the roof line (not applicable to church spires, belfries, cupolas, domes, utility and communication towers, chimneys, flag poles, and antennae)

^C Plus minimum area for additional units and density per table below:

Minimum Land Area per Dwelling Unit and Maximum Density per Net Acre for Multi-family Dwellings in RM-X Zoning District								
Multi-family Unit Type	1 Story		2 Stories		3 Stories		4+ Stories	
	Min. Area (Sq. Ft.)	Units/Net Acre	Min. Area (Sq. Ft.)	Units/Net Acre	Min. Area (Sq. Ft.)	Units/Net Acre	Min. Area (Sq. Ft.)	Units/Net Acre
Efficiency (studio)	2,000	18	1,435	26	1,410	26	1,240	30
1 Bedroom	2,000	18	1,775	21	1,625	23	1,438	26
2 Bedroom	2,650	14	2,475	15	2,215	17	1,825	20
3 Bedrooms	3,525	10	3,175	11	2,653	14	2,200	17
4+ Bedrooms	4,375	8	3,975	9	3,492	10	2,725	13

^D 75% of consolidated holdings of institution contained wholly within CM zone, excluding area of public rights-of-way, sidewalks, and athletic fields.

^E Lesser of average height of existing buildings fronting and siding the same street and located within the CM zone, or four floor levels. For parcels adjoining or within 100 feet of another zone (excluding width of public ROW), the more restrictive limitations of the CM zone or adjoining zone shall control.

808. LOT WIDTH, DEPTH, AND SETBACK REQUIREMENTS TABLE.

Zoning Districts	Min. Lot Width (ft.)		Min. Depth Front Yard (from street ROW)	Minimum Setback					
	Bldg. Line ^A	Front Bldg. Line ^A		From 2 nd Street Frontage		Side Yard (from Interior Side Lot Line)		Rear Yard (from Interior Rear Lot Line)	
				Side St. Corner Lot	Rear St. on Double Frontage Lot	Principal Structure	Accessory Structure	Principal Structure	Accessory Structure
R-10	---	100'	30' ^B 100' - Min. Lot Depth	30'	30'	15'	15' 7' Open Car Port	25'	4'
R-8	---	80'	25' ^B	12.5'	25'	10'	10'	15'	4'
R-6	---	60'	25'	12.5'	25'	8'	8'	15'	4'
RD	---	55'	25'	12.5'	25'	8'	8'	15'	4'
R-MX	50'	---	15'	7.5'	15'	8'	8'	15'	4'
NC	50'	---	25'	12.5'	25'	10' provided total of both side yards is at least 30% of lot width	5'	15'	5'
OC	---	50' - RES	25'	12.5''	25'		5'	10'	5'
CC	15'	---	---	---	---	---	---	---	---
GC	50'	---	25'	12.5'	25'	^D	5'	---	---
LI	100'	---	25'	25'	25'	30' or 1/10 lot depth, but not less than 10'			
BI	100'	---	25'	25'	25'				
D-1	---	120'	40' ^C	40'	40'	15'	15'	30'	30'
CM	---	---	^C	^C	^C	---	---	Adjoining R-10 - 30' Adjoining R-8 - 20' Adjoining RD – 20' Adjoining R-6 - 20' (excluding adjoining facilities in CTO)	
CTO	100' - O/P 120' - In/Cl	---	25'	12.5'	25'	15' 25' where type C buffer is required			

^A RES = residential, O/P = office/professional, In/Cl = institutional classroom

^B Or average of existing setback

^C For new construction fronting institutional uses minimum depth is equal to the minimum existing depth for uses in the CM zone fronting and siding the same street. When new construction fronts residential and commercial uses within the R-10, R-8, R-6, NC, and GC zones, the minimum front yard depth is 50 feet, unless the development involves the construction of a single institutional facility amidst a number of existing institutional uses, in which case the preceding measurement procedure shall apply.

^D Principal - No side yard required if buildings are built to side lot line, otherwise at least three feet

Article 9. Sign Regulations

900. PURPOSE OF SIGN REGULATIONS.

The purpose of sign control in the City of Newberry is to:

- 900.1 Provide for identification, information and advertisement in an orderly manner,
- 900.2 Protect the public health, safety and welfare of the City, or
- 900.3 Improve the visual quality of gateways and corridors and protect the integrity of adjacent neighborhoods.

901. SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT.

- 901.1 Signs customarily associated with a residential use not exceeding two square feet in area that are not of a commercial nature, such as:
 - A. Address signs not larger than one square foot.
 - B. Mail box signs.
 - C. Signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
- 901.2 Signs erected by, on behalf of, or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
- 901.3 Official signs of a noncommercial nature erected by public utilities such as pole identification signs.
- 901.4 Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- 901.5 Signs designating historic resources provided such signs have been approved by the City of Newberry.
- 901.6 Signs directing and guiding traffic on private property that do not exceed four square feet each, that do not exceed three feet in height, and bear no advertising message.. Such signs are limited to one per driveway and may include a corporate logo or icon.
- 901.7 Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs, not parked adjacent to the street, and are equipped and licensed for use on public roads with the sign affixed.

- 901.8** Temporary displays, including lighting, erected in connection with the observance of holidays. Such displays must be removed within 30 days following the holiday being observed.
- 901.9** One non-illuminated temporary sign per 200 feet of road frontage, not exceeding six square feet in size in residential districts or 20 square feet in non-residential districts, provided such signs are located on private property at least 10 feet from the lot line and are removed within seven days following the sale or event. Such signs may include real estate for sale, garage sale, and political signs. The lot owner upon whose land the sign is placed shall give written permission for the placement of said signs and will be held responsible for violations.



902. SIGNS PROHIBITED IN ALL DISTRICTS.





- 902.1.** Any sign not expressly permitted by this article.
- 902.2.** Any sign that interferes with the sight triangle (clear view area) necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets, private roads or driveways.
- 902.3.** Banners; streamers; animated displays; moving signs that rotate, flutter or use or mimic similar movement; and pennants are prohibited unless expressly permitted in this article.
- 902.4.** Any sign that by its location, color, size, shape, nature, or message would tend to obstruct the view of, or be confused with, official traffic or emergency signs or signals or other signs erected by governmental agencies.
- 902.5.** Any sign which bears or contains statements, words or pictures of an obscene or pornographic nature.
- 902.6.** Signs which emit audible sound, odor, or visible matter.
- 902.7.** Any sign or advertising material written on or affixed upon any tree, bush, shrubbery, utility pole, traffic sign, hydrant, fence, rock, or street marker. Such signs may be removed and destroyed without notice if located on public property.
- 902.8.** Any sign placed on, in, or over any public property, including the public right-of-way, without the written consent of the public authority having jurisdiction over the property. Such signs may be removed and destroyed without notice.
- 902.9.** Signs painted on or otherwise permanently attached to motor vehicles or trailers (vehicle sign) that are conspicuously and routinely parked adjacent to or near a street are prohibited and shall be parked or stored as remotely as possible from public streets.


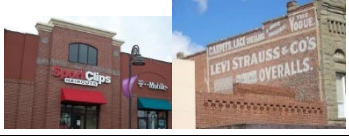
- 902.10.** Signs installed over a vehicle passageway located within a parking area.
- 902.11.** Trivision signs.
- 902.12.** Roof signs.
- 902.13.** Offsite signs and portable signs unless expressly permitted by this article.
- 902.14.** Illuminated strings of lights that outline lot lines, sales areas, roof lines, doors, windows, or similar areas.
- 902.15.** Signs that use flashing, blinking, or moving lights.
- 902.16.** Signs that cast into a residential district illumination of intensity or duration incompatible with the residential district.

903. SIGNS TYPES REQUIRING A PERMIT.

Except for certain exempt permanent and temporary signs as explicitly noted in § 901 – *Signs Permitted in all Districts without a Permit* of this Article, no sign may be constructed, installed, erected, moved, enlarged, illuminated, substantially altered or otherwise established including the changing of a sign face without first having been issued a City of Newberry Sign Permit demonstrating that such activity conforms to the provisions of this Ordinance. The following table establishes, defines, and illustrates allowed sign types. Additional sign definitions are provided in *Article 12 – Definitions*.

Type and Definition	Category	Example Photos
<p>Canopy Sign - A sign painted on, woven in, or attached to a canopy or awning. Canopies and awnings are roof-like covers that project from the wall of a building providing cover over a door, window, or patio or, in the case of canopies, are freestanding for the purposes of shielding from the elements such as over a service station island or sidewalk. Canopies and awnings may be made of fabric, plastic, or metal. The terms canopy and awning signs do not include marquee signs.</p>	<p>Attached Sign</p>	
<p>Construction and Subdivision Signs - Temporary signs displaying the names of building, contractors, architects, engineers, owners, financial institutions, realtors and similar entities for lots under development or redevelopment, or that announce a land subdivision. Work identified may include land landscaping, construction, building alteration, and removal.</p>	<p>Freestanding Sign</p>	

Type and Definition	Category	Example Photos
<p>Marquee Sign - A permanent structure attached to the front of a building that incorporates a large message center. Typically illuminated and often ornate in design, a marquee sign projects over the entrance of the building and provides a canopy-like extension over at least a portion of the sidewalk or street.</p>	<p>Attached Sign</p>	
<p>Monument Sign - 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. The sign face area shall be determined by the outer measurements of the sign beginning at grade level.</p>	<p>Freestanding Sign</p>	
<p>Neighborhood Entrance Sign - A sign located at the entrance to the subdivision for the purpose of a permanent identification of the subdivision.</p>	<p>Freestanding Sign</p>	
<p>Projecting Sign - A sign that is wholly or partly dependent upon a building for support and that projects at an angle away from the building so that the leading edge extends more than six inches beyond the building wall.</p>	<p>Attached Sign</p>	
<p>Pylon Sign - A freestanding sign supported by one or more poles that are placed on or anchored in the ground or other surface and otherwise separated from the ground more than 12 inches by air, generally over seven feet in height, and that is independent from any building or other structure.</p>	<p>Freestanding Sign</p>	
<p>Sidewalk Sign - A free-standing and self-supporting moveable sign designed to be displayed on a sidewalk or area outside of and adjacent to a place of business and oriented towards pedestrians and slow moving traffic.</p>	<p>Freestanding Sign</p>	

Type and Definition	Category	Example Photos
Temporary Banner Sign - A sign advertising goods or services provided on the premises that is not permanently attached to the ground or a legal structure.	Attached Sign	
Wall Sign - A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign.	Attached Sign	

904. SIGN TYPES BY ZONING DISTRICT.

The following table sets forth the list of permitted signs by zoning district.

Sign Type	<i>P = Permitted " - " = Not Permitted</i>																
	Residential					Commercial				Industrial		Special					
	R-10	R-8	R-6	RD	RMX	NC	OC	CC	GC	LI	BI	PDD	D1	CM	CTO	MSIO	ISO
Canopy	-	-	-	-	P	P	P	P	P	P	P	-	P	P	P	P	P
Construction and Subdivision	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Monument ¹	P	P	P	P	P	P	P	P	P	P	P	-	-	P	P	P	P
Marquee	-	-	-	-	-	-	P	P	-	-	P	-	-	-	P	-	-
Neighborhood Entrance	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Pylon	-	-	-	-	-	-	-	P	P	P	-	-	-	-	P	P	-
Projecting	-	-	-	-	P	P	P	P	-	-	P	-	-	-	-	-	P
Sidewalk	-	-	-	-	-	-	P	P	-	-	P	-	-	-	-	-	-
Temporary Banner Sign	-	-	-	-	P	P	P	P	P	P	P	-	-	-	P	P	P
Wall ¹	-	-	-	-	P	P	P	P	P	P	P	-	-	-	P	P	P
Notes	¹ Signs are limited to permitted non-residential uses and may not be illuminated in residential districts.																

905. DIMENSIONAL REQUIREMENTS FOR SIGNS.

The following table sets forth the dimensional requirements for each permitted sign type.

Sign Type	Maximum Number Allowed	Maximum Sign Height (Ft.)	Max. Sign Width (Ft.)	Maximum Area ^{1, 3, 5} (Sq. Ft.)	Min. Setback (Ft.)	
					Street	Project Boundary or Lot Line ⁴
Canopy	1 per street front	≥ 8' above sidewalk	NA	10 sq. ft.	NA	NA
	<ul style="list-style-type: none"> • Signs may appear only on the face of the canopy or attached to a canopy over a sidewalk at a minimum clearance of nine feet above the sidewalk. • <i>MSIO and ISO</i>: On-site signage (wall, canopy, projecting, etc.) shall consist of not more than 425 sq. ft. in total. 					
Construction and Subdivision	1 per street front	6'	6'	<ul style="list-style-type: none"> • Construction: 36 sq. ft. • Subdivision: 20 sq. ft. 	10'	10'
	<ul style="list-style-type: none"> • Construction signs must be removed no more than 30 days after construction is completed. • Subdivision signs must be at least 300 feet apart and removed when 75 percent of the lots have been sold. • Sign lighting is prohibited. 					
Monument	1 per street front	NC, OC, CC, MSIO: 7' CTO: 5'	8'	<ul style="list-style-type: none"> • NC, OC, CC NC, OC, CC, MSIO, ISO: 49 sq. ft. • CTO: 6 sq. ft. 	10'	10'
	<ul style="list-style-type: none"> • <i>CTO</i>: Sign appearance must be consistent with the overall design concept. • For non-residential buildings, multi-family dwellings, and group dwellings, a non-illuminated business identification sign or bulletin board not exceeding 20 sq. ft. in area is permitted. • Digital signs are limited to 32 square feet of sign area and the largest dimension of the sign area shall not exceed 8 feet. 					
Marquee	1 per street front	10', min. above sidewalk	NA	200 sq. ft.	NA	NA
	<ul style="list-style-type: none"> • <i>MSIO</i>: On-site signage (wall, canopy, projecting, etc.) shall consist of not more than 425 sq. ft. in total. 					
Neighborhood Entrance	2 per entrance	6'	8'	32 sq. ft.	5'	10'
Pylon²	1 per street front, business uses only	<ul style="list-style-type: none"> • MSIO: 25' min./165' max. • ISO: 60' • GC, LI, BI: 25' 	16'	<ul style="list-style-type: none"> • MSIO, by height: <ul style="list-style-type: none"> - 25 to 59': 288 sq. ft. - 60 to 99': 380 sq. ft. - 100 to 139': 480 sq. ft. - 140 to 165': 672 sq. ft. • ISO: 300 sq. ft. 	10'	10'
	<ul style="list-style-type: none"> • <i>MSIO</i>: May construct one pylon sign as part of their permitted maximum signage square footage (1,247 sq. ft.). Sign cutouts and extensions, not exceeding a total of 150 sq. ft., may be attached to signs standing 140 to 165 feet tall. Cutouts and extensions may not extend above the 165-foot height. • <i>CTO</i>: Pylon signs are prohibited. • Digital signs are limited to 32 square feet of sign area and the largest dimension of the sign area shall not exceed 8 feet. 					

Sign Type	Maximum Number Allowed	Maximum Sign Height (Ft.)	Max. Sign Width (Ft.)	Maximum Area ^{1, 3, 5} (Sq. Ft.)	Min. Setback (Ft.)	
					Street	Project Boundary or Lot Line ⁴
Projecting	1 per street front per business	May not extend above the roofline	NA	A total of 5 percent of the square footage of the façade or 45 sq. ft. for a two-story building, whichever is less.	NA	NA
	<ul style="list-style-type: none"> • Signs may extend outward from the wall of a building not more than six and one-half feet but not closer than 18 inches to the vertical plane at the street curb line. Signs may not project beyond the lot lines, except signs may encroach on public sidewalks in the CC District at a minimum height of 10 feet above grade. • MSIO: On-site signage (wall, canopy, projecting, etc.) shall consist of not more than 425 sq. ft. in total. • The total area of signs on the exterior front surface of a building shall not exceed 20 percent of the front surface or the maximum area permitted by district regulations, whichever is less. • The total area of signs on the exterior side or rear surface of a building shall not exceed 25 percent of that surface area or the maximum permitted by district regulations, whichever is less. 					
Sidewalk	1 per street front per business	4'	2.5'	12 sq. ft.	NA	NA
	<ul style="list-style-type: none"> • Must allow a minimum of five feet of unobstructed pedestrian/wheelchair corridor between the sign and any nearby street appurtenance, landscaping feature or other structure. • Must be placed on the sidewalk fronting the place of business no further than 12 feet from the entrance to the business. • Must not to obstruct the swing radius of vehicle doors parking legally on the right-of-way. • Must not be attached by any means to a public feature. • May only be displayed during the period the business is open. • Business must hold a current City of Newberry business license. • Must be weighted to prevent overturning and designed to prevent splaying. 					
Temporary Banner Sign	1 per street front per business	Must meet the requirements for wall signs including the calculation of total area of signs.			NA	NA
	<ul style="list-style-type: none"> • Permitted on a temporary basis for a period not to exceed 30 days within a calendar year. • Must be located only on the principal structure. 					
Wall	NA	NA	NA	• CTO: 6 sq. ft.	NA	NA
	<ul style="list-style-type: none"> • Signs may not extend above the roofline or more than 24 inches from the wall. • CTO: Signs appearance must be consistent with the overall design concept. • MSIO: On-site signage (wall, canopy, projecting, etc.) shall consist of not more than 425 sq. ft. in total. • The total area of signs on the exterior front surface of a building shall not exceed 20 percent of the front surface or the maximum area permitted by district regulations, whichever is less. • The total area of signs on the exterior side or rear surface of a building shall not exceed 25 percent of that surface area or the maximum permitted by district regulations, whichever is less. • Signs placed on a residential building noting a home occupation shall not exceed one square foot in size. 					

Sign Type	Maximum Number Allowed	Maximum Sign Height (Ft.)	Max. Sign Width (Ft.)	Maximum Area ^{1, 3, 5} (Sq. Ft.)	Min. Setback (Ft.)	
					Street	Project Boundary or Lot Line ⁴
TABLE NOTES	<p>¹ For single commercial establishments whether free-standing or part of a multi-tenant/owner site, not more than two signs of any type, not to exceed 250 sq. ft. in total size, may be permitted except within the CC District where businesses may also have a sidewalk sign. Pylon and monument signs advertising multiple businesses located on a single development site such as a corporate or retail center shall not be included in the two-sign limit.</p> <p>² Pylon signs within the MSIO may be built on-site or off-site. On-site pylon signs must be a minimum of 100 feet from all other pylon signs. If built off-site, the pylon sign must be located within the MSIO. Off-site signage constructed in the MSIO may only be for businesses located within the MSIO. Such off-site pylon signs shall be in lieu of any on site pylon signs permitted by the underlying zoning district. Off-site pylon signs must be a minimum of 500 feet from all other pylon signs. Digital off-site pylon signs exceeding the dimensional standards noted above may be permitted in the MSIO if located along and within 75 feet of <u>the centerline of Main Street</u> no more than 3,000 feet from the I-26 right-of-way. Such signs are limited to a maximum height of 25 feet, a maximum width of 25 feet, and a maximum sign face sign of 250 square feet. Such pylon signs must be separated by at least 1,200 feet as measured from the center of the pole and will count towards sign limitations as noted for the MSIO in terms of total square footage and number of pylon signs permitted.</p> <p>³ In the Campus Main District, commercial signage (excluding scoreboard attachments and other forms of athletic field advertisement) shall not exceed 12 sq. ft. and may not be visible from any public right-of-way or adjoining lot.</p> <p>⁴ Project boundary line or lot line, whichever is most appropriate for this measurement as determined by the City.</p> <p>⁵ On a lot occupied by a business use in the GC, LI or BI districts, not more than four signs of any type having a total area of not more than 600 square feet in area shall be permitted; however, sign area not exceeding a total of 750 square feet may be granted as a special exception by the Board of Zoning Appeals.</p>					

906. METHOD OF MEASUREMENT.

906.1. The message area of a sign shall be the entire width within a single, continuous perimeter enclosing the outer dimensions of the actual message or copy area including decorative trim, customary extensions or embellishments, any structural elements outside the limits of such display surface.

906.2. If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

906.3. With respect to two-sided, multi-sided, or three-dimensional signs where all sign faces are visible from a single point of reference, the sign message area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point. Where multiple sign faces are not visible from a single point of reference, the sign

message area shall be calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed five feet.

906.4. The height in feet of the sign is the vertical distance from the ground level immediately under the sign structure to the top of the sign structure.

907. SIGN DESIGN.

907.1. **Materials.** Signs must be constructed of durable materials approved by the Zoning Administrator.

907.2. **Design of Ground Signs.** Ground signs shall have a minimum of 18 inches and maximum of 30 inches separation between the ground and the sign message area. This separation may consist of a solid base of masonry material or consist of landscaping.

Distance of Sign Message Area to Grade



907.3. **Illumination.** The City of Newberry recognizes that for signs to be fully effective, illumination may be preferred in certain development contexts, but should be restricted in other contexts generally related to proximity to residential areas, development intensity, and specific planning goals for particular areas. Accordingly, illumination of signs shall conform to the following criteria:

- A. All external sign illumination shall shield point sources of light from any public right-of-way or adjacent residential uses. In no case shall light be directed or reflected onto any residential lot, into a sleeping room in any district, or onto a public right-of-way.
- B. Signs within 150 feet of any residential zone district may not be illuminated between the hours of 11 p.m. and 6 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential as determined by the City.
- C. Internally illuminated signs are not permitted in any residential district.

- 907.4.** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property. The sign shall be designed to be removable at the sign structure base or foundation. The free standing sign shall meet the adopted building code specifications for wind load and design.
- 907.5.** Building mounted signs shall be securely fastened to the building structure so that there is no danger that either the sign or the support structure may be moved by the wind or other forces of nature and cause injury to persons or property. These signs shall be designed to be removable.
- 907.6.** All permanent signs shall meet adopted building code specifications for construction, attachment, lighting and wind load.
- 907.7** **Digital Signs.** In addition to any other standard in this Ordinance, digital signs must meet all the following requirements:
- A. The digital sign may not contain any form of animation and must remain static for at least eight (8) seconds with a transition time of no greater than two seconds.
 - B. The digital sign may not be located within five hundred (500) feet of a residential area, except at educational facilities where the signs must be located at least one hundred (100) feet from the nearest residence.
 - C. From sunset until sunrise, the dimmer for digital 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 square feet in area.
 - D. Digital signs, displays and devices shall be equipped with an automatic device to ensure compliance with the requirements of 907.7, except for signs displaying amber alerts and other governmental emergencies. The automatic device shall have the ability to dim display through a photoelectric sensor that detects ambient light levels and adjusts the display intensity automatically to ensure maximum nit levels are enforced.
 - E. Owner of any outdoor advertising that wants to convert an existing sign to a digital sign must apply for a permit with the Planning and Zoning Department following the procedures set forth in this Ordinance.

(Ord. No. 2025-1021, 7-8-25)

908. SIGN MAINTENANCE.

- 908.1.** All signs and all components thereof, including supports, braces, and anchors, shall be maintained in finished condition and shall be free of peeling, chipping, rusting, wearing, fading so as to be legible at all times and must remain free of rusting, rotting, breaking or other deterioration including vegetation that obscures any of the sign face.
- 908.2.** Any sign which advertises or pertains to a business, product, service, event, activity or purpose which is no longer conducted or publicly available, or which has not been in use or publicly available for twelve months, or which is no longer imminent within a period of twelve months, or any sign structure that fails to display any sign copy for twelve months, or any sign which, for a period of six months, has vegetation growing upon it, clinging to it, touching it or obscuring the sign face or sign parts or structure or any sign, for a period of six months, which has not been maintained to be free of peeling, chipping, rusting, wearing and fading so as to be legible at all times or to be free of rusting, rotting, breaking or other deterioration of the sign parts shall be deemed to be an obsolete or abandoned sign. The passage of time alone under the above-delineated circumstances establishes abandonment or obsolescence. Abandonment does not require any element of personal or business intent to relinquish the rights one might have in sign placement as the term is used or defined in this Ordinance.
- 908.3.** Obsolete or abandoned signs, sign copy or sign structures are prohibited and shall be removed by the owner of the lot, his agent, or person having the beneficial use of the building or site upon which sign or sign structure is erected within 60 days after written notification from the City of Newberry. In the event of noncompliance with the aforesaid terms and provisions, the City, at its discretion, may have such signs removed at the expense of the lot owner.
- 908.4.** If the message portion of a sign is removed, leaving only the supporting “shell” of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the lot where the sign is located or other person having control over such sign shall, within 90 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign.
- 908.5.** When any sign is relocated, made inoperative, or removed for any reason, except for maintenance, all structural components, including the sign face and sign structure, shall be removed or relocated with the sign. All structural components of freestanding signs shall be removed to ground level. Painted wall signs, and the structural components of all other signs, shall be removed back to the original building configuration and the building restored to its original condition.
- 908.6.** The immediate area around a freestanding sign shall be kept clear of all debris and maintained by the landowner, or their agent, in an attractive manner so as not to create visual blight.

909. UNLAWFUL CUTTING OF TREES OR SHRUBS.

909.1. No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

- A. Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the City or other agency having jurisdiction over the streets; or
- B. In any area where such trees or shrubs are required to remain by City Code.

910. VARIANCES PROHIBITED.

910.1. No variances may be granted to the sign provisions. Changes may only be made by following the Zoning Ordinance amendment procedures.

Article 10. Landscaping, Buffers and Open Space Requirements

1000. APPLICABILITY.

The requirements of Article 10 shall apply to all new developments and redevelopments where an expansion or redevelopment of a property results in an increase in the value of the property by 50 percent or more of the pre-development appraised value for tax purposes, or an increase of 50 percent or more of the building or parking areas within the City of Newberry jurisdiction. However, the enlargement or repair of any single-family detached dwelling is exempt from these requirements.

1001. LANDSCAPING REQUIREMENTS.

In order to maintain and enhance the existing tree coverage in the City of Newberry, 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 unless otherwise noted. The landscaping standards included in this subsection shall apply, as appropriate, to all required landscaped areas in this article.

1001.1. General Requirements.

- A. All required plantings installed, including those replacing existing plants, shall be:
 - 1. Nursery grown stock that is free from disease, pests or growth problems;
 - 2. 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;
 - 3. Installed in a manner that ensures the availability of sufficient soil and water for healthy growth and that is not intrusive to above and below ground utilities and pavement; and
 - 4. Selected from the *List of Preferred Plant Species for the City of Newberry* unless otherwise certified by a licensed landscape architect or arborist as suitable for the City of Newberry's climate and comparable in habit and growth rate to a plant included in the *List of Preferred Plant Species for the City of Newberry* as maintained by the Zoning Administrator.
- B. All required landscaping shall be included in the required site plan as provided in §403.4 – *Application requirements for permits*, per the requirements of §1001.2 – *Landscaping Plan Required*.

- C. The use of native species and related cultivars is encouraged. Drought resistant plants should be used wherever possible. All vegetation shall be watered sufficiently to ensure healthy growth and longevity in the landscape. The installation and use of an irrigation system is encouraged where non-drought resistant plants are used or regular watering by other methods is not possible or practical.
- D. Vegetation used in landscaping or screening should be planted during the appropriate season for the plants to ensure plant growth and health.
- E. Clustering 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.
- F. A variety of different species, including both deciduous and evergreen species, shall be incorporated into the site design to provide visual interest.
- G. 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.
- H. The following installation requirements shall be met unless stipulated otherwise in this Ordinance.
 - 1. Shrubs and trees shall be installed no closer than two feet to a curb, gutter, or sidewalk.
 - 2. Small maturing trees shall be planted no closer than 10 feet to a building.
 - 3. Medium maturing trees shall be planted no closer than 20 feet to a building.
 - 4. Large maturing trees no closer than 25 feet to a building.
 - 5. Shrubs shall not be planted within six feet of tree trunks.
 - 6. In landscaped areas adjacent to parking spaces or street curbs, no plant material with the potential to reach over six inches in height may be located within twelve inches of the curb or other protective barrier. This is intended to protect planted materials from damage by car bumpers and car doors.
 - 7. Plant materials should be placed intermittently against long expanses of building walls, fences and other barriers to create a softening effect.

8. Sod or ground cover plants shall be used to provide coverage and soil stabilization. On sites over one acre in size sod is required on front and side yards. Rear yards may be seeded, using perennial grass seed, unless fronting on a secondary street or public/private access. Seeding is required to provide full coverage within the first growing season. Ground cover plants shall be planted in a number as appropriate by species to provide 50 percent surface coverage.
 9. All landscaped islands must be covered with living material including grass, groundcover, and shrubs, except for marked areas directly around the trees, so that no soil is exposed. No stone or synthetic mulch is permitted. All other planting areas not covered by trees or shrubs shall be covered by grass, mulch and ground covers.
 10. Detention/retention basins and ponds shall be landscaped to identify the basin or pond area for safety reasons and to enhance the appearance of the basin or pond. Such landscaping shall include appropriate plant materials such as canopy and understory trees, evergreens, shrubbery, hedges, and other plant materials as needed.
 11. Incorporation of earthen berms and existing topography in landscaping is encouraged whenever practical.
- H. The Zoning Administrator shall conduct inspections as needed to determine that required landscaping is properly installed and maintained as provided in this Article.
- I. The Zoning Administrator may require changes to any planting schedule or plant size requirement and may require plant substitution when, in his/her opinion, the size, nature, or spacing of plantings will compromise the safety and security of the public.

1001.2. Landscaping Plan Required. In addition to the site plan requirements from other sections of this Zoning Ordinance or the City of Newberry Land Development Regulations a landscaping plan is required for all landscaped areas as required by this Ordinance. The landscaping plan must be drawn to scale and shall include the following elements.

- A. North arrow and scale bar.
- B. Property boundaries of the project site.

- C. Topographic information and final grading adequate to identify and properly specify planting for areas intended to provide erosion control needed due to slope.
- D. The location and one-foot interval contours of all proposed berms.
- E. The location and dimensions of all existing and proposed structures, parking lots, driveways, landscaped islands and strips, sidewalks, service areas, screening, fences, walls, berms, above or underground utilities and storm drainage systems, freestanding electrical equipment, recreational facilities, required setbacks and buffer yards, and other freestanding structural features as determined necessary by the City. Information is required only for those existing structures and features proposed to remain on the site.
- F. Location, dimensions, and composition of all required landscaping, including plant species (botanical and common names), size at installation, spread (width) at installation and at maturity, number-of plants, and other information as needed to describe plant selection.
- G. Structures and features, both onsite and on adjacent properties, within 50 feet of the project site lot lines and the land use(s) of adjacent parcel(s).
- H. Location of trees with a DBH of 8" or greater that are to be incorporated as part of required landscaping.
- I. Location and description of any existing vegetation that is to be preserved and incorporated into required landscaping.
- J. Such other information as may be deemed necessary by the Zoning Administrator because of the landscaping requirements or physical characteristics specific to the particular development.

1001.3. Plant Size. The following standards shall apply to all required plants at the time of planting. However, small maturing trees must be substituted for required large or medium maturing trees when overhead utility lines are present or planned. The size of individual plants will be determined by measurements provided by the most recent addition of the American National Standards Institute's *American Standard for Nursery Stock*.

Required Plant Size at Time of Planting

Type	Min. Caliper ¹	Min. Height ²
Medium and Large Maturing Tree (canopy)	2 inches	10 feet
Small Maturing Tree (understory/ornamental)	1.5 inches	5 feet
Evergreen Tree	³	6 feet
Shrubs	---	18 inches

¹ Caliper shall be measured six inches above the ground

² Height shall be measured from the ground to the highest extent of the plant

³ Required caliper per the size of tree – small, medium or large

1001.4. Use of Existing Vegetation Encouraged. The use of existing trees or shrubs to meet landscaping requirements is strongly encouraged.

- A. If existing plants are incorporated and include established trees, the Zoning Administrator may reduce the amount of required landscaping by up to 50 percent based on the following table.

Credits for Existing Trees

Existing Tree Size (saved)	Trees Credited
2 to 6 inch caliper tree	1 tree
7 to 12 inch caliper tree	2 trees
13 to 18 inch caliper tree	3 trees
19 to 24 inch caliper tree	4 trees
25+ inch caliper tree	5 trees

- B. In order to receive credit for the preservation and incorporation of existing vegetation, the preserved vegetation must meet the following criteria:
 - 1. It must be in good health and condition and free from pests or structural problems;
 - 2. It must be clearly shown on the Landscaping Plan;
 - 3. It must be approved by the Zoning Administrator prior to the development as meeting the intent of the landscaping and buffer requirements;
 - 4. It must not be considered invasive or noxious; and
 - 5. It must be adequately protected before and during grading and development of the site.
- C. A plan for the protection of existing vegetation must be submitted and approved by the Zoning Administrator. For trees designated to be preserved, adequate

protective barriers must be provided during grading and construction and must be noted on the landscaping and grading plans. If a preserved tree dies during construction or after work on the development is completed it must be replaced with the total number of trees that were credited to the existing tree per the table in § 1004.1(A).

- D. Every reasonable effort shall be made by the developer, builder, and owner of any property that is to be developed to identify, protect, and preserve all trees with a diameter of at breast height of 8" or greater located on the lot.
- E. Existing vegetation in the buffer may be counted toward the required plantings. The specific numbers and types of required plantings for each buffer type may be varied if the Zoning Administrator determines that the existing vegetation meets the landscaping and buffering requirements of this Ordinance.
- F. In no instance shall any paved area within a parking area extend closer to any existing tree used for landscaping than its drip line.

1001.5. Landscape installation and maintenance responsibility.

- A. All required landscape materials and those installed voluntarily by the developer 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 another reason shall be removed and replaced per the requirements of this article 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 or buffer standard to be met without replacement.
- B. All landscape planting areas shall be stabilized to prevent soil erosion immediately upon planting, with such stabilization maintained both during and after construction and development.
- C. In the event that plant material is severely damaged due to an unusual weather occurrence or other act of nature, the owner shall have until the end of the appropriate planting season to ensure plant growth and health to replant. The Zoning Administrator will determine the deadline for replanting based on information from landscape or nursery professionals or Clemson Cooperative Extension as provided by the owner.
- D. In the event that installation or replacement of a plant must be delayed until the appropriate season per §1001.1(D) and §1001.5(C), a temporary certificate of

occupancy may be issued until the requirements detailed in §1006 – Enforcement are met.

1001.6. Landscaped Yards.

- A. A perimeter landscaped yard averaging ten feet in depth, but no less than six feet in depth at any point, shall be required along the entire length of all property boundaries. For property boundaries adjacent to a street (street yard), the area shall be measured perpendicular to the adjacent street right-of-way.

Measurement for all property boundaries not adjacent to a street (perimeter yard) shall be measured perpendicular to the appropriate property boundary. Table 10-3 provides plant requirements for street and perimeter yards. Fractions generated by applying the minimum number of plants to the actual linear footage of the street or perimeter yard shall be rounded to the closest whole number (for example, 145 feet of street yard length would be required to have 6 trees).

Street and Perimeter Yard Plant Requirements*

	Street Yard	Perimeter Yard
Trees per 100 linear feet	4	3
Shrubs per 100 linear feet	12	8

* Subject to the exemptions of § 1001.6(C) and (D)

- B. Street Yards.-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.
- C. Perimeter Yards. Trees used to satisfy these requirements may be of any type as provided for by this Ordinance. A buffer yard may be required in lieu of a perimeter yard in some situations.
- D. Zoning Setbacks. Required landscaped yards shall not prohibit the location of buildings, structures, or shared drives otherwise specifically allowed by the underlying zoning setbacks and may be reduced accordingly by the Zoning Administrator.
- E. Maximum Requirement. The landscaped yard should not result in requiring more than 35 percent of the lot. If this percentage is exceeded, the requirement may be reduced by the Zoning Administrator.

1002. BUFFER YARDS.

- 1002.1. Purpose.** The purpose of a landscaped buffer, or buffer yard, is to help provide transition between different types of land uses, minimize any potential adverse impacts between adjacent land uses, and promote land use compatibility.
- 1002.2.** Structures and parking lots are not allowed within a required buffer yard. However, passive recreation; infrastructure such as driveways, sidewalks and trails; and necessary utility and maintenance functions such as transmission lines, underground conduits, or irrigation may utilize these spaces.
- 1002.3. Location.** Buffer yards 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.
- 1002.4.** All shrubs and trees used for buffer yards shall be evergreen unless otherwise approved by the Zoning Administrator. -
- 1002.5. Buffer yard Requirements.** The *Required Buffer Yard Types* table in § 1002.2(A)(3) provides the required buffer yard based on the type of proposed land use and the type of existing adjacent land use. Should a question arise as to the land use classification of a proposed or adjacent land use, the Zoning Administrator shall determine the classification.
- A. To determine buffer yard required between adjacent parcels using the *Required Buffer Yard Types* in § 1002.2(A)(3), the following procedure shall be followed:
1. Identify the proposed land use (top row).
 2. Identify the actual or designated use of land adjacent to the proposed use (left column).
 3. Determine the buffer yard required on each boundary (or segment thereof) of the subject parcel by referring to the following table. The letter designation in §1002.2(H) - *Required Buffer Yard Types Table* refers to the type of buffer yard required as described in §1002.2(I) - *Buffer Yard and Plant Requirements Table*.
- B. Minimum buffer yard depth may be reduced by 25 percent by the Zoning Administrator if an opaque wall or fence at least six feet in height is constructed within the required buffer yard.

- C. A 50 percent reduction in buffer yard depth may be granted by the Zoning Administrator if a brick or masonry wall or a berm with a minimum height of four feet is installed within the required buffer yard.
- D. A buffer yard should not equal more than 35 percent of the lot and may be reduced by the Zoning Administrator.
- E. Planting requirements in buffer yards may be altered on a case-by-case basis by the Zoning Administrator in locations where the required buffer yard is wholly or partially within an existing easement.
- F. Where the location of existing permanent buildings or driveways on an existing site reduces the area available for a buffer yard, buffer yard requirements shall be met to the maximum extent practicable.
- G. Where implementation of the buffer yard requirements on an existing site would require the removal of parking spaces, the Zoning Administrator shall determine the best solution for accommodating parking and buffer yard requirements.
- H. Required Buffer Yard Types Table.

PROPOSED LAND USES	EXISTING ADJACENT LAND USES								
	Dwellings					Mixed uses	Religious, educational, recreational, nursing home, office, institutional	Commercial	Industrial
	Single-family (R-10)	Single-family (R-8)	Single-family (RD)	Multi-family (R-6)	Manufactured homes				
Single-family detached	*	*	*	A	A	A	A	B	D
Townhouses, Single-family attached, two-family, patio homes	A	A	A	A	A	A	A	A	D
Multi-family	B	A	A	*	A	*	A	A	C
Manufactured homes	C	C	C	C	*	C	C	C	C
Religious, educational, recreational, nursing home, office, institutional	C	C	C	B	C	A	*	*	C
Commercial	D	C	C	C	C	A	*	*	*
Industrial	E	E	E	E	E	C	C	B	*

* Buffer yard not required, however perimeter yard may be required per § 1001.6 of this Ordinance

I. Buffer Yard Size and Plant Requirements Table.

	Low impact	Medium impact		High impact	
	Type A	Type B	Type C	Type D	Type E
Minimum Depth	10 ft.	15 ft.	20 ft.	30 ft.	50 ft.
Trees per 100 linear ft.	4	6	8	10	12
Shrubs per 100 linear ft.	12	18	30	40	50

1002.6. Buffer Yard Requirements - Campus Transition Overlay District. The following requirements apply to institutional office, professional and classroom uses in the Campus Transition Overlay District (CTO).

- A. Existing structures. Type A buffer yards shall be required where possible. Where there is insufficient area to accommodate a Type A buffer yard, the Zoning Administrator may alter the requirements to insure as much adherence as is practicable.
- B. New Construction. Type C buffer yards shall be required along all property lines unless adjoining properties are occupied by other permitted institutional facilities within the Campus Main (CM) or CTO zoning districts.
- C. If adjoining properties are occupied by permitted institutional facilities or border public rights-of-way, Type-A buffer yards shall be provided.

1002.7. Exceptions. 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 subsection serve no meaningful purpose or would make it physically impractical to install and maintain the required buffer yard plantings, 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 an alteration 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 buffer or screen the proposed use and any additional buffer materials the property owner will plant or construct to buffer the proposed use.

1003. PARKING LOT LANDSCAPING.

1003.1. Intent. The intent of the parking lot tree canopy requirements is to break up and soften the appearance of paved expanses and reduce ambient temperatures within off-street parking lots by providing shade.

- 1003.2. 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.
- 1003.3. Safety.** Plant material shall be selected and arranged to insure the maximum safety of the public. No landscaping area shall be designed, installed or maintained in such a way that it provides cover or refuge for criminal activities.
- 1003.4. Landscaped Islands.** Landscaped islands at least 200 square feet in size and a minimum of five feet on any side shall be placed at the ends of each row of parking spaces. Intermediate islands at least 200 square feet in size and a minimum of five feet on any side shall be placed throughout the parking lot so that no parking space is further than 60 feet from a tree, as measured from the end or edge of the parking space. One tree is required at the end of every row of parking, even if the row terminates at a buffer yard, street yard, or perimeter yard.
- A. Each landscaped island shall include one large maturing tree unless there is an overhead utility line or street light present, in which case a small or medium maturing tree shall be planted.
 - B. In addition to the tree planting requirement, a minimum of 20 percent of each landscaped island shall be planted in a combination of small maturing shrubs, perennials, annuals, ornamental grasses, and/or live ground cover. All other areas shall be maintained in a minimum of three inches of mulch wherever plant material is placed.
- 1003.5.** All parking abutting street frontage shall plant shrubs or create berms to screen the area. Such shrubs shall not to exceed three feet at mature height at entrances and within sight distance triangles. Gaps greater than five feet are not allowed in a screen.
- 1003.6. Parking Lot Perimeter.** A landscaped area at least 10 feet in width immediately surrounding the off-street parking area is required for all off-street parking as regulated by this section. However, such landscaped area is not required where the lot is permitted to abut or directly adjoin a building or for access points such as driveways. Landscaping in such areas will meet the requirements of a Type A buffer as provided in § 1002.5. If a parking lot is adjacent to a parking lot or driveway on another parcel the required landscaped area along the common property line between the two areas may be waived by the Zoning Administrator if it will result in reduced traffic congestion on adjoining streets or a reduction in the number of curb cuts.
- 1003.7. Existing Vegetation.** Existing trees and other vegetation may be included in calculations for required plants, if the plants are healthy and structurally sounds, are

more than 12 inches in diameter at breast height, and are within tree planting areas as described in § 1003 – *Parking Lot Landscaping*.

- 1003.8.** Landscaped areas within or adjacent to parking areas must be protected from vehicular damage by a raised curb, wheel stops or approved equivalent barrier of at least six inches in height.
- 1003.9.** Alternative, creative landscaping plans that incorporate larger islands or different spacing of landscaped areas than required in this section may be approved by the Zoning Administrator, as long as the minimum area of landscaping and minimum number of trees is provided.

1004. SCREENING.

- 1004.1. 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.
- 1004.2. Applicability.** The requirements of §1004 - *Screening* shall apply to all required screening in this Zoning Ordinance, including screening required in *Article 6 - Conditional Use Regulations* and *Article 7 - Special Exceptions*.
- 1004.3. 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 and must comply with the requirements of §307 – *Fences and Walls*. Natural areas, as detailed below, may also be used to screen land uses or activities.
- A. **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 §1001.4. Such areas may not be used for the screening of features.
- 1004.4. 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 six feet above grade and shall not be required to exceed eight feet in height above grade.

1004.5. 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 §306 - *Visibility Requirements, Sight Triangle*. The Zoning Administrator may approve accommodations for reasonable access to the property.

1004.6. Screening required as a condition. All screening required by *Article 6 - Conditional Use Regulations* and *Article 7 - Special Exceptions*, except for screening required for features as provided in §1004.7 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 §1001.4, may be used to screen land uses or activities.

1004.7. 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 *Article 6 - Conditional Use Regulations* and *Article 7 - 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.

- A. 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.
 - 1. 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.
 - 2. 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.

- B. 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. Fences and walls used to screen service areas must be designed to complement the principal building with regard to materials and color.
- C. Open, outdoor storage of materials, including, but not limited to, materials used in assembly, fabrication or processing, and waste materials.
- D. Communications towers as provided in §600.16 – *Communications Tower, Cell and Antennas* and §700.16 – *Communications Tower, Cell and Antennas*.

1004.8. Berms. The following standards shall apply to all berms.

- A. 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.
- B. Berms shall not be used for the display of vehicles or other merchandise.
- C. If included in the landscape design, berms shall:
 - 1. Have a minimum height of two feet, a minimum crown width of two feet, and a side slope with a width to height ratio of no greater than three to one (3:1). No berm shall exceed four feet in height, not including associated landscaping.
 - 2. Be designed and constructed with an undulating appearance which mimics, as much as is practicable, a natural topographical feature of the site.
 - 3. Be substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, ground cover, mulch or similar material.
 - 4. Be fully installed, planted, stabilized and maintained prior to issuance of a certificate of zoning compliance or occupancy.
 - 5. Be designed to prevent standing water and not to impede the flow of stormwater from adjacent properties.

1004.9. Fences and walls. All fences and walls shall meet the requirements of §307 – *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 Ordinance.

1005. OPEN SPACE.

The following standards shall apply to all required open space unless otherwise noted.

- 1005.1.** In residential cluster developments and planned development districts:
- A. No existing development shall be expanded or enlarged unless the minimum open space requirements of this section are met.
 - B. Required buffers may be included in open space if held in common ownership.
- 1005.2.** Open space requirements shall be calculated using the open space ratio.
- 1005.3.** 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.
- 1005.4.** All required open space shall be well buffered from moving vehicles.
- 1005.5.** 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.
- 1005.6.** The land used for required open space shall have an average slope of five percent or less with no portion of the land exceeding a 15 percent slope.
- 1005.7.** Open space areas set aside in residential cluster developments may be used for onsite treatment of stormwater.
- 1005.8.** Required open space may be public or private. The planning, construction, and maintenance of open space and associated facilities shall adhere to the following:
- A. Private open space intended to count towards the open space requirements of this section shall be owned and maintained by a legally constituted homeowner's association or corporation. Land designated as open space may not be separately sold, subdivided, or developed.
 - 1. When a homeowners' association or corporation is proposed to own and manage required private open space all relevant association documents (e.g. articles of incorporation and Declaration of Covenants, Conditions

and Restrictions) must be provided to the Zoning Administrator that clearly set out the following:

- a. Responsibilities assumed by the association for perpetual maintenance and proper use of the required open space;
 - b. A requirement to submit the names and contact information for the association or corporation's board of directors that clearly denotes a primary contact person to the City on or before January 1 of each year; and
 - c. A requirement to submit a draft of subsequent changes to such documents that may impact these responsibilities and commitments to the City for review and comment prior to approval by the association or corporation.
- B. Public open space may be held by any private non-profit organization created for such purposes that has been approved by the City Council. Public open space shall:
1. Be available for public use;
 2. Have direct access from public streets;
 3. Be visible and easily accessible; and
 4. Have multiple points of entry.
- C. 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.
- D. 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 City.
- E. The responsibility for the perpetual maintenance of open space shall be with the owner of the open space. 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 Ordinance and shall subject the owner to any and all remedies permitted herein.

1006. ENFORCEMENT.

1006.1. 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.

1006.2. Extensions and exceptions. The 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 City stating the estimated installation date.

1006.3. Inspections. A permanent certificate of occupancy for the development shall not be issued unless the landscaping, buffer yards, screening, and open space required under *Article 10 – Landscaping, Buffers and Open Space Requirements* are installed in accordance with these standards and in accordance with the approved site plan or subdivision plat.

Article 11. Parking and Loading Regulations

1100. OFF-STREET PARKING REQUIREMENTS.

1100.1. General Requirements.

- A. 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 *§ 1101 - Off-Street Parking Table*. These standards, to be used as a guide by 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.
- B. Required off-street parking must be located on the same lot or parcel or within 400 feet of the main entrance of the principal use for which it is required, either:
 - 1. In a parking facility under the same ownership as the principal use;
 - 2. Off-site in an area approved by the Zoning Administrator as shared parking for the use; or
 - 3. Where such parking is to be provided by a public garage or facility, as approved by the Zoning Administrator.
- C. 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.
- D. Required off-street parking areas shall meet the applicable requirements of *Article 10 – Buffers, Landscaping and Open Space Requirements*. If parking requirements conflict with landscaping or buffer requirements, the Zoning Administrator may modify such requirements to ensure adequate parking as well as landscaping and buffers.

1100.2. 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:

- A. The parking area adjoins the property on which the principal commercial or industrial use is located; and
- B. The parking area has a Type B buffer area along residential lot lines and required landscaping as detailed in *Article 10 – Buffers, Landscaping and Open Space Requirements*.

1100.3. Combined parking areas. Combined parking areas serving two or more principal uses shall contain spaces equal in number to the total of spaces required for all principal uses served. This requirement also applies if the principal uses are the same or have the same parking requirements.

A. The Zoning Administrator may accept a lower number of parking spaces than required in *§ 1101 - 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 all of the following criteria are met.

1. If the Zoning Administrator accepts the lower number of parking spaces than is required in *§ 1101 - Off-street Parking Table*, the plan for the site must be designed to accommodate all required parking, both the reduced amount that must be constructed and the remainder left over from the original calculated amount. The remainder shall be labeled as unconstructed parking and set aside as landscaped open space that can easily be converted to constructed parking should the need arise. If the constructed and unconstructed parking areas abut or share an access point, the site plan must show how the two areas will be connected and coordinated if constructed parking is expanded. The design and location of unconstructed parking spaces shall meet design standards as provided in this Article and the following:

- a. The area necessary to accommodate these unconstructed spaces shall not be included as part of the site's minimum open space requirement.
- b. 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.
- c. 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 *§ 1003– Parking Lot Landscaping* and *§ 1002 - Bufferyards*, shall not occur until or unless such additional parking is required to be constructed.

2. 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 ownership by recorded deed or 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.

1100.4. Calculation of off-street parking requirements.

- A. 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).
- B. Calculation for required off-street parking for any bar, lounge, nightclub, or restaurant shall take into account all indoor and outdoor seating areas.

1100.5. Change or expansion of an existing use.

- A. 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 percent reduction in the required number of spaces to accommodate additional buffer area or landscaping.
- B. 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 § 1101 - *Off-street Parking Table*.
- C. 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 § 1101 - *Off-street Parking Table*.

1100.6. Parking for uses not listed in table. Parking for uses not expressly provided for in § 1101 - *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.

1101. OFF-STREET PARKING TABLE.

Description of Use	2017 NAICS	Off-Street Parking Requirements
RESIDENTIAL		
Dwellings, Residential	NA	2 per dwelling unit
Dwellings, Residential in Core Commercial (CC) District	NA	2 per 1 st dwelling unit, 1 for each additional dwelling unit
Dwelling, Above Non-residential Use	NA	none

Article 11. Parking and Loading Regulations

Adopted 10/9/18

Sections 1100 – 1105

Description of Use	2017 NAICS	Off-Street Parking Requirements
Manufactured Home Park	531190	2 per dwelling unit
Rooming and Boarding House	721310	2 for owner plus 1 per guest room
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	6113-6115	1 per 3 students and full-time employees at maximum capacity, plus 1 per 4 seats in auditorium
College or University Dormitory	6113	1 space per student resident
Elementary, Intermediate or Middle School, Public and Private	6111	2 per each classroom and office, plus 1 per each 4 seats in public assembly space
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 employee at maximum capacity plus 1 for each 4 seats in public assembly space
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 6219 621910 6241-6243	1 per 300 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; pre-schools; senior centers; special population homes	624120 624410	1 per employee, plus 1 off-street drop-off/pickup space
Hospital, General; Hospital, Psychiatric and Substance Abuse; Hospital, Other Specialty	6221-6223	1 per each 2 patient beds

Article 11. Parking and Loading Regulations

Adopted 10/9/18

Sections 1100 – 1105

Description of Use	2017 NAICS	Off-Street Parking Requirements
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; Nature Park; Zoo	712130 712190 712130	By Administrative Review
Ball Field; Bowling Center; Fairs; Fitness and Recreational Sports Center; Museum; Park with Playground; Park and Recreation Facilities; Swimming; Tennis	713950 712110 711310 713940 713990	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, Regulation or Par Three	713910	1 per 200 sq. ft. gross building area plus 2 per each golf hole
Miniature Golf	713990	1.25 spaces per playable hole
Performing Arts Facilities; Racetracks; Spectator Sport Complex; Stadium, amphitheater, outdoor arena	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, SERVICE, CIVIC AND PROFESSIONAL ORGANIZATIONS		
Grant Making and Giving Services, Social Advocacy Organizations	8132 8133	1 per 300 sq. ft. gross floor area
Religious Organizations	8131	1 for each 4 seats in main assembly room, plus 1 per each 2 employees CC: 1 per each 2 employees
Membership Organizations - Civic and Social, Business, Professional, Labor, Political, and Similar Organizations	8134 8139	1 for each 4 seats in main assembly room

Article 11. Parking and Loading Regulations

Adopted 10/9/18

Sections 1100 – 1105

Description of Use	2017 NAICS	Off-Street Parking Requirements
ACCOMODATION AND FOOD SERVICES		
Bed & Breakfast Inn	721191	2 for resident innkeeper, plus 1 per guest room
Drinking Places, Bars	7224	1 per 4 patrons at maximum capacity, plus 1 for each 2 employees on shift with maximum employment
Hotels and Motels	72111	1 for each guest room plus 1 per each full-time employee
Restaurants and Other Eating Places	7225	1 per 4 patrons at maximum capacity, plus 1 for each 2 employees on shift with maximum employment
Special Food Service	7223	1 per 300 sq. ft. gross floor area
OTHER SERVICES		
Automotive Service, Repair and Maintenance	8111	3 for each service bay or wash rack, plus 2 per fuel pump
Car Wash	811192	Self-service - 3 spaces Auto wash - minimum of 6 spaces
Cemetery	812220	1 per each full time employee
Crematories	81222	1 per 300 sq. ft. gross office, sales or service area
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) ; Tailor, Dressmaker, Alterations	315220 315240 8121 812320 812910	1 per 300 sq. ft. gross office, sales or service area
Funeral Home	812210	1 per 3 persons at maximum capacity in viewing rooms and chapel plus 1 per full-time employee
Landscaping Service	561730	1 per 200 sq. ft. gross office area
Repair, Electronic and Precision Equipment, Commercial and Industrial Machinery and Equipment; Repair, Personal and Household Goods	8112-8114	1 per 250 sq. ft. of work area
Sexually Oriented Business	812199	1 per 4 patrons at maximum capacity plus 1 per full-time employee
Social Advocacy, Business, Professional and Similar Organizations	8133 8139	1 per 200 sq. ft. gross office, conference, or service area
Tattoo or Body Piercing Parlor	812199	1 per 300 sq. ft. gross office, sales or service area

Article 11. Parking and Loading Regulations

Adopted 10/9/18

Sections 1100 – 1105

Description of Use	2017 NAICS	Off-Street Parking Requirements
COMMERCIAL - RETAIL		
All Commercial - Retail uses, except uses otherwise listed under the Commercial – Retail category	4411-4413 442-443 4441-4442 445-446 445120 4453 448 448310 451-454 453930 4542 492	1 per 200 sq. ft. gross retail area
Automobile Service Station, Gasoline Station	447	1 per 300 sq. ft. gross floor area, plus 2 per each fuel pump
Convenience Store with fuel pumps	447110	1 per 200 sq. ft. gross sales area, plus 2 per each fuel pump
Flea Market - Open Yard for Sale, Rental or Storage of New or Used Junk or Salvaged Materials or Equipment	453310	By Administrative Review
Mini-warehouse and Personal Storage	531130	1 per 200 sq. ft. gross office area, plus 1 per 10 storage units
Nursery, Lawn/Garden Equipment and Supplies, Farm Supplies;	4442	1 per 200 sq. ft. gross office area
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 sq. ft. gross floor area CC: 1 per 300 sq. ft. 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 300 sq. ft. gross floor area

Article 11. Parking and Loading Regulations

Adopted 10/9/18

Sections 1100 – 1105

Description of Use	2017 NAICS	Off-Street Parking Requirements
Professional, Scientific and Technical Services and Offices (excluding NAICS 54194 Veterinary Services)	54	1 per 300 sq. ft. gross floor area
Real Estate, Rental and Leasing	53	1 per 300 sq. ft. gross floor 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 300 sq. ft. gross office area
All Manufacturing uses	31-33 324 325920	1 per employee for largest shift plus 1 per 200 sq. ft. gross indoor 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 and Support; Transportation Support Activities (excluding NAICS 488490, 488210) Railroad Transportation	4811 488 482	1 per 200 sq. ft. gross floor area
Air Transportation, Private (including associated hangers and runways)	4812	By administrative review
Bus Terminal; Rail Terminal; Scenic and Sightseeing Transportation, Transit and Ground Passenger Transportation; Truck Transportation	488490 488210 487 485 484	1 per each 200 sq. ft. gross floor area in terminal or office, plus adequate parking for vehicles used in operation of business per Administrative Review
UTILITIES AND INFRASTRUCTURE		
All Utilities and Infrastructure uses	22 562	1 per 300 sq. ft. gross office area; plus 1 per full-time employee CC district: no spaces required
NATURAL RESOURCES		
Nursery and Tree Production, Floriculture Production (including retail sale of plants and associated compatible products)	111421 111422	1 per 200 sq. ft. gross office area plus 1 per employee on largest shift
TEMPORARY USES		
Christmas Tree Sales	NA	1 per 300 sq ft of office area, plus 1 per full-time, onsite employee
Contractor Office and Equipment Shed - Temporary	23	1 per full-time, onsite employee
Group Assembly in a Tent or other Temporary Structure	NA	1 per 4 patrons at maximum capacity

1102. PARKING SPACE DESIGN REQUIREMENTS.

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

1102.1. Parking space dimensions. Parking stalls shall be not less than nine feet by 19 feet, except that a maximum of 10 percent 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 nine feet by 24 feet.

A. Minimum parking aisle widths. Parking aisles shall be 24 feet in width if serving two-way traffic and 12 feet in width if serving one-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.

B. 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 § 1102.1(B)(3), except for areas used for overflow, special events, peak parking, and parking areas serving single-family detached and duplex housing. However, parking areas designed to accommodate the regular parking of heavy construction and industrial vehicles may be paved 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 § 1102.1(B)(3), or other similar material approved by the Zoning Administrator, except for areas used for overflow, special events, 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 as detailed in § 1102.1(B)(3).
5. Parking lot construction shall be designed to minimize off-site stormwater 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 uses, 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 encouraged to connect to existing and other new or planned non-residential and non-industrial parking areas unless the Zoning Administrator determines that topography or other natural features or other factors prevents it.

- C. 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 the City of Newberry. 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.
- D. 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.
- E. Landscaping. Off-street parking areas shall be landscaped and buffer areas provided in accordance with the applicable provisions of *Article 10 – Buffers, Landscaping and Open Space Requirements*.
- F. Drive-thru stacking. In addition to required parking spaces, drive-thru facilities shall provide a minimum of five 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 five stacking spaces. A minimum of five 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 two stacking spaces per bay, one of which is located for use as a dry down area.
 - 3. Automated car washes shall be required to provide an additional two stacking spaces per bay.

1103. PARKING OF RECREATION, COMMERCIAL, AND UNLICENCED VEHICLES

- 1103.1.** Mobile recreational equipment or vehicles shall not be parked or stored on any lot in a residential district for more than 24 hours, except in a carport, enclosed building, or rear yard.
- 1103.2.** Commercial vehicles or trailers shall not be parked or stored on any lot in a residential district, except for temporary loading or unloading.

- 1103.3.** Vehicles or trailers subject to State licensing must display a current license plate if parked or stored on a lot or property in a residential district, unless the vehicle or trailer is in an enclosed building.
- 1103.4.** No more than one travel or camping vehicle per residential dwelling unit on the premises shall be permitted to be parked on a lot or parcel in a residential zoning district. Such vehicle(s) shall not be occupied temporarily or permanently while parked or stored, except in a permitted mobile home park.

1104. 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. These requirements do not apply in the Core Commercial (CC) District.

- 1104.1.** 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.
- 1104.2.** 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.
- 1104.3.** Adequate on-site turnaround area shall be provided for all loading and unloading areas.
- 1104.4.** Off-street loading and unloading areas shall be designed to avoid or minimize safety issues or traffic congestion.
- 1104.5.** **Access.** Each loading space shall have access from an alley or public street.
- 1104.6.** **Dimensions.** Each loading space shall be a minimum of 12 feet by 40 feet, and shall be clear of obstructions.

1104.7. Off-street Loading and Unloading Space required by Type of Use.

Use	Gross Floor Area (sq. ft.)	# of Spaces
Retail business	For each 5,000 sq. ft.	1
Wholesale, industrial, governmental, institutional, educational, medical, assembly	25,000	1
	25,001 – 99,999	2
	100,000 – 159,999	3
	160,000 – 239,99	4
	240,000 – 349,000	5
	Each additional 100,000 or fraction thereof	1
Multi-family residence with 10 or more dwelling units	n/a	1

1104.8. Screening. Screening of loading/unloading areas shall be provided in accordance with the provisions of § 1004 – Screening.

1104.9. Expansions. Expansions to an existing loading area which increase the total area by more than 40 percent shall be required to comply with all applicable requirements of this section.

1105. PARKING REQUIREMENTS SPECIFIC TO CAMPUS ZONING DISTRICTS

1105.1. Parking shall be provided within the CM - Campus Main zoning district and the Campus Transition Overlay District that, in aggregate, equals or exceeds 75 spaces per 100 enrolled full-time equivalent students.

1105.2. Only those spaces located in the CM zoning district or in the CT Overlay District within a 1,320 ft radius (which approximates a five minute walk at three mph rate) of the Newberry College Library may be credited toward the required number of spaces.

1105.3. Ingress and egress shall be prohibited from residential streets where, in the opinion of the Zoning Administrator, suitable access can be provided from a thoroughfare or a street servicing existing institutional facilities.

1105.4. Parking requirements specific to CTO - Campus Transition Overlay District.

- A. Parking structures are not allowed in the CTO district.
- B. Institutional - general parking requirements for surface parking lots.
 - 1. Use of parking lots shall be restricted to parking only.
 - 2. Social uses and other temporary uses shall be prohibited except those temporary uses associated with athletic events, fundraising activities, and

other similar special events officially sanctioned by the institution and conducted on an infrequent basis.

3. Ingress and egress shall be prohibited from residential streets where suitable access can be provided from a thoroughfare or other College-owned property.
4. The institution shall be responsible for parking area and landscape maintenance including routine litter control.

B. Institutional and professional uses (faculty, administrative, professional offices).

1. On-site Parking Requirements.

- a. Where on-site parking is provided, the minimum requirement is one space per 375 square feet of gross floor area.
- b. However, parking areas shall not occupy more than 35 percent of the legally defined lot. The basis for this calculation excludes the aggregate square area occupied by the principal structure and accessory structures (authorized by the underlying zone).
- c. Parking areas shall not occupy more than 40 percent of the available front yard.

2. Off-site Parking Requirements. Total or partial off-site parking, in lieu of on-site parking, may be provided, subject to written approval of the Zoning Administrator. To obtain authorization, the institution shall, as a minimum, demonstrate the existence of unreserved, general parking within 800 linear feet of the site, sufficient to meet the parking requirement.

C. Institutional classroom uses.

1. On-site parking requirements.

- a. On-site parking shall be sufficient to meet a minimum of one-half of the maximum classroom seating capacity and one space per classroom building office.
- b. On-site parking areas shall not occupy more than 40 percent of the legally defined lot. The basis for this calculation excludes the aggregate square area occupied by the principal structure and accessory structures, authorized by the underlying zone.

- c. Parking areas shall not occupy more than 40 percent of the available front yard.
2. Off-site parking requirements. Total or partial off-site parking, in lieu of on-site parking, may be provided subject to written approval of the Zoning Administrator. To obtain authorization, the institution shall, as a minimum, demonstrate the existence of unreserved general parking within 400 linear feet of the site that is sufficient to meet the parking requirement.

Article 12. Definitions

1200. INTERPRETATION.

Certain words and terms used in this Zoning Ordinance shall be interpreted as follows unless the context of their use or specific wording in the text clearly indicates the intent to interpret them a different way.

- 1200.1. The present tense includes past and future tenses.
- 1200.2. Singular words include the plural, and plural words include the singular.
- 1200.3. The words “City Council” mean the City Council of Newberry, South Carolina.
- 1200.4. The words “City Manager” mean the City Manager of the City of Newberry, South Carolina.
- 1200.5. The words “Board of Zoning Appeals” mean the City of Newberry Board of Zoning Appeals.
- 1200.6. The words “Planning Commission” mean the City of Newberry Planning Commission.
- 1200.7. The words “Architectural Review Board” mean the City of Newberry Architectural Review Board.
- 1200.8. The words “Zoning Administrator” mean the Zoning Administrator for the City of Newberry, South Carolina.
- 1200.9. The words “zoning map” or “City of Newberry Zoning Map” shall mean the Official Zoning Map of the City of Newberry.
- 1200.10. Any reference to a section or chapter shall mean a section or chapter of the *City of Newberry Zoning Ordinance*, unless otherwise specified.
- 1200.11. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, governmental unit, and any combination thereof.
- 1200.12. The words “shall,” “will,” and “must” are mandatory; the word “may” is permissive, except when the context of the particular use is negative (e.g., “may not”).
- 1200.13. The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied.”

- 1200.14.** The words “lot” or “property” include the words “lot,” “plot,” “parcel,” “property,” or “tract.”
- 1200.15.** The word “structure” includes the words “building” and “accessory structure.”
- 1200.16.** The word “street” includes the words “road” and “highway.”
- 1200.17.** The words “day” or “days” mean calendar days.
- 1200.18.** Words used in the masculine gender include the feminine gender and vice versa.
- 1200.19.** References to NAICS codes shall mean those codes assigned to businesses in the 2017 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.
- 1200.20.** The word “contiguous” as applied to lots or districts shall be interpreted as meaning “sharing a common boundary of ten or more feet in length.”
- 1200.21.** 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.”

1201. DEFINITIONS.

Except as specifically defined herein, all words and phrases used in this Zoning Ordinance shall have their customary meaning as defined in a standard dictionary.

- 1201.1. ABANDONED:** A structure that has been left vacant, unused, or unoccupied for a period of six months or longer. The disconnection of electric power for a period of six months or longer or the failure to ever connect such a structure to electric power after it is brought into the City of Newberry creates a rebuttable presumption that the property has been abandoned.
- 1201.2. 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.
- 1201.3. ACCESSORY USE:** A use of land or building or a 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.

- 1201.4. 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.
- 1201.5. ALLEY:** A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.
- 1201.6. AUTOMOBILE SERVICE STATION:** Use involving the sale of gasoline, lubricating oils, merchandise (e.g. tires, batteries, and auto parts), and minor repairs. Automobile service station sales may include carwashes and a limited line of groceries, but this use may not include storage of dismantled or wrecked vehicles for parts. Uses that include the storage of dismantled or wrecked vehicles for parts are classified as Junk, Salvage, Scrap, or Wrecking Yards.
- 1201.7. BAR:** Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.
- 1201.8. 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. No more than four guestrooms can be available for accommodations and breakfast service in such an establishment at any one time.
- 1201.9. BERM:** Any hill or slope, which represents a change of elevation of at least two feet at a slope of between 25 percent and 50 percent and which is covered with appropriate stabilizing vegetation.
- 1201.10. BOARDING HOUSES:** Same as "Rooming and Boarding Houses."
- 1201.11. BODY PIERCING:** "Body piercing" means 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 Zoning Ordinance 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.
- 1201.12. BREWPUB:** A tavern, public house, restaurant, or hotel that produces on the permitted premises a maximum of 2,000 barrels or 62,000 gallons of beer per year for sale on the premises (per *S.C. Code of Laws §61-4-1700*).
- 1201.13. BUFFER:** A strip of land, that may be improved by landscaping, berms, walls, or fences, or any combination thereof, designed to mitigate offsite impacts. A buffer is an area within which no activity is allowed other than passive recreation, infrastructure such as sidewalks and trails, 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.
- 1201.14. BUFFER YARD:** A strip of land, improved by landscaping, berms, walls, or fences, or any combination thereof, designed to mitigate the extent of offsite impacts.
- 1201.15. 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.
- 1201.16. BUILDING:** Any structure used or intended for supporting or sheltering any use or occupancy.
- 1201.17. CALIPER:** The diameter measurement of the trunk taken six inches above ground level for trees up to and including four-inch caliper and measured 12 inches above ground level for larger trees.
- 1201.18. CHANGE OF USE:** Any use that substantially differs from the previous use of a building or land.
- 1201.19. 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.
- 1201.20. CIVIC ORGANIZATION:** See “Club, Lodge, Civic or Fraternal Organization, Fraternity, Sorority.”
- 1201.21. 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.
- 1201.22. CLUSTER HOUSING:** A form of development that permits a reduction in lot area provided there is no increase in the number of lots permitted within 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.
- 1201.23. CONDITIONAL USE:** A use permitted in a particular zoning district that complies with all the conditions and standards for the location or operation of the use as specified in *Article 6 – Conditional Uses* of this Zoning Ordinance.

1201.24. CONTAINER STRUCTURE: A structure consisting of one or more prefabricated components which were not designed or constructed to be transported to a lot or parcel of land and used as a dwelling when the components were constructed. No Container Structure shall be used as a dwelling and shall not be permitted in any zoning district.

(Ord. No. 2023-1002, 4-11-23)

1201.25. CONTRIBUTING STRUCTURE: A structure contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place, and historical development.

1201.26. CORNER LOT: See "Lot, Corner."

1201.27. CRITICAL ROOT ZONE (CRZ): The area of soil around a tree where the majority of the roots are located that is generally calculated to be two radial feet for every one inch of diameter at breast height. The Zoning Administrator shall make the final determination of the critical root zone for trees to be protected.

1201.28. CURB CUT: The opening along the curb line at which point vehicles may enter or leave the roadway.

1201.29. DAY CARE, CHILD/ADULT: A place where the regular care, supervision, or guidance of children or adults not related by blood, marriage or adoption to the owner or operator occurs unaccompanied by the guardian or custodian for periods of less than 24 but more than four hours per day, in a place other than the child's or adult's own home.

1201.30. DAY CARE FACILITY, CHILD/ADULT: Any facility that provides day care whether or not the facility is operated for profit or charges for services offered by the facility. This definition includes, but is not limited to the following.

- A. DAY CARE CENTER:** Any facility that regularly receives seven or more individuals for day care.
- B. FAMILY DAY CARE HOME:** An occupied residence where day care is regularly provided for no more than six individuals, including those living in the home and individuals received for day care that are related to the resident caregiver. This definition does not include an occupied residence in which day care is regularly provided only for individuals related to the resident caregiver or only for individuals of one unrelated family, or only for a combination of such individuals.

- 1201.31. DECORATIVE CURBING:** Pavement curbing usually constructed of stone or unit masonry and designed to control surface drainage and serve as a barrier to vehicular traffic.
- 1201.32. DEVELOPED LOT:** Any lot which 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 had been issued before the effective date of this Zoning Ordinance.
- 1201.33. DIAMETER AT BREAST HEIGHT (DBH):** Tree trunk diameter measured 4.5 feet above ground level.
- 1201.34. DISPLAY AREA OR LOT:** Any unenclosed area used for the display of merchandise.
- 1201.35. DISTRICT:** A geographical area assigned a zoning district designation in accord with the provisions of this Zoning Ordinance.
- 1201.36. 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.
- 1201.37. DRIVE-THRU RESTAURANT:** Any eating or drinking establishment which, by its structural design, site characteristics, or manner of food service, encourages consumption of food or beverages in automobiles on the premises or offsite.
- 1201.38. DRIVEWAY:** A paved or unpaved area used for ingress and egress of vehicles that provides access from a street to a lot.
- 1201.39. DWELLING:** A structure or portion thereof that is used exclusively for human habitation.
- A. DWELLING, MULTI-FAMILY:** A building containing three or more dwelling units including units that are located one over the other.
 - B. DWELLING, PATIO HOME:** A single-family detached or semi-detached dwelling unit built on a small lot generally enclosed by walls which provide privacy.
 - C. DWELLING, SINGLE-FAMILY ATTACHED:** A residential structure containing more than two dwelling units in which units are physically attached, and each has its own separate exterior entrance way and a separately owned lot. Townhouses and zero lot line dwellings are included in this definition.

- D. DWELLING, SINGLE-FAMILY DETACHED:** A building containing not more than one dwelling unit, not physically attached to any other principal structure, and excluding mobile homes.
- E. 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 one or more common vertical walls, and which may or may not have a common roof.
- F. DWELLING, TWO FAMILY DETACHED (DUPLEX):** A building on a single lot containing two 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 two-dwelling unit is not physically attached to any other principal structure.
- G. DWELLING, ZERO LOT LINE:** A residential building containing not more than one 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 one of the side lot lines.
- 1201.40. 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.
- 1201.41. EASEMENT:** A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.
- 1201.42. ELIGIBLE FACILITIES REQUEST:** Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
- a. Collocation of new transmission equipment;
 - b. Removal of transmission equipment; or
 - c. Replacement of transmission equipment.
- (Ord. No. 2022-1023, 10-11-22)
- 1201.43. ENLARGEMENT:** An increase in the size of an existing structure or use, including physical size of the property, building, parking, and other improvements.

- 1201.44. FAMILY:** One or more persons residing in a single dwelling unit and living together as a single housekeeping unit. Unless all members are related by blood, marriage, or adoption, no such family shall consist of more than three 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 Article) are to be perceived as a family as if related by blood or marriage.
- 1201.45. FENCE:** An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.
- 1201.46. FLOOR AREA, GROSS:** The sum of the gross horizontal areas of the several floors of a building from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.
- 1201.47. FOOTCANDLE:** The unit of illumination when the foot is the unit of length.
- 1201.48. FRATERNAL ORGANIZATION, FRATERNITY:** See "Club, Lodge, Civic or Fraternal Organization, Fraternity, Sorority."
- 1201.49. FREESTANDING TOWER:** A wireless communications support structure with no guy wires. This can be either a lattice or monopole tower.
- 1201.50. GARAGE:** A deck, building, or parking structure, or part thereof, used, or intended to be used for the parking and storage of vehicles.
- 1201.51. GRADING:** Any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.
- 1201.52. 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.
- 1201.53. 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 centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.
- 1201.54. GUNSMITH:** An establishment engaged in repair, modification, design, assembling, and building of firearms which are subject to state or federal regulations.

(Ord. No. 2023-1005, 4-11-23)

- 1201.55. 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 the tower and connected appurtenances.
- 1201.56. 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 nine 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*.
- 1201.57. 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.
- 1201.58. HOTEL:** A building in which lodging for pay is offered to public, with or without meals, for transient or permanent guests, including motel or tourist court containing five or more guest rooms.
- 1201.59. ICE CREAM TRUCK:** A motor vehicle from which a vendor sells only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand dipped frozen dairy products, and pre-packaged beverages.
- 1201.60. 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.
- 1201.61. 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.
- 1201.62. 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.

- 1201.63. KENNEL:** A facility in which dogs or domesticated animals, not to include horses, cows, goats, swine, sheep, ponies or small horses, grazing animals or fowl, are housed, groomed, bred, boarded, trained, or sold.
- 1201.64. KENNEL, PRIVATE:** A kennel where dogs or other domestic animals are kept as an accessory use. This definition does not include commercial training, boarding, grooming, or breeding facilities.
- 1201.65. LANDFILL:** Per S.C. 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. Landfill types are further defined by the State as follows.
- A. 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.
 - B. 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 I 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.
- 1201.66. 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.
- 1201.67. 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.
- A. LOT, CORNER:** Any lot which is bounded on two or more consecutive sides by road rights-of-way which intersect at an angle of 135 degrees or less.
 - B. LOT, INTERIOR:** A lot other than a corner lot, with only one frontage on a street.
 - C. LOT LINE, REAR:** The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

- D. **LOT, REVERSE FRONTAGE:** A through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.
- E. **LOT, THROUGH:** A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.
- 1201.68. LOT AREA:** The total area within the lot boundaries of a lot, excluding any street right-of-way.
- 1201.69. LOT COVERAGE:** The area of the lot, which when viewed directly from above would be covered by all principal accessory buildings and structures.
- 1201.70. 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.”
- 1201.71. 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.
- 1201.72. LOT OF RECORD:** A lot defined by plat or described by metes and bounds that have been duly recorded with the Newberry County Clerk of Court.
- 1201.73. 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.
- 1201.74. 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 is comprised of one 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.
- 1201.75. MANUFACTURED HOME PARK:** A lot providing rented parking space for five or more manufactured homes used for dwelling units, including service buildings and facilities. Manufactured home sale or storage lots for unoccupied units are not manufactured home parks.
- 1201.76. MICRO-BREWERY:** A facility that produces no more than 15,000 barrels (or 465,000 gallons) of ales, beers, meads, hard ciders, and/or similar beverages, regardless of the percentage of alcoholic volume, on-site per year.

- 1201.77. MICRO-DISTILLERY:** A facility in which alcoholic liquors with an alcohol content greater than 17 percent are distilled, blended, and bottled on the licensed premises and who produces a maximum quantity of 125,000 cases per year at the licensed premises (per S.C. Department of Revenue).
- 1201.78. MINI-WAREHOUSE:** A building or group of buildings on a fenced, controlled access lot which contain individual locked compartments for storage of personal property.
- 1201.79. MOBILE FOOD TRUCK:** A readily movable, motorized, wheeled vehicle, whether self-propelled or towed, vehicle, that is designed and equipped to serve store, prepare, or serve, and sell food, other than or in addition to food products identified in the definition of products sold by an ice cream truck.
- 1201.80. MOBILE VENDOR TRUCK:** A readily movable, motorized, wheeled vehicle, whether self-propelled or towed, that is designed, equipped, and offers to sell merchandise food, services, or products.
- 1201.81. MOBILE HOME:** A manufactured single-family dwelling constructed so that it may be transported and temporarily or permanently affixed to real estate. The definition for mobile home specifically applies to homes manufactured prior to enactment of the Federal *Manufactured Housing Construction and Safety Standards Act*, effective June 15, 1976. The term does not include prefabricated, modular, or unitized dwellings on a permanent foundation, travel trailers, campers, or similar recreation units.
- 1201.82. MODULAR BUILDING.** A structure consisting of two or more prefabricated components designed to be transported to a lot and placed on a permanent foundation, and which is certified by the South Carolina Building Codes Council as conforming to the International Building Code standards for site built units. The definition for modular building does not include mobile homes or manufactured homes.
- 1201.83. MONOPOLE TOWER:** A self-supporting communications tower consisting of a single pole without guy wires or other stabilizers.
- 1201.84. MOTEL:** A building or buildings in which lodging, with or without meals, is offered to the public for consumption, including a hotel, tourist court, or inn.
- 1201.85. 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 or to improve aesthetic appearance of the landscape. Mulch can be composed of chipped, ground or shredded organic material such as bark or wood.

- 1201.86. MULTI-FAMILY DWELLING:** See "Dwelling, Multi-family."
- 1201.87. 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 Zoning Ordinance, but which are now prohibited or not in compliance with the requirements of this Zoning Ordinance.
- 1201.88. NON-CONTRIBUTING STRUCTURE:** A structure not contributing to the historic significance of a district is one which does not add to the district's sense of time and place and historical development; or one where the location, design, setting, materials, workmanship, feeling, and association have been so altered or have so deteriorated that the overall integrity of the building has been irretrievably lost. Ordinarily buildings that have been built within the past 50 years shall not be considered to contribute to the significance of an historic district unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old.
- 1201.89. 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.
- 1201.90. OFF-STREET LOADING:** Designated areas located adjacent to buildings where trucks may load and unload cargo.
- 1201.91. 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 into individual parking spaces shall not be on any public street and so that an automobile may be parked or unparked without moving any other automobile.
- 1201.92. OPEN SPACE:** Unless otherwise defined in this Zoning Ordinance, 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 such open space. Open space shall include recreational areas, greenways, and wooded areas.
- 1201.93. OUTDOOR ASSEMBLY:** An outdoor structure or gathering place that accommodates an audience for spectator sports, concerts, public speaking, or other live entertainment, which is open to the general public, with or without an admission charge.

- 1201.94. OVERLAY DISTRICT:** A zoning district that encompasses one or more underlying zones and that provides for certain additional requirements or establishes special development requirements for permitted uses.
- 1201.95. OWNER:** An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.
- 1201.96. PARCEL:** A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.
- 1201.97. 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.
- 1201.98. PARKING AREA:** Any public or private area located under or outside of a building or structure that is designed and used for parking motor vehicles. The term parking area includes parking lots, garages, private driveways, and legally designated areas of public streets.
- 1201.99. 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.
- 1201.100. PERMITTED USE:** A use permitted outright by district regulations.
- 1201.101. 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.
- 1201.102. PERSONAL SERVICES:** Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.
- 1201.103. PLANNED DEVELOPMENT DISTRICT (PDD):** A district that is individually designated by City Council by zoning amendment, for which an approved development plan constitutes the district regulations. PDDs permit a mixture of different types of housing, commercial, office, and other uses and are characterized by a unified site design that allows flexibility to improve the design, character and quality of new mixed use developments and preserve the natural and scenic features of open spaces.
- 1201.104. 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.

1201.105. 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.

1201.106. PRINCIPAL STRUCTURE OR USE: A structure or use that is significant or primary rather than accessory.

1201.107. PROHIBITED USE: A use that is not permitted.

1201.108. PUBLIC HEARING: A meeting announced and advertised in advance and open to the public, where the public is given an opportunity to talk and participate.

1201.109. QUALIFIED PROFESSIONAL: A professional licensed or registered in the state of South Carolina performing services only in their areas of competence. This term shall include only registered land surveyors, registered engineers, registered architects, registered landscape architects, and certified arborists.

1201.110. RESIDENCE: A dwelling.

1201.111. RESTAURANT: An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

1201.112. 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 such goods.

1201.113. 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.

1201.114. ROAD FRONTAGE: Any strip of land adjacent to a public road right-of-way.

1201.115. ROOMING AND BOARDING HOUSE: Any dwelling, other than a hotel or motel, in which three 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 such accommodations are offered in four or more rooms shall be considered to be a hotel or motel.

- 1201.116. SALVAGE YARD:** See "Junk, Salvage, Scrap, or Wrecking Yards."
- 1201.117. SATELLITE DISH ANTENNA:** A device used to transmit or receive radio or electromagnetic waves. This definition is meant to include but not be limited to what are commonly referred to as satellite dishes, satellite earth stations, television reception only satellite dish antennas, and satellite microwave antennas.
- 1201.118. SCRAP YARD:** See "Junk, Salvage, Scrap, or Wrecking Yards."
- 1201.119. SCREEN FENCE OR WALL:** A linear structure designed and constructed for the purpose of screening.
- 1201.120. SCREENING:** Significantly blocking or reducing the visual impacts of structures, uses, or equipment from adjacent properties or public streets. .
- 1201.121. SCREENING, OPAQUE:** A screen intended to completely conceal visual contact.
- 1201.122. SETBACK LINE:** The linear distance that establishes buildable and non-buildable area measured inward from the road right-of-way or adjoining property lines.
- 1201.123. SEXUALLY ORIENTED BUSINESS:** See *Article VIII - Sexually Oriented Businesses, § 10-25 and § 10-26 of the City of Newberry Code of Ordinances* for definitions related to sexually oriented businesses.
- 1201.124. 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.
- 1201.125. SHRUB:** A deciduous or evergreen perennial woody plant of relatively low height and smaller than a tree, with several major branches arising from near the base of the main stem.
- 1201.126. SIGN:** Any object, device, 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.
- A. SIGN, ANIMATED:** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

- B. SIGN, BANNER (TEMPORARY):** See *Article 9 – Signs* for definition and illustration.
- C. SIGN, CANOPY:** See *Article 9 – Signs* for definition and illustration.
- D. SIGN, CONSTRUCTION AND SUBDIVISION (TEMPORARY):** See *Article 9 – Signs* for definition and illustration.
- E. SIGN, CUTOUT OR EXTENSION:** A secondary advertising surface that is attached to and extends beyond the standard or primary (rectangular) sign surface. The cutout or extension may be a smaller sign, logo, symbol, character, etc.
- F. SIGN, DIGITAL:** An electrical or electronic sign using digital technology or a pattern of lights to form various words or graphics that is capable of changing copy continuously.
- G. SIGN, DIRECTIONAL OR INSTRUCTIONAL:** An on-premises sign designed to guide vehicular 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.
- H. 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.
- I. SIGN, FLASHING:** A sign that uses an intermittent or flashing light source to attract attention.
- J. SIGN, FREESTANDING:** A sign that is permanently affixed to the ground and which is not a part of a building or other structure. Examples include, but are not limited to, ground and pole signs.
- K. 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.
- L. SIGN, KNOCKOUT:** An internally illuminated sign on which only the lettering and graphics are transparent to the light.
- M. SIGN, MARQUEE:** See *Article 9 – Signs* for definition and illustration.

- N. SIGN, MONUMENT:** See *Article 9 – Signs* for definition and illustration.
- O. SIGN, NEIGHBORHOOD ENTRANCE:** See *Article 9 – Signs* for definition and illustration.
- P. SIGN, NONCONFORMING:** Any sign that was legally in existence prior to this Zoning Ordinance and made illegal by this Zoning Ordinance.
- Q. SIGN, OFF-SITE/OFF-PREMISES ADVERTISING:** A sign identifying, advertising or directing the public to a business or commercial activity located on property other than where the sign is located.
- R. 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.
- S. 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.
- T. SIGN, PROJECTING:** See *Article 9 – Signs* for definition and illustration.
- U. SIGN, PYLON:** See *Article 9 – Signs* for definition and illustration.
- V. SIGN, REAL ESTATE:** A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.
- W. 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.
- X. SIGN, SIDEWALK:** See *Article 9 – Signs* for definition and illustration.
- Y. SIGN, VEHICLE OR MOBILE:** A permanent or temporary sign affixed to, painted or drawn on or placed or mounted in or upon parked vehicle, parked trailer or other parked towable, device, which is displayed in public view under such circumstance as to location on the premises, time of day, duration, availability of other parking space on the premise and the proximity of the vehicle to the

area on the premises where it is loaded, unloaded or otherwise carries out its principal function, which circumstances indicate that the primary purpose of said display is to attract the attention of the public, promote or convey an advertising message, rather than to serve the business of the owner thereof in the manner which is customary for said vehicle.

Z. SIGN, TEMPORARY: A sign that is not permanently installed in the ground or affixed to any structure or building.

AA. SIGN, WALL: See *Article 9 – Signs* for definition and illustration.

1201.127. SIGN AREA: The area of a sign face.

1201.128. SIGN COPY: Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign face.

1201.129. 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 intended to attract the attention of the public through the use of color, lighting, or design.

1201.130. SIGN HEIGHT: The distance from the base of the sign at normal grade to the top of the highest attached component of the sign.

1201.131. 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.

1201.132. SINGLE HOUSEKEEPING UNIT: Any household whose members are an interactive group of persons jointly occupying a dwelling unit, including joint access to and use of all common areas including living, kitchen, and eating areas within the dwelling unit, and sharing household activities and responsibilities such as meals, chores, expenses and maintenance, and whose makeup is determined by the members of the unit rather than by the landlord, property manager, or other third party. This does not include a Boarding or Rooming House.

1201.133. SITE PLAN: The development plan for one 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; structures and buildings; signs and lighting; berms, buffers, and 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.

1201.134. 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.

1201.135. SOLAR ENERGY: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

1201.136. SOLAR FARM: A series of three or more ground-mounted solar collectors installed on a site for the purpose of converting energy into electrical or thermal energy for on-site 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.

1201.137. SOLAR ENERGY SYSTEM: A complete assembly consisting of one or more solar collectors and associated mounting hardware or equipment.

A. 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.

B. BUILDING-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system affixed to either a principal or accessory structure on a lot.

C. 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.

1201.138. SPECIAL EXCEPTION: A use permitted in a particular zoning district upon showing to the Board of Zoning Appeals that such 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 Zoning Ordinance and authorized by the Board of Zoning Appeals.

1201.139. 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 one vehicle within the stacking lane.

1201.140. STAY: To stop or suspend action; also known as a stay of proceedings. In the legal context, a stay prevents further action until a prescribed future event occurs.

1201.141. 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.

1201.142. 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 Zoning Ordinance buildings, 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.

1201.143. 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 or number of the defect(s).

1201.144. SUBSTANTIAL CHANGE. Any modification in a use, structure, feature, or lot dimension that increases its impacts on adjacent properties; that alters its conformity to this Ordinance or other county, state, or federal regulation; or that triggers a required permit or review as specified in this Ordinance. For the purposes of interpreting requirements for an eligible support structure under the telecommunication provisions, a substantial change shall mean any modification that alters the physical dimensions of an eligible support structure if it meets any of the following criteria:

- a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;
- b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that

would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

- c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
- d. It entails any excavation or deployment outside the current site;
- e. It would defeat the concealment elements of the eligible support structure; or
- f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections A-D of this definition.

(Ord. No. 2022-1023, 10-11-22)

1201.145. SUBSTANTIAL ENLARGEMENT: The increase in floor area(s) occupied by a use by more than 25 percent, as the floor area(s) existed at the time of permitting or on April 20, 1999, whichever is later.

1201.146. 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.

1201.147. TATTOO: Tattoo or "tattooing" means to indelibly mark or color the skin by subcutaneous introduction of nontoxic dyes or pigments.

1201.148. TATTOO OR BODY PIERCING ESTABLISHMENT: Any room, space, location, area, structure, or business, or any part of any of these places, where tattooing or body piercing is practiced or where the business of tattooing or body piercing is conducted.

1201.149. 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.

1201.150. TECHNICALLY FEASIBLE. By virtue of engineering or spectrum usage, the proposed placement, design, or location of a wireless facility can be implemented without a reduction in the functionality of the wireless facility.

(Ord. No. 2022-1023, 10-11-22)

1201.151. TELECOMMUNICATION ANTENNA. An apparatus designed for the purpose of emitting radio frequency radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a tower, structure, or building as part of the original installation of the antenna. This term includes communications equipment that transmit or receive electromagnetic radio frequency signals used in the provision of services using small wireless facilities.

(Ord. No. 2022-1023, 10-11-22)

1201.152. TELECOMMUNICATIONS COLLOCATION. The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting, receiving, or both, radio frequency signals for communications purposes.

(Ord. No. 2022-1023, 10-11-22)

1201.153. TELECOMMUNICATION TOWER. Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(Ord. No. 2022-1023, 10-11-22)

1201.154. THOROUGHFARE: Any major arterial road; one of the principal routes into and through the community.

1201.155. TOBACCO, CIGAR, CIGARETTE, VAPE OR CBD STORE. An establishment that devotes at least 25 percent of its floor area to the retail sale and display of tobacco, cigars, cigarettes, tobacco products, cannabidiol (CBD) products, electronic cigarettes (vape) products and/or associated products.

(Ord. No. 2023-1005, 4-11-23)

1201.156. TRANSFER OF BUSINESS OWNERSHIP OR CONTROL: This term shall include any of the following:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.

1201.157. TRANSPORT CONTAINER: 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. 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 Zoning Ordinance.

1201.158. TRAVEL OR CAMPING VEHICLE: A vehicular portable structure designed as a temporary dwelling for travel or recreational use.

1201.159. 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 five inches diameter at breast height and a height of at least 15 feet.

- A. **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 45 feet or taller during normal growing conditions.

- B. **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 more than 25 feet but less than 45 feet during normal growing conditions.
- C. **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 15 to 25 feet during normal growing conditions.

1201.160. 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, lightning protection system installation, and any other accepted arboricultural practice.

1201.161. 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.

1201.162. 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.

1201.163. 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.

1201.164. 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 two to three times the width of the crown.

1201.165. TREE TRUNK: The main woody stem of a tree that connects the roots to the crown and which supports the crown.

1201.166. UTILITY EASEMENT. The area on, below, or above privately-owned property that has been designated for use as or is used for a specific utility purpose (such as for electric, cable or other utility purpose), and is evidenced by a recorded instrument in the public land records pursuant to a recorded plat, easement or right of way or is otherwise a legally enforceable easement and does not include any portion of a public right-of-way.

(Ord. No. 2022-1023, 10-11-22)

1201.167. UTILITY POLE. A pole or similar structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities. The term "utility pole" shall not include wireless support structures.

(Ord. No. 2022-1023, 10-11-22)

1201.168. VARIANCE: Relief granted by the Board of Zoning Appeals from the strict application of zoning regulations in an individual case of unnecessary hardship base on factual findings and specific criteria required by law.

1201.169. 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.

1201.170. WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

- a. Equipment associated with wireless communications; and
- b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

The term "wireless facility" includes telecommunications antennae and small wireless facilities but shall not include:

- a. Wireline backhaul facilities; and
- b. Coaxial or fiber-optic cable between utility poles or communications facilities that are otherwise not immediately adjacent to and directly associated with a particular antenna.

(Ord. No. 2022-1023, 10-11-22)

1201.171. WIRELESS PROVIDER. An individual, corporation, company, association, trust, or other entity or organization who:

- a. Provides services, including wireless broadband services, whether at a fixed location or mobile, to the public using wireless facilities; or
- b. Builds or installs wireless communication transmission equipment or wireless facilities, including an individual authorized to provide telecommunications service in the state.

(Ord. No. 2022-1023, 10-11-22)

1201.172. WIRELESS FACILITY, MICRO. A small wireless facility having a dimension no larger than twenty-four inches in height, fifteen inches in width, and twelve inches in depth; provided that the exterior antenna, if any, does not exceed eleven inches in length.

(Ord. No. 2022-1023, 10-11-22)

1201.173. WIRELESS FACILITY, SMALL. A wireless facility or other facility providing communications service that meets both of the following qualifications:

- a. Each communications service provider's antenna can fit within an enclosure of no more than six cubic feet in volume; and
- b. All other equipment associated with the communications service facility, whether ground- or pole-mounted, that is cumulatively no more than twenty-eight cubic feet in volume; provided that the following types of associated ancillary equipment shall not be included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

(Ord. No. 2022-1023, 10-11-22)

1201.174. WIRELESS SUPPORT STRUCTURE. A building, billboard, or any other structure in the right-of-way to which a small wireless facility is or may be attached. A “support structure” shall not include an electric transmission structure or pole.

(Ord. No. 2022-1023, 10-11-22)

1201.175. WIRELINE BACKHAUL. The transport of communications data or other electronic information by wire from wireless facilities to a communications network. The

term “wireline backhaul” shall not include wire connecting the wireless facility to the backhaul.

(Ord. No. 2022-1023, 10-11-22)

1201.176. YARD: A space established by required setbacks, unoccupied and unobstructed by structures except those specifically permitted.

- A. YARD, FRONT:** A yard situated between the front building line and the front lot line extending the full width of the lot.
- B. YARD, REAR:** A yard situated between the rear building line and the rear lot line and extending the full width of the lot.
- C. YARD, SIDE:** A yard situated between the side building line and the side lot line and extending for the front yard to the rear yard.

1201.177. ZONE: A specifically delineated area or district within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.