

City of York Zoning Ordinance - Table of contents

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Section 1 - Purpose and authority

Purpose: The zoning regulations and districts herein set forth have been made with a comprehensive plan and are intended to lessen traffic congestion, preserve the integrity of the neighborhoods, provide safety for the residents, promote health and general welfare, provide regulations for building configurations, determine the area of yards and open spaces, prevent overcrowding of land, and facilitate adequate provisions for transportation, water, sewer, schools, churches, parks, and other requirements.

Authority: The provisions of this ordinance are adopted under the authority granted by Title 6, Chapter 29 of the code of Laws of South Carolina. Authority is given to the York City Council to be the authority in matters brought before the city related to the zoning regulations and districts as herein defined, except for cases which may be appealed to the Board of Zoning Appeals.

Section 2 - Jurisdiction

The regulations and provisions found in this ordinance shall apply to all properties located within the corporate limits of the City of York and any other areas under the zoning jurisdiction of the York City Council at the adoption of this ordinance. The boundaries of the areas zoned are shown on the official zoning map.

In the event authority is granted the York City Council outside the corporate limits of the City of York, then all regulations contained herein shall apply to that area.

The Planning Commission shall receive all applications for zoning changes and make recommendations on such applications to the City Council as described in Section - 20 of this ordinance.

Section 3 - Definitions

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

All words used in the present tense include the future tense. All words in the plural number include the singular number, and all words in the singular number include the plural number. The word “shall” denotes mandatory action

Accessory. A use of structure customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or uses or structure, but not to include the operation of a boarding or tourist home.

Adult Day Care Facility. A facility, licensed by DHEC, for adults eighteen years of age or older, which offers in a group setting a program of individual and group activities, experiences, and therapies. The program is directed toward providing community based care for those in need of a supportive setting for less than twenty-four hours a day, thereby preventing unnecessary institutionalization and shall provide a minimum of four and a maximum of fourteen hours of operation per day. The term “adult day care facility” shall not be considered synonymous with the terms “foster home”, “half-way house”, “boarding home”, “residential care facility”, “nursing home”, or “group care home”.

Adult Entertainment. Any business, which wholly or in part provides entertainment in which persons appear in a state of nudity in a public place. A public place is defined as all outdoor places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquets halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied. (See **Section.14 General & Supplemental regulations (Sexually-oriented businesses)**)

Alley. A secondary way which affords access to the side or rear or abutting property.

Alteration of building. Any change in the supporting members of a building (such as bearing walls, columns, or girders), any addition or reduction to a building, any change in use, or any relocation of a building from one location or position to another.

Auction business. The sale of goods or real estate by means of exchanges between an auctioneer and members of an audience, the exchanges consisting of a series of invitations for offers made by the auctioneer, offers by members of the audience, and the acceptance by the auctioneer of the highest or most favorable offer.

Automobile service station. Buildings or premises on any parcel or lot where gasoline, oils and greases, batteries, tires and automobile accessories may be supplied and dispensed at retail (or in connection with a private operation), where no part of the premises is used for the storage of dismantled or wrecked vehicle parts, and also where the following services may be rendered, and none other:

Tire repair and servicing, but not recapping;

Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, floor mats, seat covers, wiper blades, windshield wipers, grease retainers, and wheel bearings;

Radiator cleaning and flushing;

Washing and polishing;

Greasing and lubrication;

Exchanging fuel oil pumps and installing fuel lines;

Minor servicing and replacing of carburetors;

Emergency wiring repairs;

Adjusting and repair of brakes;

Minor adjustment of engines, not involving removal of the head or crankcase, or racing the motor;

Sale of cold drinks and packaged foods, as accessory only to the principal operation.

Bed and breakfast. A dwelling with historic character or part thereof having the following characteristics:

- a. Provides lodging to boarders including three or fewer rooms;
- b. Has a common dining area where meals are served primarily to its boarders.

Boarding house. A dwelling in which at least four (4) persons are provided with meals for compensation, but in which no sleeping accommodations are provided for compensation. See **tourist home**.

Building. Any structure having a roof supported by columns or walls intended for shelter, housing or enclosure of persons, animals, chattels, or property of any kind. The word “building” includes the term “structure”.

Building height. The vertical distance from the finished grade to: **(a)** The highest point of a flat, gable, hip or gambrel roof, or **(b)** the deck line of a mansard roof.

Exceptions To Height Requirement: *chimneys, steeples or spires, fire or parapet walls, flagpoles, communication towers (per requirements of Section.14), water tanks and standpipes.*

Building line. That line which represents the distance a building or structure must be set back from a lot boundary line or a street right-of-way line. See Section. 10 for setback requirements

Building official. The person so designated by the York City Manager

Building, principal. A building in which is conducted the principal use of the lot on which said building is situated.

Care home. A rest home, nursing home, convalescent home, home for the aged, or similar use established and operated on a profit or nonprofit basis to provide lodging and/or domiciliary care for aged, infirm, chronically ill, or convalescent persons.

Cemetery. A place used, dedicated, or designated for cemetery purposes, including any or combination of:

1. Perpetual care cemetery;
2. Burial park for earth interment;
3. Mausoleum;
4. Columbarium;

Clinic. An establishment where medical or dental patients, who are not lodged overnight, are admitted for examination or treatment.

Childcare center. A child care center shall mean or include any home, center, agency, or place, however styled, where children not related to the operator are received for custodial care apart from their parents, whether for compensation, reward, or otherwise, during part or all of the day or night and upon any number or successive days or nights.

Columbarium. A structure or building substantially exposed aboveground intended to be used for the interment of the cremated remains of a deceased person.

Dwelling. A building or portion of a building, other than a mobile home, designed for or occupied for residential purpose.

Dwelling, attached. A single-family dwelling attached to two (2) or more single-family dwellings by common vertical walls.

Dwelling, detached. A dwelling which is not attached to any other dwelling by any means.

Dwelling, garden apartment. A multifamily dwelling up to three (3) stories in height.

Dwelling, semi-detached. A single-family dwelling attached to one (1) other single-family dwelling by a common vertical wall, and each dwelling located on a separate lot.

Dwelling, patio house. A one-family dwelling on a separate lot with open space setbacks on three (3) sides and with a court. The term is synonymous with zero (0) lot line dwellings.

Dwelling, quadruplex. Four (4) attached dwellings in one (1) structure in which each unit has two (2) open space exposures and shares one (1) or two (2) walls with adjoining unit or units.

Dwelling, single-family. A building containing one (1) dwelling unit.

Dwelling, single-family, detached. A dwelling which is designed for and occupied by not more than one (1) family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

Dwelling, townhouse. A single-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more common fire-resistant walls.

Dwelling, mobile home. A structure transportable in one (1) or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets this definition. The term "mobile home" shall not include the term "modular building or structure" as herein separately defined, or the term "recreational vehicle" or "camping trailer".

Dwelling, multifamily. A dwelling containing more than two (2) dwelling units.

Dwelling, triplex. A dwelling containing three (3) dwelling units, each of which has direct access to the outside or to a common hall.

Dwelling, two-family. A structure on a single lot containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

Dwelling unit. One (1) or more rooms within a dwelling constituting a separate, independent housekeeping establishment for use on a basis involving owner occupancy or rental or lease on a weekly, monthly or longer basis, with provision for cooking, eating and sleeping, and physically set apart from other rooms or dwelling units in the same structure.

Drive-in. A retail or service enterprise wherein service is provided to the consumer on the outside or inside of the principal building, or both. The term "drive-in" includes drive-in restaurants and dairy bars, theaters, banks, laundries, food stores, or car washes.

Family. One (1) or more persons occupying a single dwelling unit, provided that all members are related by blood or marriage; provided, further, that domestic servants employed on the premises may be housed on the premises.

Family day care home. A family day care home is one in which care is given in a family during the day only for one (1) and not more than seven (7) children, including the day care parent's own children.

Fencing. Any manner of enclosing, screening, or buffering any property.

Flea Market. A business venture renting, leasing, and subleasing spaces and buildings to dealers and others similarly situated engaged in retail and whole sale selling of goods, merchandise and wares, both new and used, to the general public.

Garage, private. An accessory building or portion of a principal building used for the private storage of motor vehicles as an accessory use and similar maintenance tools used in yard care.

Garage, public. Any garage, other than a private garage, which is used for storage, minor repair, rental, servicing, washing, adjusting or equipping of automobiles or other motor vehicles.

Garage, repair. A building and premises designed or used for purposes indicated under "automobile service station" or major commercial repairs or both; provided that body work and painting shall be conducted within fully enclosed buildings and there shall be no open storage of junk, wrecked vehicles, dismantled parts or supplies visible beyond the premises.

Guest house. Living quarters situated within a detached or semidetached accessory building located on the same premises with the principal building. Such quarters shall: (1) be used only by a bona fide nonpaying guest or relatives of the occupants of the premises; and, (2) not be rented or otherwise occupied as a separate dwelling. Cooking facilities are permitted.

Home occupation. An occupation or profession conducted within a dwelling for pecuniary gain by members of a family residing in such dwelling, but not including the operation of tourist homes or boarding homes; provided that physicians, surgeons, dentists and other members of medical professions operating as home occupations receive approval of their sanitary facilities by the South Carolina State Board of Health. Requires a special permit from Planning Commission.

Hotel. A building or buildings in which sleeping accommodations in ten (10) or more rooms, with or without meals, but without separate cooking facilities, are provided and offered to the public for compensation, and which is open to transient or permanent guests. The word "hotel" includes the terms "motel", "tourist court", "airtel", and "boatel".

Junk/salvage yard. The use of any part of a lot, whether inside or outside of a building, for the storage, keeping, abandonment, sale or resale of junk, salvage or scrap materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles, machinery, equipment, or parts thereof.

Livestock. Domestic animals kept for use on a farm or raised for sale or profit.

Loading space, off-street. Space logically and conveniently located for pickups and deliveries scaled to delivery vehicles expected to be used, and accessible to such vehicles when the required off-street parking spaces are filled.

Lot. A parcel of land of varying size, which is designed as a single unit of property. Unless clearly indicated otherwise, the word "lot", when used alone in this ordinance, shall mean a "zoning lot" as herein defined.

Lot Area. The area within perimeter property lines of respective lot (exclusive of area within street, highway, or road right-of-way).

Lot, corner. A lot located at the intersection of two (2) or more streets. Any zoning lot adjoining a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees (Lot A in Illustration A, Appendix).

Lot, depth. The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

Lot, interior. A lot, other than a corner lot, which has frontage on only one (1) street other than an alley.

Lot of record. An area designated as a separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed as filed in the official records of the clerk of court's office.

Lot, through. A lot, other than a corner lot, which has frontage on more than one (1) street other than an alley.

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

Lot, zoning. A parcel of land that fronts on a designated accepted street and that has the minimum area required by these regulations for a lot in the respective zoning district within which such parcel of land is located. The parcel of land may be used for principal use(s), accessory uses(s), yards, and/or open spaces that are allowed by this ordinance. A lot of record may or may not be a zoning lot.

Massage therapist. A person, licensed as required by Title 40, Chapter 30 of the Code of Laws of South Carolina, who administers massage therapy for compensation.

Massage therapy establishment. The application of a system of structured touch of the superficial tissues of the human body with the hand, foot, arm, or elbow whether or not the structured touch is aided by hydrotherapy, thermal therapy, a massage device, human hands, or the application to the human body of an herbal preparation.

Mausoleum. A structure or building substantially exposed aboveground, intended to be used for the entombment of the remains of a deceased person.

May. The word "may" is permissive and not mandatory.

Mobile home. See Section 8.C.

Mobile home park. See Section 8.C.

Mobile home subdivision a subdivision of property into 5 or more individual parcels for the intended purpose of installing a mobile home on each such parcel.

Modular building or structure. A structure or building including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building, and not designed for ready removal to another site. The term is applicable to all buildings or structures, including residential, commercial, industrial, institutional, etc. When meeting the requirements of the "Modular Building's Construction Act" (23-43 of the South Carolina Code of Laws), said building or structure may be located in any of the city's several zoning districts.

Nonconforming use. A building, structure, or parcel of land lawfully occupied by a use that does not conform to the regulations of the zoning district in which it is situated. Such nonconforming use shall cease after fifty (50) years from the date of notice of nonconformance.

Nudity. The showing of the human male or female genital, pubic area, or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region, or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

Open space. Open space is land and/or water bodies used for recreation, amenity or buffer; it shall be freely accessible to all residents of a development, where required by this ordinance. Open space shall not be occupied by buildings or structures, roads, parking or road right-of-way; nor shall it include the yards or lots of residential dwelling units required to meet minimum lot area or parking area requirements.

Perpetual care (cemetery). The maintenance and reasonable administration of the cemetery grounds and buildings in keeping with a properly maintained cemetery. In the event that a cemetery offers perpetual care for some designated sections of its property but does not offer perpetual care to other designated sections, the cemetery must be considered a perpetual care cemetery for the purposes of this chapter.

Person. Any individual, firm, company, partnership, association, public or private authority or corporation.

Planning Commission. The City of York Planning Commission.

Pool Hall. an establishment with two (2) or more pool tables under one (1) common roof.

Setbacks. SEE YARD

Signs. See Section 12

Special exception. A use so specified designated in this ordinance, that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would, in the opinion of the Board of Zoning Appeals, promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare.

Story. That portion of building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between the floor and ceiling next above it.

Story, half. A story in which one (1) or more exterior walls intersect a sloping roof not more than two (2) feet above the floor of such story.

Street. A dedicated public way for vehicular traffic, which may or may not afford the principal means of access to abutting property.

Street centerline. That line surveyed and monumented by the State Highway Department shall be the centerline of a street, or in the event that no centerline has been so determined, it shall be that line running midway between, and parallel to the general direction of the outside right-of-way line of such streets.

Structures. Anything constructed or erected which requires a fixed location on the ground, or which is attached to something having a fixed location on the ground, including but not limited to buildings, mobile homes, signs, walls and fences.

Tourist home or rooming house. A dwelling in which sleeping accommodations in fewer than five (5) rooms are provided or offered for the use of guests in return for compensation. Any dwelling in which accommodations are offered in the (10) or more rooms shall be deemed to be a "hotel" as herein defined. The use of a dwelling as a tourist home shall be considered neither an accessory use nor a customary home occupation.

Trailer. Any vehicle or structure capable of moving or being moved over streets and highways on its own wheels or on flatbeds or other carriers, which is designed or utilized to: (1) provide temporary or permanent quarters for the conduct of a business, profession, trade or occupation; (2) serve as a carrier of people, new or used goods, products or equipment.

Used. Such term shall also include "designed, arranged or intended to be used or occupied".

Variance. A modification of the strict terms of this ordinance if granted by the Board of Zoning Appeals where such modification shall not be contrary to the public interest and where, owing to conditions peculiar to

the property and not as a result of any action on the part of the property owner, a literal enforcement of this ordinance would result in unnecessary and undue hardship; provided, however, that no variance shall be granted which shall authorize a land use not otherwise permitted in a particular district.

Vested Rights See Section.15 Nonconforming uses

Video Poker Establishment (Video Poker Game Machine Establishment). Any establishment where one or more, but more than five (5) electronic video poker game machines that, upon insertion of a coin or cash or token purchased for coins or cash, are available to play or simulate the play of games utilizing video display and microprocessor in which a player may receive fee games or credits that can be redeemed for cash. The building housing the video poker establishment must be a single building under one roof and must meet all City of York building codes and ordinances.

Yard (setback). . A required open space located on the same lot as the principal building. The setback shall be unoccupied and unobstructed from the ground to the sky except for the following:

- Trees and shrubs; and
- Fences or walls, subject to height limitations; and
- A maximum two-foot (2') allowance for building overhang; and
- Uncovered stairway serving primary or accessory buildings; and
- Encroachments, utilities, and accessory uses otherwise expressly permitted.

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

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

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

Section 4 - Official Zoning Map

The boundaries of the various zoning districts have been indicated on the official zoning map. Such map shall be known as the “Official Zoning Map of the City of York, South Carolina” and shall be certified by the signatures of the mayor, city manager, and the members of the Planning Commission. The official zoning map is hereby made a part of this ordinance. All changes to the district boundaries shown on the official zoning map shall be certified by the signature of the mayor, Planning Commission and the city manager.

Section 5 - Intent of Districts

- 1) Each district is established as a specific and exclusive zoning district, and only those uses that are listed as permitted are allowed. If a particular use of the land is not mentioned for a certain district, that use shall be prohibited for that district unless the change is by official amendment approved by City Council.
- 2) When uncertainty exists with respect to the boundaries of districts as shown on the official zoning map, the following shall apply:
 - a. ***Delineation.*** District lines are generally intended to be along or parallel to property lines, lot lines, center of streets, alleys, railroads, easements, other rights-of-way, and creeks, streams, or other water channels. In the absence of specified distances on the map, dimensions, or districts shall be determined by scaling the distance on the official zoning map.
 - b. ***Board of Zoning Appeals.*** The Board of Zoning Appeals shall hear and rule on any disputes and shall interpret any discrepancies in district boundaries.
 - c. ***Increase or reductions of boundaries.*** The entire land area within the corporate limits of York shall be zoned under the provisions of this ordinance. When the total land area under the jurisdiction of the York City Council is increased or reduced by annexation or any other means as approved by the City Council, the zoning district boundaries shall be adjusted in the following way:
 - When the change results in an increase in land area, all the regulations herein stated shall apply to such addition.
 - When the change results in reductions in land area, the provisions of this ordinance shall no longer apply to such land area.
 - In all cases, additions or reductions in land area shall require changes to be incorporated in the official zoning map by the York City Council.
- 3) Annexation of territory. Where property had not been specifically included within a district, or where territory has become a part of the city by annexation, such areas shall automatically be classed as being in the R-15 Residential District, except that at the time the application for annexation is filed, the applicant(s) may request an alternative zoning classification. Such a request must be submitted to the Planning Commission for study and recommendation to City Council in accordance with the procedural requirements for amendments generally. City Council shall then specify an interim zoning district classification or classifications in the annexation ordinance with such classification or classifications to become effective upon the effective date of annexation.
- 4) Gateway Corridor Overlay District regulations. Applicable annexed property shall be incorporated into the Gateway Corridor Overlay District

Section 6 - Establishment of Districts

For the purpose of this ordinance, the areas under the jurisdiction of the York Planning Commission and the City Council are hereby divided into eleven (11) districts designated as follows:

R15 -	restricted residential district	IU -	institutional use district
R7 -	residential district	PUD -	planned unit development district
R5 -	multifamily residential district	B1 -	central business district
MH -	mobile home parks district	HC -	highway commercial district
TU -	transitional use district	GI -	general industrial district

Section. 7 Application of Regulations

The various zoning district regulations established and identified in this ordinance shall be the minimum requirements necessary to comply with the purpose of this ordinance; therefore, except as hereinafter provided.

- 1) No lot shall be reduced in size so that total area, lot width, necessary yards or other open spaces, lot square footage per dwelling unit or other requirements of this ordinance are not maintained.
- 2) No new building shall be erected, altered or moved to create front yards, side yards, rear yards, or other open spaces narrower or smaller than required by this ordinance for the zoning district in which such building is located.
- 3) No permit for the use of any lot which is smaller in total area than the minimum size permitted for the district within which it is located shall be issued unless such lot was legally and properly recorded prior to the passage of this ordinance; or as provided under the “hardship” provisions of this ordinance.
- 4) The following land uses are expressly prohibited within the city limits of York:
 - (a) Asphalt plant
 - (b) Concrete plant
 - (c) Adult entertainment
 - (d) Truck terminal
 - (e) Bulk storage of petroleum, petroleum products, and chemicals

In addition to the specific penalties provided in this ordinance, it is hereby declared that any building, portion of a building, or enclosed place regularly used for the prohibited display of public nudity is a public nuisance, subjecting the owner proprietor or other operator thereof to any and all actions authorized by the State of South Carolina for the abatement of public nuisances.

CONSTRUCTION AND SEVERABILITY - It is the intention of the City of York that the provisions of this ordinance be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights consistent with the purposes of this ordinance. Should a court of competent jurisdiction determine that any part of this ordinance or any application or enforcement of it is excessively restrictive of such rights or liberties, then such portion of the ordinance, or specific application of the ordinance, shall be severed from the remainder, which shall continue in full force and effect.

PENALTY - Whoever violates this ordinance, either by commission of a public indecency, or by the promotion or maintenance of public indecency as property owner, proprietor or manager of a business, shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of not more than \$500, or be imprisoned for not more than 30 days, or both. Each day such violation continues is a separate offense.

That all Ordinances and parts thereof conflicting herewith be and the same be hereby repealed

SECTION 8 - ZONING DISTRICTS

R-15 Restricted Residential District

- 1) **Purpose:** It is the intent of this section that the R-15 single-family zoning district be developed and reserved for low-density residential purposes. The regulations which apply within these districts are to encourage the formation and maintenance of a healthy, stable environment for one-family dwellings situated on zoning lots having an area of fifteen thousand (15,000) square feet or more, and to deny any use by commercial, industrial, or other uses which would adversely affect the residential character of the district.

- 2) **Permitted Uses:**
 1. One-family dwelling (other than mobile homes and doublewides, which are not permitted).
 2. Home occupations, in strict accordance with the provisions set forth in this section.
 3. Non-commercial horticulture or agriculture, but not including the keeping of poultry or livestock.
 4. Accessory uses in compliance with the provisions of this section
 5. Private clubs for the purpose of golf, tennis, swimming, and similar recreational activities, providing all structures are set back from the property lines a minimum of fifty (50) feet, no lights shine on adjacent residential property, off-street parking requirements are met, and the facility does not detract from the residential character of the neighborhood.
 6. Public Parks or recreation facilities.
 7. Schools
 8. Churches
 9. Bed and breakfast tourist house.

- 3) **Conditional uses:** Temporary limited use of a trailer or mobile home may be permitted if the primary residence is destroyed by fire or act of God. Such temporary use requires a special temporary use permit from the Planning Commission, and such permit shall expire one (1) year after date of issuance.

- 4) **Temporary uses:**

Contractor's office and equipment sheds or trailers for a period not to exceed twelve (12) months, provided that such office and equipment shall be placed on the property to which it is appurtenant.

All temporary permits of occupancy required for paragraphs C. and D .shall bear a stamp stating "temporary use".

- 5) **Off - street parking:**
 1. Off-street parking shall be provided in accordance with the provisions of Section 11
 2. Provide off-street parking for all vehicles domiciled or to be domiciled at that location.

R-7 Residential District

- 1) **Purpose:** It is the intent of this section that the R-7 single-family zoning district be developed and reserved for a slightly higher population density than permitted in the R-12 district. The principal use of land is for single-family and two-family dwellings and for related recreational, educational, and religious facilities required to provide an attractive and stable residential area. The regulations of this district are intended to deny any use by commercial or industrial facilities that would adversely affect the residential character of the district.

- 2) **Permitted Uses:**
 1. Any use permitted in the R-15 residential district:
 1. Single-family dwelling (other than mobile homes that are not permitted).
 2. Accessory uses allowed by the Zoning Ordinance
 3. Home occupations in strict accordance with provisions set forth by the Zoning Ordinance.
 4. Non-commercial horticulture or agriculture but not including the keeping of poultry, livestock, etc.
 5. Private clubs for the purpose of golf, tennis, swimming, and similar recreational activities, providing all structures are set back from the property lines a minimum of fifty (50) feet, no lights shine on adjacent residential property, off-street parking requirements are met, and the facility does not detract from the residential character of the neighborhood.
 6. Public Park or recreation facility.
 7. Public school
 8. Church
 9. Bed and breakfast tourist house.
 2. Duplex
 3. Boarding or tourist houses
 4. Family day care home
 5. Cemeteries

- 3) **Conditional uses:**
 1. Temporary limited use of a trailer or mobile home may be permitted if the primary residence is destroyed by fire or act of God. Such temporary use requires a special temporary use permit from the Planning commission, and such permit shall expire one (1) year after date of issuance.
 2. Private kindergarten or preschool nursery provided that plans for such facilities receive the written approval of the South Carolina Department of Social Services and the York Planning Commission.

- 4) **Special exception:** Cluster housing in accordance with the provisions set forth in the Zoning Ordinance.

- 5) **Temporary uses:**

Contractor's office and equipment sheds or trailers for a period not to exceed twelve (12) months, provided that such office and equipment shall be placed on the property to which it is appurtenant

- 6) **Dimensional requirements** – See Section .10

Note: Each property that has received final plat approval by the city between January 1, 1998 and December 7, 2004 shall be exempt from the current minimum lot size and frontage requirements. In such situations, the minimum lot size and frontage requirements in place at the time of final plat approval shall govern. Such exemption shall expire ten (10) years from the date of final plat approval for each development or on December 31, 2009, whichever is later.

7) Off-street parking:

Off-street parking shall be provided for all vehicles domiciled at the location (at a minimum, the parking provisions of Section.11 shall be met).

R-5 Multifamily Residential District

- 1) **Purpose:** The purpose of this district is to permit a variety of multifamily residential uses and variable densities in certain areas of the City deemed suited to and with market potential for such uses. This designation is applied principally to undeveloped areas where unit and density flexibility will not adversely affect existing residential subdivisions, and where the housing market can be sufficiently broad and flexible to meet the various demands for housing
- 2) **Nonconforming uses:**
 1. Within the R-5 district, any use listed in item C. that exists in a building or on a premise may continue in accordance with the nonconforming use standards of the Zoning Ordinance.
 2. Each property that has received final plat approval by the City between January 1, 2001 and December 7, 2004 shall be exempt from the current minimum lot size and frontage requirements. In such situations, the minimum lot size and frontage requirements in place at the time of plat approval shall govern. Such exemption shall expire ten (10) years from the date of final plat approval for each development or on December 31, 2009, whichever is later.
- 3) **Uses allowed by special exception:**
 1. Multifamily residential uses such as:
 - a. Two-family (duplex)
 - b. Multiples (triplex and quadplex)
 - c. Townhouse apartments/condominiums
 - d. Multifamily, including garden apartments and condominiums
 2. Accessory uses allowed by the Zoning Ordinance
 3. Public schools
 4. Public parks
 5. Public recreation facilities
 6. Private clubs for the purpose of golf, tennis, swimming, and similar recreational activities, provided that all structures are set back from property lines of a minimum of fifty (50) feet, no lights shine on adjacent residential property, off street parking requirements are met, that the facility does not detract from the residential character of the neighborhood, and all other requirements of the City of York are met.
 7. Church
 8. Nursing home
 9. Child care center
 10. Adult day care facility
 11. Single family dwelling

The Planning Commission shall review and make a recommendation to the Board of Zoning Appeals on each such application. In making a recommendation and decision on each such application, the Planning Commission and Board of Zoning Appeals shall use as guidelines the Planned Unit Development regulations (PUD) and special exception regulations as well as any other material deemed pertinent by the City.

4) Dimensional requirements – See Section. 10

For existing projects currently under development in a R5 district, the minimum setbacks required under the original project approval shall govern the continued development of the project. In conjunction with Table X of the Zoning Ordinance, the absolute minimum side setback shall be 5-feet.

R-12 Residential District

- 1) **Purpose:** It is the intent of this section that the R-12 zoning district be developed and reserved for a slightly higher population density than permitted in the R-15 district. The principal use of land is for single-family dwellings and for related recreational, educational, and religious facilities required to provide an attractive and stable residential area. The regulations for this district are intended to deny any use by commercial, industrial, or other uses which would adversely affect the residential character of the district.

- 2) **Permitted uses:**
 1. One-family dwelling (other than mobile homes and doublewides, which are not permitted).
 2. Home occupations, in strict accordance with the provisions set forth in this section.
 3. Noncommercial horticulture or agriculture, but not including the keeping of poultry or livestock.
 4. Accessory uses in compliance with the provisions of this section.
 5. Schools
 6. Churches

- 3) **Conditional uses:** Temporary limited use of a trailer or mobile home may be permitted if the primary residence is destroyed by fire or act of God. Such temporary use requires a special temporary use permit from the Planning Commission, and such permit shall expire one (1) year after date of issuance.

- 4) **Temporary uses:**

Contractor's office and equipment sheds or trailers for a period not to exceed twelve (12) months, provided that such office and equipment shall be placed on the property to which it is appurtenant.

All temporary permits of occupancy required for paragraphs C. and D. shall bear a stamp stating "temporary use".

- 5) **Off-street parking:**
 6. Off-street parking shall be provided in accordance with the provisions of Section 11.
 7. Provide off-street parking for all vehicles domiciled or to be domiciled at that location.

Gateway Corridor Overlay District

1. **Definition** - The Gateway Corridor Overlay District is defined as follows:

- a. Any property wholly or partially within a 250-foot radius of any of the following intersections shall be considered, in its entirety, a part of the overlay district
 - Intersection of Devinney Road and Highway 321 South
 - Intersection of Highway 161 and Highway 5 Bypass
 - Intersection of Highway 49 and Highway 5 Bypass
 - Intersection of Lincoln Road and Highway 5 Bypass
 - Intersection of Highway 321 North and Highway 5 Bypass
 - Intersection of Business 5 and Highway 5 Bypass
 - Intersection of Business 5 and Highway 321 Bypass
 - Intersection of Highway 49 and Highway 321 Bypass
- b. For the following specified corridors, any property within 500 linear feet of the street right-of-way shall be considered a part of the overlay district.
 - Corridor on East Liberty Street from intersection of Highway 161 and Highway 5 Bypass to Flint Street.
 - Corridor on Highway 321 North from intersection of Highway 321 North and Highway 5 Bypass northward to the last property within the city limits
 - Corridor on Highway 321 south from the onset of the city limits northward to Old Pinckney Road
 - Arrow Road
 - Alexander Love Hwy (Hwy 5 Bypass)
 - Old York Road (Hwy 161)
 - Highway 49 (Sharon Road) from Highway 321 Bypass westward to the city limits
 - Highway 5 West from Alexander Love Highway westward to the city limits.
- c. Any proposed project partially in the Gateway Corridor Overlay District shall be governed by the Gateway Corridor Overlay District requirements for the entire project.

2. **Annexation.**

For properties outside the city limits of York that otherwise would be included in the Gateway Corridor Overlay District, a specific designation for such properties shall be established on the Official Zoning Map. Upon annexation of any such property, the property shall be incorporated into the Gateway Corridor Overlay District.

3. **Applicability.**

The provisions of Section 13 are applicable to all types of new development, as well as existing properties that have changed in use. For multiple-tenant properties, each tenant space shall be

responsible for a proportionate share of landscaping on the property. Such property uses include, but are not limited to:

- Businesses
- Rental properties
- Residential properties converted into commercial uses
- Single-family residences or apartments not built to be occupied by owners
- Entrances to subdivisions
- Parking areas
- Any alteration of any lot or structure
- For clearing of wooded property, landscaping regulations

4. Exclusions

The Gateway Corridor Overlay district is not applicable to the following types of development

- 1) Owner-built, occupied-upon-completion, single family residences
- 2) Pre-existing buildings and properties that have not changed in use or ownership

5. General regulations.

- a. Signage regulations shall be as specified in Section 12
- b. Landscaping regulations shall be as specified in Section 13
- c. Each building façade, support column, etc for primary and accessory buildings shall have a brick, textured-block, or other exterior finish approved on special exception by the Board of Zoning Appeals. The roof(s) for accessory structures shall match the appearance of the primary building roof.
- d. Properties having street frontage in a Gateway Corridor shall provide trees a maximum of thirty feet (30') on center along such street frontage. The exact location and species of such trees shall meet the approval of staff and the Planning Commission
- e. A 75-foot minimum setback from major streets for properties in the Gateway Corridor Overlay District shall be enforced. A minimum twenty-five (25) foot setback shall be maintained from all other streets. The setback shall be measured from the centerline of the subject street. The setback area (preservation corridor) along the Highway 5 Bypass shall be increased from 150-feet to 200-feet. The requirement of the additional 50-feet of preservation corridor shall expire once York County officially certifies that the Highway 5 Bypass road-widening project is complete
- f. Access points shall be provided via public street, right of way, easement or other means approved by the City of York. Each zoning lot shall provide street access per the following requirements:
 - 1) Each proposed driveway shall be located a minimum of 300-feet from the intersection of two (2) or more streets or from an existing driveway. The 300-foot requirement may be reduced by the Planning Commission for secondary streets. Let it be noted that no driveway on a secondary street shall be located closer than 300-feet from the intersection of a major street. Major streets are those explicitly mentioned in the Gateway Corridor regulations”.
 - 2) Where a property has less than 600 ft of street frontage, a single access point shall be allowed.
 - 3) Where a property has 600 ft or more of street frontage, a maximum of two (2) access points is allowed. Requests for additional access point(s) are allowed only by special exception from the Board of Zoning Appeals.

- 4) Any access point shall be located a minimum of 150 ft. from any property line unless an access point is centered on a shared property line. The minimum separation between access points shall be 300 ft.
- 5) Where deceleration lanes are required in accordance with SCDOT standards, a 400-foot minimum spacing is required between drives (measured centerline to centerline or from the intersecting right-of-way lines of public streets to the centerline of a curb cut).
- 6) All lots existing on or before the adoption of these regulations that cannot meet the minimum curb cut spacing are guaranteed one access point. Pre-existing, contiguous lots under the same ownership that cannot accommodate the minimum access point separation requirements shall be provided with access points along shared property lots spaced to provide maximum separation of such access points.
- 7) Minimum spacing between median cuts on arterial roads with a divided median shall be 1,320 feet.
- 8) SCDOT deceleration lanes are required for single or combined uses that generate driveway/road volumes (trip ends) of 300 or more vehicles in the peak hour as determined using standard Institute of Transportation Engineers (ITE) trip generation rates for the subject land use(s). Additional development that will push a project over the 300 vehicle threshold will also require the installation of a SCDOT deceleration lane. This standard shall also apply to public streets constructed in order to access development(s).
- 9) Prior to preliminary approval of any subdivision plat affecting the GCOD, the above-referenced regulations shall be applied to the property(s) to ensure that pertinent zoning requirements are met.

MH - Mobile Home Park District

1). Purpose: The intent of the MH mobile home district is to provide a residential environment sufficient to meet the needs unique to inhabitants living in mobile homes, to protect mobile home parks from encroachment by incompatible uses, and to encourage the consolidation of mobile homes into mobile home parks. Any mobile home park within the city limits of the City of York or within additional areas under the jurisdiction of the York Planning Commission shall henceforth be located in conformity with the regulations set forth herein.

2). Permitted uses:

- 1) Mobile homes
- 2) Mobile home service buildings and areas providing laundry, sanitation, and managerial facilities.
- 3) Recreation buildings and area serving only the mobile home district in which they are located
- 4) Customary accessory buildings and facilities

3). Definitions:

Mobile home. Any vehicle or similar portable structure having a metal frame, built to US Department of Housing and Urban Development code specifications, and so designed and constructed as to permit single-family occupancy for dwelling or sleeping purposes. The term “mobile home” includes the term “house trailer” and shall include structures which have been converted from a portable unit to a semi-stationary or stationary structure.

Mobile home park. Premises designed to provide for mobile homes parked on a single lot and used for living or sleeping purposes, or where spaces are set aside or offered for sale or rent for use by mobile homes for living or sleeping purposes, including any land, building, structure or facility used by occupants of mobile homes on such premises.

Mobile home space. A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

4). Plan approval: Before any area shall be zoned as a mobile home park district, a development plan for the district shall be approved by the South Carolina Department of Health and Environmental Control and then the York City Council, upon recommendation by the York Planning Commission. The plan shall include but not be limited to:

1. The general location and dimensions of construction of proposed streets, driveways, curb cuts, entrances and exits, and parking (including number of parking spaces).
2. Location and size of service buildings and areas.
3. The general location of mobile home parking spaces, setback lines, easements, and a generalized land use plan.
4. Location and size of recreation areas.
5. Location and type of screening fences, hedges, or other buffers.
6. The proposed title of the project and the name of the engineer, architect, designer, or landscape architect, and the developer.
7. The north point, scale, and date. The scale of the site plan shall not be more than fifty (50) feet to one (1) inch.

8. Existing zoning and zoning district boundaries and proposed changes in zoning, if any.
 9. The boundaries of the property involved, the general location of all existing easements, property lines, existing streets, buildings and other existing physical features on or adjoining the project.
 10. The approximate location and sizes of existing and proposed sanitary and storm sewers, water mains, culverts, and other underground facilities in or near the project.
 11. General location, character, size and height and orientation of proposed signs, which must not conflict with the sign ordinance.
- 5) **Parking:** Parking shall be provided in accordance with the provision set forth in Section 11
 - 6) **Operating requirements:** Each mobile home court or park shall be operated in accordance with the rules and regulations of the South Carolina Department of Health and Environmental Control governing the sanitation and operation of mobile home parks in South Carolina.
 - 7) **Utility requirements.** Each mobile home shall be connected to the available water source in an approved manner and to the sanitary sewer system in an approved manner. Should either or both of these facilities not be available from the City of York, an approved type may be used
 - 8) **Certificate of Occupancy.** The certificate of occupancy shall be conspicuously posted in the office or on the premises of the mobile home park at all times.
 - 9) **[Maximum Park or court area]:** The minimum park or court area shall be five (5) acres.
 - 10) **[Maximum number of mobile homes]:** The maximum number of mobile homes per acre shall not exceed (8).
 - 11) **[Sanitary facilities]:** Sanitary sewage, storm drainage, water and refuse disposal facilities shall be required.
 - 12) **[Parking spaces]:** Parking spaces shall be paved, properly marked, and lighted.
 - 13) **[Car stops]:** Concrete curbs or other appropriate car stops shall be installed at the end of all “head-in” parking bays which are not “drive-through” type.
 - 14) **[Width of roadways]:** Roadways, which are not to be dedicated as public streets, shall have a minimum travel width of (18) feet exclusive of parking.
 - 15) **[Paving roadways]:** All roadways shall be paved with cement or asphalt.
 - 16) **[Access roadways]:** No access roadway to a mobile home park shall be located closer than one hundred fifty (150) feet to any public street intersection.
 - 17) **[Street lights at intersections]:** All roadway intersections shall be provided with a street light, and shall not be less than two hundred (200) feet apart.
 - 18) **[Setbacks in mobile home parks]:** All mobile homes in a mobile home park shall be set back not less than thirty (30) feet from an adjoining R-15 district and adequately screened from such district. Fifteen-foot setbacks shall be required for all other districts.

Section 8 - TU - Transitional Use district

1. Purpose:

The purpose of the Transitional Use district is to provide a transitional district for annexed properties that allows outright certain, low-impact land uses while only allowing higher-impact land uses through the PUD process.

2. Permitted Uses:

- a. Pasture land without the keeping of livestock or poultry;
- b. Forest area;
- c. Any other proposed development is allowed only via the PUD – Planned Unit Development District process.

MU- Mixed Use

1) **Purpose:** The purposes of the mixed use district are (1) to allow mixed uses to occupy the same general area; (2) to better bridge the differences between residential and commercial uses; and (3) to better accommodate change within those areas of the city where, due to economics or other factors responsible for change, mixed use is in evidence and transition is taking place.

2). Permitted uses:

1. All uses permitted in the R-15 single-family district, together with all applicable dimensional requirements;
2. Duplexes;
3. Guest house;
4. Residence above business use;
5. Child care centers;
6. Adult day care facility;
7. Clinics, nursing and convalescent homes;
8. Fire station;
9. Government buildings, offices and facilities;
10. Public and private schools and administrative buildings;
11. Commercial schools and schools providing adult training in any of the arts, music, sciences, drama, physical fitness, trades and professions;
12. Churches, synagogues and places of worship;
13. Museums, art galleries, armories, and libraries;
14. Funeral home (but not crematoriums);
15. Lodges and civic clubs;
16. Restaurant;
17. Commercial parking lot;
18. Retail business involving the sale of merchandise on the premises, specifically including but not limited to:
 - a. Appliance, radio, & television,
 - b. Art supplies,
 - c. Books, magazines, & newspapers,
 - d. Candy store,
 - e. Clothing,
 - f. Drug stores,
 - g. Fruit and vegetables stores,
 - h. Furniture,
 - i. Gift shop, notion, general or variety stores,
 - j. Grocery store,
 - k. Hardware store,
 - l. Jewelry store,
 - m. Paint supply,
 - n. Photographic & camera shop,
 - o. Printing shop,

- p. Sporting goods,
 - q. Toy & Hobby shop,
 - r. Tire sales and service,
 - s. Bakery,
 - t. Antique shops, provided there is no outside storage or display of goods, and any woodworking or refinishing is done within the principal building only.
19. Businesses involving the rendering of a personal service or the repair and servicing of small equipment including but not limited to:
- a. Appliance repair shop
 - b. Barber and beauty shops
 - c. Bicycle repair and sales shop
 - d. Dressmaker, seamstress, tailor
 - e. Dry cleaning and laundry facility
 - f. Furniture repair
 - g. Locksmith or gunsmith
 - h. Secretarial and telephone answering business
 - i. Shoe repair shop
 - j. Spa/fitness center
 - k. Telephone exchange
 - l. Business office
 - m. Financial institutions
 - n. Media and photo studio
 - o. Insurance and real estate agencies
 - p. Office related sales and service uses
 - q. Medical office
20. Any combination of the above may be permitted on the same lot.

3). *Uses allowed by special exception:*

- 1. Apartments, together with all dimensional requirements specified for apartments in the R5, Multi-family zoning district.
- 2. Automobile service station, provided that all gas pumps shall be set back at least fifteen (15) feet from the right-of-way line or all abutting streets and that parking and service areas be separated from adjoining residential properties by a suitable fixed planting screen, fence, or wall at least six (6) feet in height above finish grade.

4). *Dimensional requirements:*

Minimum lot size:

Residential usesRefer R-15 district
 Nonresidential uses 5,000 square feet

Minimum lot width:

Residential usesRefer R-15 district
 Nonresidential uses 40 feet

Minimum yard setbacks: Front Side Rear

Residential usesRefer R-15 district
 Nonresidential uses20ft 10ft 20ft

Maximum height: All uses.....35 feet

5). Bufferyards:

Non-residential development shall be separated from adjacent residential uses by the following minimum bufferyard requirements:

- a. A bufferyard shall be installed along each applicable side of rear property line. The side bufferyard shall extend from the front public right-of-way to the furthestmost rear property line. The rear bufferyard shall extend between the furthestmost side property lines.
- b. For each 100 feet of bufferyard, one of the following combinations (at a minimum) shall be provided:
- c. A berm and/or brick or textured block wall that is a minimum of six feet (6') tall. If a brick or textured block wall is used, it must be placed a minimum of six feet (6') from any property line. An evergreen shrub row (planted a maximum of three feet (3') on center) shall be planted along each side of the brick or block wall or at the peak of the berm (if the berm is used alone). When a block/brick wall is used, it is preferable (but not required) to plant evergreen trees in the bufferyard as well.
- d. Forty (40) evergreen trees planted six feet (6') apart with adjacent rows staggered to maximize the screening effect.
- e. Four (4) canopy trees, eight (8) understory trees, and thirty (30) evergreen shrubs.
- f. For dimensions other than 100 feet, an appropriate ratio of landscaping components shall be provided. Fractions shall be rounded to the nearest whole number. For options E.2.b and E.2.c above, a minimum 6-foot-tall privacy fence shall be installed along each applicable property line on the commercial side of the aforementioned landscaping components. The fence may be removed with City of York approval, once the aforementioned landscaping components reach a size adequate to serve as a buffer yard.
- g. The landscaping components shall meet the following minimum sizing requirements:

<u>Canopy tree</u>	1 ½ caliper 10' tall (multi-stem)
<u>Understory tree</u>	1" caliper
<u>Evergreen shrub</u>	5' tall minimum (staff shall give final approval)
<u>Shrub</u>	24 "tall (deciduous) 18" tall (evergreen) 3-gallon minimum size
- h. Tables 13-1, 2, 3 provide shrub, evergreen tree, and deciduous tree types respectively that are approved for planting within the city limits of York.
- i. Where a property line is shared by a proposed commercial development and an existing single-family dwelling, the proposed commercial development shall install along such property line a bufferyard which meets the requirements of E.2.a or E.2.b. above.
- j. The bufferyard shall have a minimum width of ten feet (10') for options listed in E.2.a above, fifteen feet (15') for option E.2.b, and eighteen feet (18') for options listed in E.2.c.

IU - Institutional Use District

1). Purpose:

1. It is the intent of this section that an Institutional Use Zoning District be developed and reserved primarily for the arts, culture, entertainment, health, education and religion, all for the general public, with a minimum requirement of three (3) acres. The regulations which apply within this district are designed to encourage institutional-type buildings for the purpose of enhancing the culture, health and education of the community.
2. To ensure adequate and properly designed means of ingress, egress, and parking; and,
3. To discourage any encroachment by other zoning districts that might adversely affect the specialized character of this district.

2). Permitted uses: The following uses shall be permitted in any Institutional Use zoning district:

1. Any use permitted in R-7 Residential District, subject to standards set forth in this section
2. Other requested institutional uses by special exception
3. Any demolition, renovation, and/or new construction by an existing museum (used for meetings, archives and historic activities as well as performing and visual arts) or residential treatment facility that is associated with indoor activities within the respective organization's core mission or purpose.

3). Dimensional requirements:

Minimum lot width:

Residential uses:	Refer R-15 district
Nonresidential uses:	40 feet

Minimum yard setbacks:

	<i>Front</i>	<i>Side</i>	<i>Rear</i>
Residential uses	Refer R-15 district		
Nonresidential uses:	20'	10'	20'
Maximum height:	All uses 35'		

- 4). **Other requirements:** A buffer screen, wall or fence, six (6) feet in height, to restrict visibility of land use shall be provided along side and rear property lines adjacent to residential districts.
- 5). **Parking requirements:** Any property zoned or rezoned to Institutional Use will be exempt from parking requirements if such zoning or rezoning is accomplished prior to July 15, 1991. Thereafter, parking requirements as set forth otherwise in this ordinance must be met.

PUD - Planned Unit Development District

- 1). **Purpose.** The purposes of the planned unit development district are to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the provision of streets and utilities; and to preserve the natural and scenic features of open areas.
- 2). **District requirements:** In order to qualify as a planned unit development district, a project must meet the following minimum requirements:
 1. The site must contain not less than five (5) acres and have a minimum width between any two (2) opposite boundary lines of four hundred (400) feet, and must adjoin or have direct access to at least one (1) major street. In the case of open space boundary lines, the minimum width requirements between opposite boundary lines shall be determined by the Planning Commission.
 2. The site shall be in single ownership, or if in joint ownership, the application for amendment to the zoning ordinance shall be filed jointly by all of the owners.
 3. A site plan shall be submitted with the request for change and shall contain the following information:
 - a. The proposed title of the project and the name of the engineer, architect, designer, or landscape architect, and the developer.
 - b. The northpoint, scale and date. The scale of the site plan shall be not more than fifty (50) feet to one (1) inch.
 - c. Existing zoning and zoning district boundaries and proposed changes in zoning, if any.
 - d. The boundaries of the property involved, the general location of all existing easements, property lines, existing streets, buildings and other existing physical features on or adjoining the project.
 - e. The approximate locations and sizes of existing and proposed sanitary and storm sewers, water mains, culverts, and other underground facilities in or near the project on a topographic map using contour lines at appropriate intervals.
 - f. The general locations and construction dimensions of proposed streets, alleys, driveways, curb cuts, entrances and exits, parking and loading areas (including numbers of parking spaces).
 - g. The general location of proposed lots, setback lines, easements, and a generalized land use plan.
 - h. The locations and approximate heights of all proposed main and accessory buildings and dimensions of structures drawn to scale.
 - i. General location, height, width and material of all fences, walls, screens, buffers, plantings and landscaping.
 - j. Proposed location and number of dwelling units for each structure.
 - k. General location, character, size, height, and orientation of proposed signs.
 - l. A location map showing the position of the proposed development in the city.
 - m. A tabulation of total number of acres in the project to be devoted to streets and other public and/or private reservations.
 4. In addition to the above, an application for a PUD district shall be accompanied by:

- a. Proposed standards for the development of the project, including restrictions on the use of property, open space, yard requirements and restrictive covenants, if any.
 - b. A statement defining the manner in which the city is to be assured that all improvements and protective devices, such as screens and buffers are to be installed and maintained.
5. The Planning Commission may establish additional requirements for site plan approval and, in special cases, may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper assessment of the project.
- 3). **Permitted uses:** Any use proposed by the developer and considered by the Planning Commission as being compatible to other nearby uses within and beyond the district may be permitted in such district, upon approval by the Planning Commission and city council. A listing of permitted uses within a particular PUD district shall be adopted as part of the regulations applying to that district. After approval by the commission and council, the list or portion thereof shall be adopted as part of the regulations applying to that particular PUD district. Thereafter, the uses permitted in the district shall be restricted to those listed, approved, and adopted.
- 4). **Private streets.** Private streets are permitted in an approved PUD, provided that such streets meet the design and construction standards of the city's subdivision ordinance.
- 5). **General design criteria and development standards.**
- 1. Overall site design shall be harmonious in terms of landscaping, enclosure of principal and accessory uses, sizes of structures, street patterns, and use relationships. Variety in building types, heights, facades, setbacks, and size of open spaces shall be encouraged.
 - 2. To encourage the use of this district and permit flexibility in form, most development standards are waived and higher densities permitted. The following design standards serve as parameters beyond which development flexibility is not permitted. They are applicable to the aggregate project site, not individual parcels or buildings.

Maximum height.....	No specific limit; however, project must be compatible with surrounding development
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Maximum density.....	16 units per net acre
Required open space.....	25% of project area

Front property line setbacks from:	
Major street.....	50 feet
Minor street.....	25 feet
Other property line setbacks.....	30 feet from residential district, 10 feet from all other districts

- 3. Parking, loading, and other requirements for each PUD district shall comply with the requirements of Section.11 of this ordinance. Areas designated for parking and loading or for traffic ways shall be physically separated from public streets by suitable barriers against unchanneled motor vehicle ingress and egress. All uses shall be located at least fifty (50) feet from the intersection of any street lines and shall be designed in a manner conducive to safe ingress and egress. Access points to public streets shall be a minimum of two hundred (200) feet apart.

6). **Administrative procedures:**

Step I. Submission of application to Building Official, review, and conference.

Thirty (30) days prior to a regularly scheduled meeting of the Planning Commission at which the PUD request is to be submitted, applicant or owner shall submit to the Building Official a complete site plan for study. The administrator and other agencies, as appropriate, shall review the proposal for compliance with the comprehensive land use plan and the regulations herein, the objectives of the district, and the suitability of the site for the proposed project.

Following such study, unless complete conformity is found, the applicant shall be notified of any discrepancies and of the willingness of the administrator and other appropriate officials to confer for the purpose of assisting in bringing the material submitted as nearly as possible into conformity with requirements and/or to define specific modifications of regulations that seem justified in view of the proposal.

If the applicant does not desire to participate in such conference, the administrator shall base his report to the Planning Commission and council on the application as received.

If the applicant joins in such conference, changes may be made in the original proposal, further conferences may be held, and additional material may be requested to guide in determinations. In the course of such conferences, any recommendations for change shall be recorded in writing, with reasons therefore, and shall become part of the record in the case. Applicant shall indicate, in writing, his/her agreement to such recommendations, or his/her disagreement and reasons therefore; such response by applicant shall also be included in the record.

Step II. Action by Building Official

At the conclusion of the review, the administrator shall report to the Planning Commission regarding:

Type of PUD proposed, physical characteristics of the land, relation of the proposed development to surrounding areas and existing and probable future development;

Relation to major roads, utilities, and other facilities and services;

Adequacy of evidence of unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments, or in the need for such instruments, or for amendments in those proposed;

The suitability of plans proposed, or the desirability of amendments, with reasons therefore; and,

Desirable specific modifications in regulations as applicable in the particular case based on determinations that such modifications are necessary or justified in the particular case by demonstration that the public purposes of the PUD district or other regulations would be met to at least an equivalent degree by the proposal of the applicant.

Based on such findings, the administrator shall recommend approval of the PUD amendments as proposed, approval conditioned on specific stated modifications; or disapproval, with recorded reasons therefore.

Step III. Actions by Planning Commission and Council

The Planning Commission shall render a recommendation regarding a Planned Use Development application within 195 calendar days of the initial public meeting regarding the particular application. If action is not taken by the Planning Commission within the prescribed time-period, the application shall be forwarded to City Council for action (Revised 9/02/08).

If the application is approved, the development shall be required to be in accord with the approved PUD, meeting the requirements of these and other regulations, as supplemented or modified by Council in the particular case as part of the amendment action, and shall conform to any time or priority limitations established by Council on beginning and completion of the development as a whole, or in specified stages.

In taking action to amend the zoning map to establish the approved PUD, Council shall pass upon the adequacy of the application, in form and substance relative to any agreements, contracts, deed restrictions, sureties, or other instruments involved; and before development may proceed, such instruments shall be approved by appropriate officers and agencies.

Step IV. Final action on approved PUD amendment

Once a PUD district is established on the official zoning map, no building permit shall be issued therein unless the Building Official has approved plans and reports for the development as a whole or stages or portions thereof deemed satisfactory in relation to the total development. The form and content of such plans and reports shall be as prescribed in zoning, subdivision regulations, or other regulations involved generally, and in rules of other affected agencies.

Upon approval, building permits shall be issued in the same manner as for building permits generally, provided that any requirements concerning the order and location in which building permits are to be issued in the particular PUD district shall be observed. Except as provided below, all plans and reports approved shall be binding on the applicants and any successors in title so long as the PUD zoning is applicable.

Step V. Changes in approved plans

Minor changes in approved final plans and reports may be approved by the Building Official only upon findings identical to those required for original approval. Major changes shall be approved subject to further amendatory action only.

B1- Central Business District

- 1). **Purpose:** It is the intent of this section that the B-1 zoning district be developed and reserved for local or "Main Street" oriented business purposes. The regulations which apply within this district are intended to (1) encourage the formation and continuance of a stable, healthy, and compatible environment for uses that are located so as to provide nearby residential areas with convenient shopping service facilities; (2) reduce traffic and parking congestion; (3) avoid the development of "strip" business districts; and, (4) discourage industrial and other encroachment capable of adversely affecting the localized commercial character of the district.

- 2). **Permitted uses:** Retail business involving the sale of merchandise on the premises, specifically including but not limited to:
 1. Antique store
 2. Appliance, radio, television store
 3. Art supply store
 4. Book, magazine, newspaper store
 5. Bank
 6. Barber and beauty shops
 7. Building material supplier
 8. Candy store
 9. Clothing store
 10. Drug store
 11. Fruit and vegetable store
 12. Grocery store
 13. Guest house
 14. Funeral home
 15. Motel
 16. Residence above business use
 17. Hardware store
 18. Gift shop
 19. Furniture store
 20. Government office
 21. Insurance and real estate agencies
 22. Newspaper office
 23. New and used automobile sales
 24. Jewelry store
 25. Telephone office
 26. Tire sales and service
 27. Hobby, toy store
 28. Sporting goods store
 29. Notion, five- and ten-cent, general, or variety store
 30. Paint supply store
 31. Printing shop
 32. Photographic and camera stores
 33. Church
 34. Fire station
 35. Adult day care facility
 36. Restaurant

Businesses involving the rendering of a personal service or the repair and servicing of small equipment including but not limited to:

1. Doctors' and dentists' offices
2. Bicycle repair and sales shop
3. Appliance repair shop
4. Dressmaker, seamstress, tailor
5. Dry cleaning and laundry facility
6. Furniture repair
7. Locksmith or gunsmith
8. Schools offering instruction in art, music, dance, drama, physical fitness
9. Secretarial and telephone answering business
10. Shoe repair shop
11. Bakery
12. Telephone exchange
13. Spa/fitness center
14. Theater (not drive-in)
15. Youth center (dancing and music for citizens under eighteen [18] years of age without alcoholic beverages being served)

3). **Conditional uses:** The following uses shall be permitted in the B-1 district on a conditional basis:

1. Auto accessory store, provided that there shall be no storage or wrecked automobiles or scrapped or salvaged auto parts on the premises.
2. Automobile service station, provided that all gas pumps shall be set back at least fifteen (15) feet from the right-of-way line or all abutting streets and that parking and service areas be separated from adjoining residential properties by a suitable fixed planting screen, fence, or wall at least six (6) feet in height above finish grade.
3. Contractors' offices provided no storage of vehicles, equipment, or materials on the premises.
4. Pet shop, provided that all animals shall be housed within the principal building so that no sound is perceptible beyond the premises.
5. Residential dwelling units shall be allowed with the exception that street-front tenant spaces be used solely for approved commercial uses. This conditional use is not allowed in Highway Commercial or General Industrial zoning districts.

4). **The following uses are allowed by special exception:**

1. Club, lodge, civic, fraternal, social, or similar nonprofit organization
2. Bowling alley
3. Massage therapy establishment

The uses allowed by special exception are subject to the following restrictions:

1. The Board of Zoning Appeals shall determine the minimum distance separation between each of the referenced uses and a cemetery.
2. At no time shall the minimum measurement be less than 250 feet.
3. Any site plan submitted for such a referenced use shall indicate the location of any adjacent cemetery.

The distance shall be determined by measuring the shortest straight-line distance between the structure housing said use and the property line of the designated cemetery.

- 5). ***Off-street parking:*** Off-street parking shall conform to requirements in Section.11, except buildings in existence on the date of the adoption of this ordinance amendment in this district are exempt from the requirements of Section.11. Providing, however, any addition, attached or unattached, to the existing building or any use of the unimproved portion of the land that reduces available parking space shall require the replacement of the lost parking space in accordance with Section 11, *Parking*.
- 6). ***Signs:*** Signs permitted in B-1 zoning district, including the conditions under which they must be located are set forth in Section 12.

HC - Highway Commercial District

1). Purpose: It is the intent of this section that the HC zoning district be developed and reserved primarily for commercial uses, which render a service or cater to tourists, vacationers, truckers, and the traveling public in general. The regulations which apply within this district are designed to (1) encourage the formation and continuance of a compatible environment for highway oriented uses; (2) ensure adequate and properly designed means of ingress and egress; and, (3) discourage any encroachment by industrial or other uses capable of adversely affecting the specialized commercial character of the district.

2). Permitted uses: The following uses shall be permitted in HC zoning district:

1. And use permitted in any B-1 zoning district, subject to standards set forth in this section
2. Animal hospital and/or boarding facility
3. Horticultural nursery
4. Repair garage
5. Research or experimental laboratory
6. Transportation terminal
7. Funeral home
8. Private care home
9. Spa/fitness center
10. Theater (not drive-in)
11. Putt-Putt Golf
12. Skating rink
13. Youth center (dancing and music for citizens under eighteen (18) years of age without alcoholic beverages being served)
14. Baseball batting cage
15. Golf driving range
16. Automatic car wash
17. Communication services
18. Sewing room
19. Cabinet-making shop
20. Adult day care facility

3). Conditional uses: The following uses shall be permitted in any HC zoning district on a conditional basis:

1. Any use permitted on a conditional basis in any B-1 zoning district, subject to standards set forth in this section.
2. **Dealerships**, new and used automobiles, recreation vehicles, boat trailers, and utility trailers; provided that:
 1. Stock shall be parked no less than five (5) feet from adjoining property lines and fifteen (15) feet from edge of right-of-way.
 2. There shall be no storage of wrecked or dilapidated automobiles or scrapped or salvaged auto parts on the premises.
 3. **Automotive wrecker service**; provided that no wrecked vehicle shall be stored on the premises outside a fenced area. The fenced area shall be screened from public view. A six foot-high fence or wall shall enclose the area and the area shall be paved or graveled, with no grass to grow in the storage area. Maximum time limit of storage shall be thirty (30) days.

The date the wrecked vehicle is received shall be marked on each unit with at least four-inch high numbers. No other parts or items may be stored in the area.

4. **Flea Markets**, provided that:

An existing building shall meet the following requirements:

- a. The buildings shall be completely enclosed; and
- b. Any exterior opening shall be equipped with a door/window; and
- c. Exterior sales areas shall be located to the rear of said building(s); and
- d. All outdoor sales equipment shall be removed at the end of each day; and
- e. Permanent restroom facilities shall be provided in the enclosed building(s).

Newly proposed building(s) shall meet the above referenced requirements as well as the following:

- a. The exterior finish for building walls shall be brick and/or textured block; and
- b. The building(s) shall be provided with a roof that has a minimum slope of 4/1, is covered with raised seam metal or asphalt shingles, and has a gable style.

5. **Auctions**, provided that:

- a. All sales and storage shall be conducted within building interior;
- b. The sale of livestock shall not be permitted;
- c. Noise level shall not exceed normal levels;
- d. All operations shall cease no later than 11:30 pm;
- e. Required areas for parking shall at least be graveled.

4). *Uses permitted by special exception:* The following uses shall be permitted in any HC zoning district by special exception by the Board of Zoning Appeals.

1. Machine shops
2. Facility used for developing and producing measurement devices (comprised of plastic or other non-hazardous materials) used for environmental protection purposes.
3. Club, lodge, civic, fraternal, social, or similar nonprofit organization.
4. Bowling alley
5. Game room/arcade
6. Liquor store
7. Nightclubs, taverns, lounges, and dance halls, providing such establishments acquire approval of all regulatory agencies and bodies. A nightclub, tavern, lounge, or dance hall is described as a business establishment catering to the general public providing music and/or dancing and/or game type amusements and which may or may not provide alcoholic beverage or food
8. Massage therapy establishment
9. Pool hall

The uses allowed by special exception are subject to the following restrictions:

1. The Board of Zoning Appeals shall determine the minimum distance separation between each of the referenced uses and a cemetery.
2. At no time shall the minimum measurement be less than 250 feet

3. Any site plan submitted for such a referenced use shall indicate the location of any adjacent cemetery.

The distance shall be determined by measuring the shortest straight-line distance between the structure housing said use and the property line of the designated cemetery.

5). Other requirements:

1. A suitable buffer screen, wall or fence, six (6) feet in height, to restrict visibility of land use shall be provided along property lines adjacent to residential districts.
2. Illumination devices shall be so placed and so shielded that rays there-from will not be directly cast into any residential district, sleeping room in any district, or the eyes of vehicle drivers.

6). Yard and setback requirements:

Minimum front yard setbacks..... 25 feet

Minimum side yard setbacks..... 10 feet

Except for commercial condominium projects, which shall be allowed to share interior property lines; provided that a 30-foot setback shall be required on the end units; further provided that such projects (buildings) shall not exceed 400 feet in length. Where the side yard abuts a residential district, a 10-foot setback shall be provided.

Minimum rear yard setbacks:

From residential uses..... 25 feet

From all other uses..... 10 feet

GI - General Industrial District

- 1). **Purpose:** It is the intent of this section that the GI zoning district be developed and reserved for general industrial purposes. The regulations which apply within this district are designed to encourage the formation and continuance of a compatible environment for all types of industrial, warehouse, terminal, laboratory and open yard storage operations or concerns and to discourage any encroachment by residential developments or other uses capable of adversely affecting the industrial character of the district.
- 2). **Permitted uses:** The following uses shall be permitted in any G-I zoning district:
 1. Any industrial use which involves manufacturing, processing, or assembly operations, or the storage and sale of materials, products or equipment, but not including junk or salvage yards or uses which may cause injurious or obnoxious noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, dangerous chemicals or radiation, or other conditions objectionable to adjacent or nearby areas.
 2. For any property that is contiguous to or lies within the City's Local Historical District and is located in a General Industrial zoning district, the exterior storage, sales or display of materials is prohibited (2/3/15 Ord. 15-561).
 3. Warehouse
 4. Research or experimental laboratory
 5. Transportation terminal
 6. Public building, facility or land
 7. Public utility installation
 8. Bulk storage of petroleum or petroleum products
 9. Repair garage
 10. Office building and/or offices for governmental, business, professional, or general purposes.
 11. Commercial trade or vocational school
 12. Off-street commercial parking lot or garage, as well as off-street parking or storage area for customer, client, or employee-owned vehicles
 13. New and used car sales
 14. Any use permitted in the Highway Commercial District, subject to the standards set forth in that district.
 15. Hospital and nursing home, and any residential and religious use of connected therewith; medical clinic; doctors' and dentists' offices; and any medical inpatient or outpatient facility.
 16. Adult day care facility
- 3). **Conditional uses:** The following uses shall be permitted in any GI zoning district on a conditional basis:
 2. **Automobile service station**, provided that **(a)** all pumps shall be set back at least fifteen (15) feet from the right-of-way line of any street; and **(b)** that there shall be no open storage of any type in conjunction with the operation.

3. **Wholesale business outlet**, provided that there shall be no open storage of junk or salvage materials of any type in conjunction with the operation.
4. **Commercial, retail business**, provided that such business shall involve no open storage of any kind.
5. **Truck terminal**, provided that (a) paved acceleration and deceleration lanes at least ten (10) feet in width and one hundred (100) feet in length, respectively, shall be furnished and maintained where trucks enter or leave terminal sites located adjacent to major streets or controlled access highways; (b) no safety hazard or impediment to traffic movement shall be produced on any access road; and, (c) no open storage of any type shall be conducted in connection with the operation.
6. **Watchman or caretaker's dwelling**, provided that (a) such dwelling shall be located on the premises of a permitted use; and (b) the head of the household is employed by the industry as a watchman or caretaker.
7. **Automotive wrecker service** provided that no wrecked vehicle shall be stored on the premises outside a fenced area. The fenced area shall be screened from public view. A six-foot-high fence or wall shall enclose the area and the area shall be paved or graveled with no grass allowed to grow in the storage area. Maximum time limit of storage shall be thirty (30) days. The date the wrecked vehicle is received shall be marked on each unit with at least four-inch-high numbers. No other parts or items may be stored in the area.
8. **Private daycare centers**, provided that such center is operated by business and for benefit of employees of the business.
9. **Video poker establishments**, subject to the following conditions:
 - a. No video poker establishment use is permitted within 300 feet of the same type use or establishment. With respect to another same type use or establishment (video poker establishment), the distance shall be measured from one such establishment to the second such establishment measuring from the nearest entrance of the first such establishment by following the shortest route of ordinary pedestrian or vehicular traffic along the public thoroughfare to the nearest point of entrance to the second such establishment. With respect to measuring the distances as set forth above, no person shall build and/or construct a fence, wall, or other obstruction in order to lengthen the "shortest route" method of measurement as set forth above in this section.
 - b. No video poker establishment conditional use is permitted within 300 feet of any church, synagogue, and house of worship, school, kindergarten, playground, park, residence, or residentially zoned district. With respect to a church, synagogue, house of worship, school, kindergarten, playground, park, residence, or residentially zoned district, the distance shall be measured from the nearest entrance to the video poker establishment by following the shortest route of ordinary pedestrian or vehicular traffic along the public thoroughfare to the nearest point of entrance to the grounds of any building housing any church, synagogue, house of worship, school, kindergarten, playground, park or residence, whichever is the closer. With respect to a residentially zoned district, the distance shall be measured from the nearest entrance to the video poker establishment by following the shortest route of ordinary pedestrian or vehicular traffic along the public thoroughfare to the nearest point on the boundary line of the residential zoned district. With respect to measuring the distances as set forth above, no person shall build and/or construct a fence, wall, or other obstruction in order to lengthen the "shortest route" method of measurements as set forth above in this section.
 - c. The requirements and provisions of non-conforming status are contained in Section.15.

- d. The owner or operator of any location of a video poker establishment operating in violation of any provision of this conditional use section of the City of York Zoning Ordinance shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than \$100.00 and not more than \$500.00, plus all authorized costs and assessments, or imprisoned for not more than 30 days. Each day of operation shall constitute a separate violation.

10. **Mini-warehouse/storage facility**, subject to the following conditions:

- a. The minimum distance between a mini-warehouse/storage building and a residential zoning district shall be 25 feet
- b. The minimum setbacks for mini-warehouse/storage buildings shall be 25 feet from the front street right-of-way, 10 feet from each side property line and 25 feet from the rear property line.
- c. A fence shall be constructed around the perimeter of the mini-warehouse/storage facility property. The fence shall be constructed of brick, textured block, wrought iron, or black chain-link fence material. The fence span directly in front of the mini-warehouses shall be constructed of wrought iron and/or brick. The fence span along the rear of the property may be constructed of standard chain-link fence.

d. Landscaping shall be installed which meets the following design standards:

- (1) A bufferyard shall be installed along the outside of the fence perimeter facing a street, road, or highway. For each 100 feet (100') of bufferyard, the following minimum number of components shall be planted: three (3) canopy trees, three (3) under story trees, and thirty (30) shrubs. The landscaping components shall meet the following minimum sizing requirements:

Canopy tree.....2" caliper (single stem) 10 ' tall (multi-stem).

Under story tree.....1" caliper

Shrub.....24" tall (deciduous) 18" tall (evergreen).

The tree planting requirements may be waived by the Planning Commission upon written verification that the trees will interfere with utility service. If a waiver is granted, a suitable alternative to the tree planting shall be presented to and reviewed by the Planning Commission

- (2) One tree at each building termination is required.

- e. The front façade shall be constructed of brick masonry or textured block, and sides and rear shall be constructed of brick, textured block, or metal siding manufactured for metal buildings
- f. The roofing material shall consist of asphalt shingles or raised seam metal.
- g. The driving surfaces shall be paved
- h. Each building shall be numbered with minimum six (6) –inch-high letters or numbers at the end of each building and above each door.
- i. The Planning Commission shall review the site plan for the proposed project in light of the following factors:
 - (1) The need for berms on the property (due to elevation differences on the property)
 - (2) The storm water retention provisions
 - (3) The security lighting for the property

- (4) Availability of utility serviced at the site
- (5) Any other factor deemed pertinent

11. **Salvage operation**, based on the following conditions:

- (1) A salvage operation shall have at least one building with a minimum area of 200,000 square feet integrally involved with the salvage operation. A building shall be defined as completely enclosed by floor, wall and roof systems.
- (2) An accessory fenced-in area is allowed only to the rear of the building(s) required in “a” above. Within the fenced-in area, vehicles shall not be stacked; and due consideration shall be given to the location of taller scrap vehicles.
- (3) If fencing is to be used in accordance with “b” above, the following fencing specifications shall be adhered to:
 - a. Fence facing street or side property line: Brick, block with decorative finish, or other fencing materials approved by the Planning Commission;
 - b. Fence facing rear property line: brick, block with decorative finish, chain link, or other fencing materials approved by the Planning Commission.

In any event, the fence shall be a minimum of eight feet (8') in height and be designed to provide complete visual separation of properties.

- (4) The building housing the storage area shall be located a minimum of 150 feet from any public street right-of-way and 50 feet from any property line.
- (5) The property shall be maintained in such a way as to prevent the creation of conditions constituting a nuisance.

12. **Flea Markets**, based on the following conditions:

- a. An existing building shall meet the following requirements:
 - (1) The buildings shall be completely enclosed;
 - (2) Any exterior opening shall be equipped with a door/window;
 - (3) Exterior sales areas shall be located to the rear of said building(s);
 - (4) All outdoor sales equipment shall be removed at the end of each day; and
 - (5) Permanent restroom facilities shall be provided in the enclosed building(s)
- b. Newly proposed building(s) shall meet the above referenced requirements as well as the following:
 - (1) The exterior finish for building walls shall be brick and/or textured block; and
 - (2) The building(s) shall be provided with a roof that has a minimum slope of 4/1, is covered with raised seam metal or asphalt singles, and has a gable style.

13. **Auctions**, based on the following conditions:

- (1) All sale and storage shall be conducted within the building interior;
- (2) The sale of livestock shall not be permitted;
- (3) Noise level shall not exceed normal levels;
- (4) All operations shall cease no later than 11:30 pm; and
- (5) Required areas for parking shall at least be graveled.

4). Uses permitted by special exception: The following uses shall be permitted in any GI zoning district by special exception by the Board of Zoning Appeals.

- (1) Machine shops
- (2) Facility used for developing and producing measurement devices (comprised of plastic or other non-hazardous materials) used for environmental protection purposes
- (3) Club, lodge, civic, fraternal, social, or similar nonprofit organization
- (4) Bowling alley
- (5) Game room/arcade
- (6) Liquor store
- (7) Nightclubs, taverns, lounges, and dance halls, providing such establishments acquire approval of all regulatory agencies and bodies. A nightclub, tavern, lounge, or dance hall is described as a business establishment catering to the general public providing music and/or dancing and/or game type amusements and which may or may not provide alcoholic beverage or food
- (8) Private recreation facility, provided that such facility shall be (a) incidental to a permitted use; and (b) located on the same premises.
- (9) Massage therapy establishment
- (10) Pool hall
- (11) Auctions that include the sale of livestock.
- (12) Sexually-oriented businesses (see General and Supplemental Regulations)

The uses allowed by special exception are subject to the following restrictions:

1. The Board of Zoning Appeals shall determine the minimum distance separation between each of the referenced uses and a cemetery.
2. At no time shall the minimum measurement be less than 250 feet
3. Any site plan submitted for such a referenced use shall indicate the location of any adjacent cemetery.

Note: ** The distance shall be determined by measuring the shortest straight-line distance between the structure housing said use and the property line of the designated cemetery.

Section 9 - Historical District Overlay

- 1). **Authority.** The Historic District overlay is adopted under authority of South Carolina Code paragraphs 6-29-870 and 6-29-940.
- 2). **Purpose.** The Purpose of the Historic District Ordinance is to enhance, through planning and the review process, all proposed development in the City's officially designated historic district, the boundaries of which are shown as "Local Historic District" on the Official Zoning Map of the City of York, and to preserve and maintain the heritage of the City of York, South Carolina. This ordinance is intended to:
 - (1) Effect and accomplish the protection, enhancement, and perpetuation of such properties;
 - (2) Safeguard the City's historic and aesthetic and cultural heritage as embodied and reflected in such properties;
 - (3) Stabilize and improve property values in the historic district and contiguous areas;
 - (4) Protect and enhance the City's attraction to tourists and visitors and the support and stimulus for business and industry thereby provided;
 - (5) Strengthen the economy of the City;
 - (6) Preserve and enhance the environmental quality of neighborhoods.
- 3). **Permitted Uses:** this is an "overlay" district; as such, permitted uses are determined by the "underlay" or primary zoning district. Within the B-1 district located "under" or within the historical district, for example, only those uses permitted in the B-1 district are permitted herein, subject to the additional requirements and standards of this section.
- 4). **City Manager to prepare form letter annually and to enforce this ordinance.** The York City Council directs the city manager to prepare annually a form letter to all property owners in the historical district. the contents of this letter are to express appreciation for property preservation, to remind them of ordinance provisions, and to encourage improved maintenance.

The York City Council further directs the city manager and/or his designee to initiate appropriate municipal operations to observe and to deter action in violation of this ordinance.

The York City Council further directs the city manager, with the advice and counsel of the members of the commission established under Section E below, to develop and publish design criteria and standards upon which the commission shall rely in acting on any permit as set forth herein below. The commission shall utilize as its guidelines the US Department of the Interior "Standards for Rehabilitation," along with any additional guidelines adopted by the commission.
- 5). **City Council designation of responsibility:** The York City Council, wishing to preserve the history of the City of York, York County, South Carolina, which is found in its institutions, commercial buildings, residents, and other physical properties located within the historical district, declare that the principal intent of this ordinance is to assign and designate commitments, duties, and responsibilities to the city manager and/or his designee and a commission of nine (9) members with the following composition:
 1. Seven (7) members shall be City residents or own property in the local Historical District of the City of York;
 2. Two (2) members shall be exempt from the above-stated residency/property ownership requirements as long as the members have an identified, distinct, applicable technical ability as well as a vested interest in York. Such technical applicants may include architects, landscape architects, historical preservationists, engineers, historians, building contractors etc.

To help achieve the purpose of this district, the York City Council shall establish and appoint the York Historical Commission who will be appointed for four (4) year overlapping terms. If a vacancy occurs due to the resignation of a member, the City Council shall appoint a replacement in a timely manner to serve the remaining portion of the term. The city council will seek representation from the legal profession, architects,

realtors, developers, building contractors and historians with credible references on their interest in architectural periods from 1785, or in interior or exterior design, or the history of York, or in local historical activities in York.

The commission shall act on behalf of the city council on any permit to construct, modify, move, remove, place, improve or demolish a building or structure in the historic district. Where, within the historic district, the exterior appearance of any structure, including the demolition or relocation of such structure, or the interior of public or government buildings is involved, the city building official or appropriate county building official (as case might be) shall issue no permit for the erection, alteration, improvement, demolition or moving of such structure unless or until a certificate of appropriateness has been issued by the historical commission. The commission shall issue a certificate of appropriateness only if it finds that the proposal is, in fact, appropriate to the character, appearance, and environment of the district and meets the requirements of this ordinance. In making decisions on questions of appropriateness, the commission shall be guided by the U. S. Department of the Interior "Standards for Rehabilitation" and by other additional criteria as adopted by the commission and made public. In conference with applicants, the commission may permit modification of original proposals, if such modifications are formally acknowledged, clearly indicated and recorded. Any action by applicants following issuance of permit requiring a certificate of appropriateness shall be in accord with the approved application.

The commission shall not issue a certificate of appropriateness authorizing issuance of any permit if it finds that the action proposed would adversely affect the character and environment of the district. Where certification is denied, the commission shall record in writing its reasons for denial. Approval must also be recorded in writing.

The commission, on its own initiative, may file a petition with the City of York requesting the appropriate building official proceed under the City of York Code of Laws and under the public safety and housing ordinances to require correction of defects or repairs to any structure covered under this ordinance so that such structures shall be preserved and protected in consonance with the purpose of this ordinance and the public safety and housing ordinance.

- 6). **Organization of the Historical Commission.** The commission shall elect officers for terms of one (1) year. A Chairperson shall be elected from the membership of the commission. The Chairperson shall serve for a term of one year, or until a successor is elected. The Chairperson may be re-elected. A Vice-Chairman shall be elected and shall serve as Chairman in event of the absence of the Chairman. A Secretary shall be appointed, who may be a member of the commission or a staff member of the City of York. Minutes of board proceedings, showing the vote of each member on each question, shall be kept as public records. The board shall adopt rules of procedure and rules for hearing evidence and examining witnesses. Members of the commission may not hold another public office or position in the City of York or York County.
- 7). **Conflict of Interest.** Members of the commission with a direct personal or financial interest in a property affected by a decision of the commission shall be disqualified from participating in the decision concerning that property.
- 8). **Liability.** Members of the commission acting within the powers granted by this ordinance are relieved from personal liability for any damage resulting from commission decisions and held harmless by the City. Any legal action brought against members of the commission for decisions made by the group shall be defended by a legal representative of the City.
- 9). **Designation of Local Historic District.** The boundaries of the Local Historic District as existing at the time of the adoption of this ordinance are shown on the Official Zoning Map of the City of York. Based on historic studies, designation to the National Register of Historic Places, and historic inventories, the commission may from time to time recommend expansion of the local historic district boundaries or the designation of individual properties as historic to the City Council of the City of York. The commission shall develop criteria to use when considering properties for inclusion in the Local Historic District. The City Council shall consult the City of York Planning Commission on the designation of additional properties. As such designation represents a map amendment to the Official Zoning Map, the procedures for notification of property owners, public hearings, and adoption of the recommended amendment shall follow the procedure for amendment as set forth in the appropriate section of the Zoning Ordinance.

10. Powers and Duties of the commission. The commission shall have the following powers and duties:

- (1) Announce and conduct public meetings (at least three per year).
- (2) Produce an annual report to the City Council.
- (3) Maintain an inventory of designated historic properties within the City.
- (4) With support from City Council, undertake a historic resources survey.
- (5) Develop a process for designation of historic districts and properties.
- (6) Review nominations to the National Register of Historic Places.
- (7) Review proposed alterations, demolition, and new construction within the designated historic districts and properties for compliance with the standards of this ordinance through applications for Certificates of Appropriateness.
- (8) Develop bylaws and rules of procedure for the work of the commission.

11. Application and materials to be submitted to the commission.

In reviewing an application to construct a new structure or the addition to an existing structure, the Historical Commission shall consider the following:

1. The proposed project shall not obscure or prove otherwise detrimental to the design and appearance of an adjacent historic structure, and
2. The proposed project shall preserve (as viable points of egress) existing doors, windows and stairways on the exterior of existing, adjacent, historically-significant structures.

Applications for certificates of appropriateness shall be submitted through the office of the City Planning Director and thence to the Historical Commission for review and action. The Historical Commission shall render a decision regarding a certificate of appropriateness within seventy-five (75) calendar days of the initial public meeting regarding the particular application, or sooner, if possible.

If no action is taken by the Historical Commission at the end of seventy- five (75) days after the initial public meeting, the certificate of appropriateness application shall be deemed to have been approved. (Revised 9/10/08)

By general rule, or by specific request in a particular case, the commission may require submission of any or all of the following information in connection with the application: architectural plans, site plans, landscaping plans, proposed sign and appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structure with important relationships to public view and indications as to construction materials, design of doors and windows, ornamentation, colors and the like, photographs or perspective drawings indicating visual relationships to adjoining structures and spaces, and such other exhibits and reports as are necessary for its determination. Applications for Certificates of Appropriateness shall be signed by the owner of the property or an authorized representative. Upon review by the commission, the application shall be signed by the chairman or vice-chairman of the commission stating its approval, denial, of approval with conditions, and the reasons for such decision. The applicant shall be provided with written notification of the decision.

General certification of appropriateness for specific classes of uses may be issued by the commission if it is found that the particular materials, designs, or architectural features or styles or other characteristics are generally acceptable and appropriate within the district, and that continued detail consideration of the individual applications involving only such matters would be superfluous. In such cases, if the proper building official finds, upon examining the application, that all aspects that would otherwise require commission review are covered by general certification, he may proceed without referral to the commission, identifying the general certification in the record concerning the application.

The building official shall notify the commission of the applications approved through this process.

- 12). **Substantial Hardship.** In the event a Certificate of Appropriateness is denied, the property owner may apply for an exemption based on the substantial hardship of maintaining the property according to the design guidelines for historic properties. Substantial hardship is to be considered by the Historical Commission where one of more of the following unusual and compelling circumstances exist:

The property cannot reasonably be maintained in the manner dictated by the ordinance;

There are no other reasonable means of saving the property from deterioration, or collapse; or

The property is owned by a nonprofit organization and it is not feasible financially or physically to achieve the charitable purposes of the organization while maintaining the property appropriately.

The owner may be required to submit documents to show that he cannot comply with the design guidelines and earn a reasonable rate of return on his investment in the property. Information required may include:

Costs of the proposed development with and without modification needed to comply with the design guidelines as determined by the Historical Commission;

Structural report and/or feasibility report;

Market value of the property in its present condition and after completion of the proposed project;

Cost of the property, date purchased, relationship, if any, between seller and buyer, terms of financing;

For the past two years, annual gross income from the property with operating and maintenance expenses, depreciation, and annual cash flow before and after debt service during that time; and

Other information considered necessary by the Historical Commission to determine whether or not the property may yield a reasonable return.

- 13). **City Council directs that no certificate of appropriateness be required for:**

Repainting previously painted surfaces.

Any change in interior if it cannot be seen from the exterior (with the exception of public or government building)

Any repairs or damages caused by storm or casualty that will be returned to its state prior to the damage.

Roofing that simulates the same weight, color and material.

- 14). **Demolition.** Where demolition or removal of a structure is involved, the commission shall review the circumstances and conditions of the structure or part proposed for demolition or removal and shall determine the feasibility of preservation. If preservation is found to be physically and/or economically infeasible, issuance of the demolition or removal permit shall proceed upon certification in writing by the commission.

If preservation is found to be physically and economically feasible, the commission shall take or encourage the taking of whatever steps seem likely to lead to such preservation on the site on which the structure is located. Within twelve (12) months from date of application, unless the owner of the property agrees to an extension of the time period, or unless means acceptable to the owner and the historical commission have been found to preserve the structure, the demolition or removal permit shall be issued in writing.

- 15). **Preservation of Structures within the York Historical District**

A. Definitions:

Demolition by neglect - Neglect in the maintenance of a building resulting in one (1) or more of the following conditions:

1. Parts, components, or details of the building which are defective or deteriorated or so attached that they may fall off;
2. Defective or deteriorated foundation;

3. Defective or deteriorated floor supports;
4. Members of walls or other vertical supports that split, lean, list or buckle due to defective construction or deterioration or that are otherwise insufficient to carry imposed loads;
5. Members of ceilings, roofs, ceiling and roof supports, or other horizontal supports that are insufficient to carry imposed loads;
6. Fireplaces or chimneys which list, bulge, or settle due to defective construction or deterioration;
7. Unsafe electrical or mechanical conditions or conditions constituting a fire hazard;
8. Defective or deteriorated siding, masonry joints, windows, exterior doors, flashing, venting or any other defect or condition in the building which renders it not properly watertight;
9. Defective or deteriorated down spouts or gutters such that rain runoff is not directed off of the roof and away from the foundation; or
10. Any other defect or condition in the building which threatens the viability of the structure or any part, component, or architectural detail.

Historic District. The section(s) of the City of York corresponding to the York Historic District as defined in Section IX – Subsection 9.

Significant structure. Any structure in the Historic District that the Historical Commission (hereinafter referred to as "Commission ") reasonably considers to be historically or architecturally significant. Any parts, components, or architectural details of a significant structure which the Commission reasonably determines to be significant shall be deemed significant.

B. Procedure

1. In the event that the Commission finds that a significant structure (as defined in this article) or any significant part, component, or detail of that structure appears to be threatened with destruction or loss due to failure on the part of the property owner to properly maintain or repair the structure (in accordance with definition of "demolition by neglect", herein) the Commission shall conduct a public hearing in order to make a determination.
2. The owner of record of the subject property shall be notified according to the requirements of Section G.1 that his property appears to be threatened with destruction due to neglect and of the time and place of the public hearing.
3. The Planning Director shall inspect the property and present his findings at the public hearing. The property owner and any other interested parties may present their concerns at the public hearing. If the Commission determines that the property is being demolished by neglect, then the Planning Director in consultation with the Commission shall develop specifications for the stabilization of the property. Approval of the Commission shall be required for specifications of elements ordinarily reviewed by the Commission.

C - Penalties and remedies.

If the property owner fails to commence or complete the work as specified, the City may, at Council's direction, stabilize the structure. Any contractor employed for this purpose shall be procured in accordance with the procedures for procurement of services outlined in this article. The owner shall be notified in writing of the Commission's determination including supporting findings of fact.

D- Reimbursement to City.

The City shall then place a lien against the property with the Register of Deeds of York County for the value of the resources so expended by the City, such lien to be entered upon and enforced in the manner as provided by law.

E - Safeguards from economic hardship.

1. When a claim of undue economic hardship is made owing to the effects of this article, the Planning Director's order shall be stayed until after the Commission's determination on the claim in accordance with the procedure listed below. The Commission shall schedule a hearing on the claim at its next regular meeting, within the limitations of its procedures for application deadlines.
2. The petitioner shall present information provided for under subsection (4) to the Commission. The Commission may require that an owner and/or parties in interest furnish such additional information that is relevant to its determination of undue economic hardship. The Commission may ask staff to furnish additional information as the Commission believes relevant. The Commission shall also state which form of financial proof it deems relevant and necessary to a particular case.
3. In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained.
4. When a claim of undue economic hardship is made owing to the effects of this article, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship. Evidence may include, but not be limited to:
 - a. Nature of ownership (individual, business, or nonprofit) or legal possession, custody, and control;
 - b. Financial resources of the owner and/or parties in interest;
 - c. Cost of repairs;
 - d. Assessed value of the property and improvements;
 - e. Real estate taxes for the previous two (2) years;
 - f. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance;
 - g. Annual debt service, if any, for previous two (2) years; and
 - h. Any listing of the property for sale or rent, price asked, and offers received, if any.
 - i. For income producing properties:
 1. Annual gross income from the property for the previous two (2) years;
 2. Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed; and
 3. Annual cash flow, if any, for the previous two (2) years.
 - j. Within sixty (60) days of the Commission's hearing on the claim, the Commission shall cause to be made a finding of undue or no undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the Commission shall report such finding to the Planning Director. The Planning Director, after consultation with the City manager, may then cause to be issued an order for such property to be repaired within the time specified.
 - k. In the event of a finding of an undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under South Carolina law, loans or grants from the City, the county, or other public, private, or nonprofit sources, acquisition by purchase or eminent domain, building code modifications through the Construction Commission of Adjustment and Appeals, changes in applicable zoning regulations, or relaxation of the provisions of this article sufficient to mitigate the undue economic hardship.

F - Stabilization specifications.

Specifications for stabilization of the property shall be for permanent rather than stopgap measures. Such measures should be determined to completely forestall any further deterioration of the property. Materials and finishes should be such that no replacement/reworking or only minimal replacement/reworking will be required at any such time in the future when full rehabilitation may occur. However, the purpose of work specified under this section is to stabilize the structure rather than to render it habitable. Temporary stopgap measures may be implemented in emergency situations or where implementation of permanent measures is not feasible for emergency situations or where implementation of permanent measures is not feasible for any reason.

G - Public hearings and notification.

1. Letters and orders to be delivered to the property owner as called for herein shall be made in person or by certified mail. If the whereabouts of the owner are unknown and cannot be reasonably determined, the Planning Director shall make an affidavit to that effect, then publish such information once each week for two (2) consecutive weeks in a local newspaper. A copy of such letters and orders shall be posted in a conspicuous place on the structure and also filed with the York County Clerk of Court. Such filing shall have the same force and effect as other lis pendens notices provided by law.
2. Notice of public hearing as called for herein shall be done in accordance with procedures already established for the Board of Zoning Appeals. At the hearing, any party may appear in person or by agent or attorney.

H- Buildings unfit for human habitation.

1. The purpose of this article is to preserve significant structures which are threatened by demolition. The purpose of the City of York Code of Ordinances Article IV- Derelict Buildings, Section 8, Chapter 8, is to protect the health and safety of persons.
2. In cases where a building may be construed to be both unfit for human habitation as defined in that article and in the process of demolition by neglect, procedures and policies specified in either article shall apply, as appropriate, as determined by the Planning Director.

I - Miscellaneous.

1. It shall be unlawful for any person to remove or deface public notices placed upon the structure.
 2. The Planning Director, City Manager, members of the Commission and City Council, and any other person designated by the Planning Director who may need to inspect the property pursuant to this article may enter upon the premises for the purpose of making necessary examinations, provided such entry is made in such manner as to cause the least practical inconvenience to the persons in possession.
 3. No part of this article shall be construed in any way to impair or limit any and all powers of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- 16). **Inspection.** It shall be the duty of the proper building official of the city to inspect from time to time any work performed pursuant to a permit issued by the commission to ensure compliance with the permit.
- 17). **Quality performance of work and authority of building official to stop work not in compliance.** In the event work performed in accordance with permit issued is not in accordance with such permit, the proper building official or his designated representative shall issue a stop-work order and all work shall cease. No person, firm, or corporation shall undertake any work on such project as long as such stop-work order shall continue in effect.
- 18). **Certain work exempt from commission review.** Nothing in this ordinance section shall be construed to prevent the demolition of any structure which the proper building official shall certify in writing to the commission is required for public safety because of an unsafe or dangerous condition.
- 19). **Appeal.** In case of disapproval by the commission of any application for a certificate of appropriateness, the applicant shall have the right to appeal the decision, in writing, to the Circuit Court by filing a petition with the Clerk of Court setting forth the reasons why the petitioner feels the decision is contrary to law. The Clerk of Court is required to give immediate notice of the appeal to the Secretary of the Historical Commission. Within

thirty (30) days after notice from the Clerk of Court, the Historical Commission shall file with the Clerk of Court a certified copy of the proceedings before the commission, a transcript of testimony and evidence, and the decision of the commission, including its findings and conclusions. A decision of the Circuit Court may be appealed to the South Carolina Supreme Court.

Decisions of the building official or other official of the City of York relating to the implementation of the provisions of this article may be appealed to the Historical Commission by applicants who feel that those decisions are contrary to the article. The applicant must file a notice of appeal to the commission. An appeal stays all proceedings to enforce the action of the official, unless the official certifies that a stay would cause imminent peril to life and property. The commission must set a reasonable time for hearing the appeal, must provide public notice, and must provide written notice to parties in interest at least fifteen (15) days prior to the hearing. A party may appear in person or be represented at the hearing by an agent or attorney. The hearing shall be held in accordance with the procedural rules adopted by the commission. The commission shall provide a copy of its findings to parties of interest by certified mail and retain a copy as public record.

- 20). **Penalty for violation.** Any person, firm or corporation found to be guilty of violating any provision of this Section 9 of the City of York Zoning Ordinance shall be fined in accordance with the penalties set forth in Section 1-13 of this Code. Each day such violation shall continue will constitute a separate offense.
- 21). **Severability.** All sections and portions of sections are considered several and separate. Any section or portion thereof that might be declared unconstitutional shall not affect remaining sections and portions thereof, such remaining in full force and effect.

Section 10 - Schedule of Dimensional Requirements

MINIMUM LOT SIZE				MINIMUM SETBACK			Maximum Height (Feet)
DISTRICTS RESIDENTIAL	Lot Area (sq.ft.)	Square Feet Dwelling Unit	Lot Width at Building site & Street Frontage at Right-of-way (Feet) (j)	Front (Feet) Cul-de-sac lots, see note (j)	Side (Feet)	Rear (Feet)	
R-15 Single-Family Dwelling	15,000	15,000	80	35	10	30	35
R-12 Single-Family Dwelling	12,000	12,000	80	35	10	30	35
R-7 Single-Family Dwelling (f)	10,000	10,000	70	25	10	20	35
R-7 Two-Family Dwelling (f)	10,000	5,000	80	25	10	20	35
R-7 Cluster Housing (f)	SEE SECTION 14 (BY SPECIAL EXCEPTION ONLY)						
R-5 DIMENSIONAL REQUIREMENTS (a, c, d, e, g, h)							
Single-Family Detached Residence	PER SPECIAL EXCEPTION & PUD REGULATIONS						
Patio and Semi-Detached Residence							
Duplex							
Multiplex							
Townhouse							
Multi-Family Residence							
All Other Permitted Uses							
MH Mobile Home District (Per each mobile home)	5,000	5000	I	10	10	10	35
BUSINESS							
B-1 Central Business District (b)	1,500	750	0	N/A	N/A	N/A	35
HC Highway Commercial District (b)	1,500	800	30	See HC			
GI General Industrial District (b)	1,500	800	30	N/A	N/A	N/A	35
OVERLAY							
Gateway Corridor District	See Section 8						

Specific notes to schedule of dimensional requirements:

- (a) There shall be no minimum lot size within planned unit and cluster developments; however, the Planning Commission and Board of Zoning Appeals shall have authority for all lot designations and recreation areas and may require larger or smaller re-plotted lot sizes and/or shapes, based on the site plans submitted for a specific development.
- (b) All buildings in a shopping center shall be set back from all street right-of-way lines not less than fifty (50) feet and from side property lines abutting residential district properties not less than twenty-five (25) feet.
- (c) Accessory uses in the R-5 zoning district are limited to 15 feet in height.
- (d) Zero (0) feet between units; twenty (20) feet between end structure and side property line; no more than ten (10) contiguous units shall be attached in one (1) building.
- (e) For already approved developments in R5 districts, where side setback is less than eight (8) feet, each wall facing the common property line shall have a noncombustible material thereto and openings therein shall not exceed 20% of the wall area. Noncombustible material shall be classified by the City's adopted building code.
- (f) For R7 zoning districts, each property that has received final plat approval by the City between January 1, 1998 and December 7, 2004 shall be exempt from the current minimum lot size and frontage requirements. In such situations, the minimum lot size and frontage requirements in place at the time of final plat approval shall govern. Such exemption shall expire ten (10) years from final plat approval or on December 31, 2009, whichever is later.
- (g) For R5 zoning districts, each property that has received final plat approval by the City between January 1, 2001 and December 7, 2004 shall be exempt from the current minimum lot size and frontage requirements. In such situations, the minimum lot size and frontage requirements in place at the time of final plat approval shall govern. Such exemption shall expire ten (10) years from final plat approval or on December 31, 2009, whichever is later
- (h) For existing projects currently under development in a R5 district, the minimum setbacks required under the original project approval shall govern the continued development of the project. In conjunction with Table -10 of the Zoning Ordinance, the absolute minimum side setback shall be 5-feet.
- (i) For a mobile home district, the minimum lot frontage shall be determined by applying the minimum side setback requirement to the subject mobile home.
- (j) For cul-de-sac lots, the following shall apply:
 - The minimum street frontage shall be 35-feet at the street right-of-way, and
 - The building shall be set back at least 50-feet from the street right-of-way and to a point where the arc width is 80-feet or greater. (Revised 09/02/08)

General notes to schedule of dimensional requirements:

1. An accessory building may be located in the rear yard in residential districts, provided that it is not located closer than four (4) feet from any abutting lot line and provided it poses no health or safety hazard to the adjoining property.
2. For all properties within the city limits of York, a relocated housing unit shall not be set up unless such unit has a minimum floor area (heated) of 1000 square feet.
3. The calculation of the lot area shall not include area within a street, highway, or road right-of way.
4. Within the Gateway Corridor Overlay District, a minimum 75-foot setback from the centerline (or 25-foot setback from the right-of-way, whichever is more restrictive) of major streets and a minimum 25-foot setback from the right-of-way of other streets shall be maintained.

Section 11 - Off Street Parking Requirements

Purpose. The purpose of this article [section] is to establish off-street parking requirements and restrictions to provide unencumbered traffic flow and to maintain the integrity of the neighborhoods.

1. Vehicles without current license plates, junk cars, or parts of junk cars.

Automobiles, trucks, and trailers of any kind or type without valid license plates shall not be parked or stored on any lot zoned for residential use, unless stored in a completely enclosed building. This restriction applies also to junk cars and any part of cars and/or trucks.

2. Travel or camping trailers.

No more than one (1) travel or camping trailer per family, living on the premises, shall be permitted on a lot in any residential zone. The trailer or camper shall not be occupied temporarily or permanently while it is parked or stored except in an area zoned for mobile home park.

3. Commercial Vehicles

No commercial vehicles used for hauling explosives, gasoline, or liquefied petroleum products shall be permitted to be parked or stored in any district zoned residential.

4. Parking requirements

The required amount of parking may be provided on the same lot as is the principal building, or on a lot within five hundred (500) feet of the principal building, and such lot may be owned or leased on a long-term basis from the property owner by the occupants of the principal use. **This requirement applies to commercial or industrial buildings only.**

All establishments shall provide off-street parking for their employees equivalent to the maximum number of persons on the largest shift. Establishments shall also provide additional parking spaces in accordance with the following schedule:

AUDITORIUM OR THEATER – One (1) space for every four (4) seats

AUTOMOBILE SERVICE STATION – One (1) space for each car stored

BANK- One (1) space for each three hundred (300) square feet of floor space

BALL PARK- One (1) space for each four (4)-spectator seats

BINGO PARLOR – One (1) space for every two (2) seats, plus one (1) space for each employee on the largest shift.

BUS TERMINAL- One (1) space for each four (4) waiting room seats

CHILD CARE CENTER –One (1) space for each adult employee or attendant

CHURCH – One (1) space for each four (4) seats in the sanctuary

CLUBS- One (1) space for each two (2) active members

DRIVE-IN FACILITY- Five (5) spaces for each one hundred (100) square feet of floor area

ELEMENTARY SCHOOL – One (1) space for each vehicle owned or operated by or for the school, plus two (2) spaces for each classroom and administrative office.

FUNERAL HOME _ One (1) space for each vehicle owned and/or operated, plus one (1) space for each four (4) seats or equivalent in the largest assembly room

HIGH SCHOOL- One (1) space for every twenty (20) students

HOME OCCUPATION- One (1) space for each one hundred (100) square feet of floor space devoted to home occupation use, plus normal residential parking requirements

HOSPITAL-One (1) space for each two (2) beds

HOTEL, MOTEL, AND MOTOR COURT-One (1) space for each rental room, plus (1) space for each three (3) employees.

INDUSTRIAL MANUFACTURING AND WHOLESALE USES-One (1) space for each three (3) employees, plus one (1) visitor parking space for each ten (10) persons on the managerial staff, minimum three (3) visitor spaces.

JUNIOR HIGH OR MIDDLE SCHOOL- One (1) space for every vehicle owned and/or operated by the school, plus two (2) spaces for each classroom and administrative office.

MOBILE HOME PARK- One (1) space for each mobile home, plus one (1) space for each two (2) employees of the park.

NURSING HOME-One (1) space for each five (5) beds

OFFICE, GENERAL-One (1) space for each three hundred (300) square feet of floor space

PROFESSIONAL OFFICES-Three (3) spaces for each full-time professional

RESIDENCE - A minimum of two off-street parking spaces shall be provided. Each parking space shall have minimum dimensions of 10' X 20', be paved and usable without the removal of another vehicle. Prior to the issuance of a permit for a single-family dwelling, a plat shall be provided verifying compliance with these regulations.

RETAIL USES NOT OTHERWISE LISTED-One (1) space for every one hundred (100) square feet of floor space

ROOMING AND/OR BOARDING HOUSE-One (1) space for every two (2) rental rooms

SALES AND SERVICE ESTABLISHMENTS NOT OTHERWISE LISTED-One (1) space for every two hundred (200) square feet of floor space devoted to customer service sales and service.

5. *Definitions*

Seats, where described, are assumed to be twenty (20) inches wide

A *parking space* is defined as an area nine (9) feet by twenty (20) feet with adequate access in and out of the space

6. *Off-street loading requirements*

Loading space access for all commercial, industrial, educational, and sales and service establishments from a public street shall be provided. Number of off-street loading berths:

Square feet of Gross Floor Area	Required Number of Berths
0-25,000	1
25,000-40,000	2
40,000-100,000	3
100,000-160,000	4
160,000-240,000	5
240,000-320,000	6
320,000-400,000	7
Each 90,000 above 400,000	1 additional berth

If a use permitted within business districts abuts on an alley, such space may be utilized as the off-street loading space for that business use.

7. Curb cuts

No driveway shall be located closer than fifteen (15) feet from an intersection of a public street, as measured along the right-of-way. Driveways shall be a maximum of thirty (30) feet in width and shall be at least thirty (30) feet apart, except in residential areas.

8. Corner visibility

In all zoning districts established by this ordinance, there shall be no obstruction to visibility on any corner lot within twenty-five (25) feet of the intersection of any two- (2) right-of-way lines.

9. Paving maintenance

All off-street surfaces used by the general public for parking, driving, etc. shall be maintained in such a way that conditions detrimental to the public welfare do not exist. This regulation shall specifically not be applicable to owner-occupied single-family dwelling units.

10. Gateway Corridor Overlay District - Each proposed driveway shall be located a minimum of 300-feet from the intersection of two (2) or more streets or from an existing driveway.

The 300-foot requirement may be reduced by the Planning Commission for secondary streets. Let it be noted that no driveway on a secondary street shall be located closer than 300-feet from the intersection of a major street.

Major streets are those explicitly mentioned in the Gateway Corridor regulations.

11. Cul-de-sac

If the following conditions are met, residential cul-de-sac usage is allowed:

1. The cul-de-sac shall be designed as follows:
 - a. The minimum required paved cul-de-sac radius shall be 48 feet.
 - b. Any center island in the cul-de-sac that impairs the required minimum radius is prohibited
2. The maximum dead end length for a cul-de-sac street shall be 500-feet. The length shall be measured from the centerline of a street intersection to the center point of the cul-de-sac. Where an intermediate cul-de-sac (or roundabout) is provided such that no point on the street is further than 500-feet from a cul-de-sac or street intersection, the maximum dead end street length may be increased to 750 feet.
3. For cul-de-sac streets between 500-750 feet in length, the minimum paved street width for the entire cul-de-sac street shall be 26 feet.
4. A minimum 5-foot wide sidewalk shall be provided in an easement or street right-of-way on each side of the street and completely around the actual cul-de-sac.
5. If a green buffer is to be provided between the street and sidewalk, the minimum width of the green buffer shall be three feet.
6. For subdivisions with 100 or more lots, a maximum of 25 % of the total lots may be on cul-de-sac streets.
7. For subdivisions with 100 or more lots and access to two or more existing collector, arterial, etc streets, a minimum of 2-independent exits from the subdivision shall be provided (one exit on at least two (2) separate collector, arterial, etc streets). Where a subdivision with 100 or more lots has access to only one existing collector, arterial, etc street and where the subdivision has overall frontage of at least 300-feet on such street, two independent exits shall be provided on the existing collector, arterial, etc street.
8. All other requirements of the Zoning Ordinance and Subdivision Ordinance shall be *met*.

Section 12 - Sign Regulations

1. Purpose

The purpose or intent of this sign ordinance is to provide fair and comprehensive regulations that will eliminate confusing and unsafe signs, foster a good visual environment, and yet assure the efficient transfer of information.

These regulations are intended to enhance the City of York as a place to live, to conduct business, and to visit. It is declared that the regulation of signs within the city is necessary and in the public interest:

- a. To protect the public from damage or injury caused by, or partially attributable to the distractions and obstructions which are caused by improperly designed, constructed, installed, maintained or situated signs;
- b. To promote the public safety and welfare by regulation the location, erection, maintenance, size, and number of signs;
- c. To provide a pleasing overall environmental setting and good community appearance which is deemed vital to the continued economic attractiveness of the city;
- d. To minimize the possible adverse effects of signs on nearby public or private property;
- e. To improve the effectiveness of commercial and governmental signs;
- f. To allow signs appropriate to the character of each zoning district;
- g. To improve the effective use of signs as a means of communication in the city while preventing signs from domination the visual appearance of the area in which they are located;
- h. To enable the fair and consistent enforcement of these sign restrictions.

This sign ordinance is adopted under the zoning authority of the City of York in furtherance of the general purposes set forth in the zoning ordinance.

2. Applicability - Effect

A sign may be erected, placed, established, created, installed, or maintained in the city only in conformance with the standards, procedures, exceptions, and other requirements of this ordinance.

The effect of this ordinance, as more specifically set forth herein, is:

- a. To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a more limited variety of signs in other zones, subject to the standards and the permit procedures of this ordinance;
- b. To allow and provide for certain signs incidental to the principal use of the respective lots on which they are located and temporary signs in limited circumstances;
- c. To prohibit all signs not expressly permitted by this ordinance; and,
- d. To provide for the enforcement of the provisions of this ordinance.

3. Definitions and interpretation

Words and phrases used in this ordinance shall have the meaning set forth in this section. Words and phrases not defined in this section but defined in the zoning ordinance of the City of York shall be given the meanings set forth in such ordinance. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this ordinance.

Animated sign. Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Awning sign . A sign made of cloth, metal or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building.

Banner. Any sign of lightweight fabric or similar material that is temporarily mounted to a pole or a building by a frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners. No commercial message of any kind is allowed on a temporary banner.

Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Building marker. Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Building official. The individual within the City charged with the interpretation and enforcement of the sign ordinance.

Building sign. Any sign that is attached to any part of a building, as contrasted to a freestanding sign.

Canopy sign. Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy. Any structural protective cover that shields water from any heated area of the building shall not be considered a canopy.

Changeable copy sign. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign.

Commercial message. Any sign, wording, logo, or other representation that directly or indirectly names, advertises, or call attention to a business, product, service or other commercial activity.

Construction sign. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

Flag. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity. Allowed flags include: Flags of the United States, the State, the City, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such flag shall not exceed 60 square feet in area and shall not be flown from a pole, the top of which is more than 40' in height. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulation as such.

Flashing sign. A sign that uses an intermittent or flashing light source to attract attention.

Freestanding Sign. Any sign supported by structures or supports that are placed on, or anchored in the ground and that are independent from any building or other structure.

Home Occupation sign. A sign which identifies any occupation or profession carried on within a principal residence.

Identification sign. A sign on which only the name and address of an occupant is allowed. The only exception shall be in zoning district R-5 where multi-family units will allow numbers of buildings to be included.

Illuminated sign. A sign internally or externally lighted.

Incidental sign. A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "No Parking", "Entrance", "Loading Only", "Telephone", or other similar directives. No commercial message of any kind is allowed on an incidental sign.

Lot. Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument if record, that is recognized and intended as a unit for the purpose of transfer of ownership.

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Marquee sign. Any sign attached to, in any manner, or made a part of a marquee.

Non-commercial sign. Any sign authorized by the city zoning code may contain a non-commercial message in lieu of any other message. A non-commercial message is a message that does not direct attention to a

business operated for profit, or to a commodity or service for sale, and that complies with applicable size, lighting, and spacing requirements.

Non-conforming sign. Any sign that does not conform to the requirements of this ordinance.

Outdoor advertising display. A structure which advertises, attracts attention to, or directs persons to a business activity located on other than the premises where the structure is erected. Nationally advertised products or services shall not be deemed to be located on or carried on at the premises of local retail outlet or branch office.

Political sign. Any sign that relates to the election of a person to public office; to a political party; or relates to a matter to be voted upon at an election called by a public body.

Portable sign. Any sign not permanently attached to the ground or other permanent structure, 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 said vehicle is used in the normal day-to-day operations of the business.

Principal building. The building in which is conducted the principal use of the zone lot on which it is located. Zone lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

Projecting sign. Any sign affixed to a building or wall in such a manner that its leading edge extends more than eight (8) inches beyond the surface of such a building or wall.

Residential sign. Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.

Roof sign. 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.

Roof sign, integral. Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Setback. The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

Sign. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity, or to communicate information of any kind to the public.

Street. A strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property; including, but not limited to alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails, or other thoroughfares.

Street frontage. The distance for which a lot line of a zone lot adjoins a public street, from one lot line intersection said street to the farthest distant lot line intersecting the same street.

Subdivision sign. A sign identifying a land subdivision or planned development area. No advertising material, other than the name of the development, shall be indicated on the sign. This shall not include mobile home parks, campgrounds, or recreation vehicle parks.

Suspended sign. A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface. The only type of suspended sign allowed will be a small sign in the downtown business district that hangs from the underside of a canopy or portico to inform pedestrians of the name or address of a building or of an entrance.

Temporary sign. Any sign that is only temporarily and is not permanently mounted.

Wall sign. Any sign attached parallel to, but within eight (8) inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Window sign. Any sign, picture, symbol, or combination thereof designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Zone lot. A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.

4. Computations. The following principles shall control the computation of sign area and sign height:

- a. Computation of Area of Individual Signs. The area of a sign face shall be computed by encompassing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.
- b. Computation of Area of Multi-faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than twelve (12) inches apart, the sign area shall be computed by the measurement of one of the faces.
- c. Computation of Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction; or, (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.
- d. Computation of Maximum total Permitted Sign Area for a Zone Lot. The permitted sum of the area of all individual signs on a zone lot shall be computed by applying the formula contained in Table XII 1-5 to the lot frontage, building frontage, or wall area, as appropriate for the zoning district in which the lot is located. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage; however, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.
- e. Computation of Maximum Allowable wall signage in the Historical District: For the purpose of calculating the maximum allowable wall signage in the Historical District, only the exterior façade associated with the first floor commercial tenant(s) shall be utilized in the calculation.

5. Signs allowed on private property with and without permits.

Signs shall be allowed on private property in the city in accordance with, and only in accordance with Table XII-1. If the letter "A" appears for a sign type in a column, such sign is allowed without prior permit approval in the zoning districts represented by that column. If the letters "AP" appear for a sign type in a column, such sign is allowed only with prior permit approval in the zoning districts represented by that column. Special conditions may apply in some cases. If the letter "N" appears for a sign type in a column, such a sign is not allowed under any circumstances in the zoning districts represented by that column.

Although permitted under the previous paragraph, a sign designated by and "A" or and "AP" in Table XII-1 shall be allowed only if:

- a. The sum of the area of all building and freestanding signs on the zone lot conforms with the maximum permitted sign area as determined by the formula for the zoning district in which the lot is specified in Table XII-5;
- b. The size, location, and number of signs on the lot conform with the requirements of Tables XII-2 and XII-3, which establish permitted sign dimensions by sign type, and with any additional limitations listed in Table XII-4.

6. *Permits required*

If a sign requiring a permit under the provision of this ordinance is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of section 1.11.

No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance.

7. *Designs, Construction, and Maintenance*

All signs shall be designed, constructed, and maintained in accordance with the following standards:

- a. All signs shall comply at all times with applicable provisions of the Standard Building Code and electrical codes as adopted by the City of York.
- b. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- c. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Code at all times,

8. *Signs in the Public Right-of-Way*

No signs shall be allowed in the Public right-of-way, except for the following:

- a. ***Permanent Signs***, including:
 - (1) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
 - (2) Bus stop signs erected by a public transit company;
 - (3) Informational signs of a public utility regarding its poles, lines, pipes, or facilities.
- b. ***Temporary Signs***. Temporary signs for which a permit has been issued in accordance with Section 1.11.e, which shall be issued only for signs meeting the following requirements:
 - (1) Such signs shall contain no commercial message; and,
 - (2) Such signs shall be no more than two square feet in area
- c. ***Emergency signs***. Emergency signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within a public right-of-way.
- d. ***Signs Forfeited***. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation as outlined in Section 1.13. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such signs.

9. *Signs Exempt from Regulation under this Ordinance.*

The following signs shall be exempt from regulation under this ordinance:

- a. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- b. Any sign that is inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located;
- c. Works of art that do not include a commercial message; and,
- d. Holiday lights and decorations with no commercial message, but only between November 15 and January 15.

- e. Any freestanding, municipally-owned and maintained gateway sign that complies with the Comprehensive Plan and has been approved by City Council.

10. *Signs Prohibited Under This Ordinance.*

All signs not expressly permitted under this ordinance or exempt from regulation hereunder in accordance with any previous section (s) are prohibited within the city. Such signs include, but are not limited to:

- a. Signs located in public rights-of-way, except as described in section 1.8.
- b. Signs located in any manner or place so as to constitute a hazard to pedestrian or vehicular traffic.
- c. Sign, flags, streamers, banners, or balloons which use wind pressure or motors or mechanical devices for moving or swirling in order to attract attention to the sign.
- d. Flashing signs or devices displaying flashing or intermittent lights or lights of changing degrees if intensity, except for time and temperature signs.
- e. Any illuminated tubing or string of lights except during the Christmas season.
- f. Portable signs, including any signs painted on or displayed on vehicles or trailers and parked with the primary purpose of providing a sign not otherwise allowed.
- g. Signs copying or imitating official government signs or which purport to have official government status.
- h. Roof signs.
- i. Sign structures no longer containing signs
- j. Signs, which emit a sound, odor, or visible matter.
- k. Signs containing statements, words or pictures of obscene, pornographic or immoral character.
- l. Signs extending above the height of the building roofline features.
- m. Any sign which obstructs free ingress to or egress from a required door, window, fire escape, or other required exit way.
- n. Signs imitating traffic or emergency signals.
- o. Signs using the words “STOP”, “DANGER”, or any word, phrase, symbol, or character in a manner that misleads, confuses or distracts a vehicle driver.
- p. Signs placed on or within any public right-of-way except historical markers or those approved by the SCDOT
- q. Signs painted on or attached to any tree, fence post, rock, telephone or utility pole, or painted on the roof of any building.
- r. Abandoned or dilapidated signs.
- s. Signs advertising an activity, service, or product no longer produced on the premises where the sign is located.
- t. Signs painted directly on the wall or any other structural part of a building
- u. Signs on private property without consent of the owner.
- v. Signs in vicinity (within 300’) of historical sites or monuments, except pertaining to that particular site or monument that detract from the visibility of the historic sign.
- w. Outdoor advertising display
- x. Other signs not expressly allowed by these regulations.

11. *General Permit Procedures*

The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance.

- a. Applications. All applications for sign permits of any kind shall be submitted to the City Building Official for review on a form supplied by the City of York.
- b. Information Required. The following minimum information shall be submitted as part of the application process for a sign permit.
 - (1) Name, address, telephone number, and signature of the owner or duly authorized lessee of the premises granting permission for the construction, operation, maintenance, or displaying of a sign or sign structure.

- (2) Name, address, telephone number, city of York Business License number and signature of sign contractor, if any.
 - (3) Street address and legal description, if necessary, of premises or property upon which sign is to be located.
 - (4) The value of the sign to be installed, including installation costs.
 - (5) A sketch, blueprint, blue line print, or similar presentation drawn to scale and dimensioned, showing elevations of the sign as proposed on a building façade, awning, or canopy; provided, further, the relationship to other existing adjacent signs shall also be shown. In the case of a freestanding sign, the sketch shall include a site plan showing the sign location and any existing or proposed landscaping which is affected by such sign.
 - (6) Such other information as the Building Official may require which is necessary to verify full compliance with all applicable provisions contained in the Municipal Code of Ordinances.
- c. **Review Process for Application.** The Building Official shall review it for completeness. If the Building Official finds the application complete as specified, the application shall be processed. If the Building Official finds that the application is incomplete, the Official shall send to the applicant a notice of the specific ways in which the application is deficient, with the appropriate references to the applicable sections of this ordinance.
 - d. **Fees.** Each application for a sign permit shall be accompanied by the applicable fees.
 - e. **Issuance of permit.** The Building Official shall either:
 - Issue the sign permit, if the sign that is the subject of the application conforms in every respect to the requirements of this ordinance; or,
 - Reject the sign permit, if the sign that is the subject of the application fails in any way to conform with the requirements of this ordinance. In case of a rejection, the Building Official shall specify in the rejection the section or sections of the ordinance with which the sign is inconsistent.
 - f. **Inspection.** The Building Official shall cause an inspection of the zone lot for each permit for a new sign or for modification of an existing sign is issued during the sixth month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is complete and in full compliance with this ordinance and with all applicable building and electrical codes, the Building Official shall affix to the premises a permanent symbol identifying the sign and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with this ordinance and applicable codes, the Building Official shall give the owner or applicant notice of the deficiencies and shall allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Building Official shall affix to the premises the permanent symbol described above.
 - g. **Display of permit.** Following completion of a satisfactory final inspection, the Building Official shall issue and affix a permit to the sign. Under no circumstances may the permit tag be moved from one sign to another, nor may the sign to which it is attached be relocated to another location. If a permit tag is lost, defaced, or otherwise becomes illegible through normal wear or vandalism, a renewal application shall be submitted to the Building Official.

12. **Sign Permits- Continuing**

The owner of a zone lot containing signs requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property.

- a. **Initial Sign Permit.** An initial sign permit shall be automatically issued by the Building Official covering the period from the date of the inspection of the completed sign installation, construction, or modification through the last day of the business year for business licenses.

- b. **Sign Permit, Subsequent.** Sign permits shall be issued for twelve months. Sign permits shall be renewable annually at the same time business licenses are renewed. Renewal applications shall contain a representation by the applicant that no change in signage has been made or shall contain dimensions, drawings, and photos of any changes.
- c. **Lapse of Sign Permit.** A continuing sign permit shall lapse automatically if not renewed or if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of 180 days or more and is not renewed within 30 days of a notice from the City to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.
- d. **Assignment of Sign Permits.** A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Building Official may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.
- e. **Temporary Sign Permits (Private Property).** Temporary signs on private property shall be allowed only upon the issuance of a Temporary Sign Permit, which shall be subject to the following requirements:
 - Term.** A temporary sign permit shall allow the use of a temporary sign for a specified 30-day period.
 - Number.** Only one temporary sign permit shall be issued to the same business license holder on the same zone lot in any calendar year.
 - Other Conditions.** A temporary sign shall be allowed only in districts with the letters “AP” for Temporary Signs on Table XII-1 and subject to all of the requirements for temporary signs as noted therein.

The following temporary signs are allowed (with pertinent restrictions noted):

- (1) One (1) non-illuminated “For Sale”, “For Rent”, or “For Lease” sign not exceeding four (4) square feet in area in residential districts or ten (10) square feet in other than residential districts) defined as B1, HC and G1 zones). The sign shall be located a minimum of six (6) feet from the edge of the street pavement or on the property side of the sidewalk, whichever is farther from the edge of the street pavement. Larger sign areas may be allowed in commercial districts upon review by the Planning Commission.
- (2) One (1) non-illuminated sign, not exceeding twenty (20) square feet in area, displaying the name of the building, the contractors, the architects, the engineers, the owner, the financial selling, and development agencies, is permitted upon the premises of any work under construction, alteration, or removal. The sign must be removed once a certificate of occupancy is issued for the project.
- (3) One non-illuminated temporary subdivision sign not exceeding twenty (20) square feet in area announcing a land subdivision development is permitted on the premises of the land subdivision. The sign shall be set back not less than ten (10) feet from the right-of-way of any street or from any boundary line of the land subdivision. The sign may be erected for a period of no longer than six (6) months.
- (4) For churches and schools, an unlimited number of permitted signs is allowed.
- (5) Political Signs.
 - a. The installation of political signs shall be governed by the regulations contained in this subsection. A political sign is defined as and sign that relates to the election of a person to public office; to a political party; or relates to a matter to be voted upon at an election called by a public body.
 - b. Each political sign shall be no larger than six (6) square feet
 - c. Illumination of a political sign is not allowed.
 - d. Political signs shall not be affixed to any building tree, power pole, telephone pole, or signpost.
 - e. Political signs shall not be posted within two hundred (200’) of any building wherein a polling place is located.
 - f. Political signs shall be removed within ten (10) days after the election. A candidate who wins a

primary may leave signs in place until ten (10) days after the general election.

- g. Signs left standing in the public right-of-way after the time specified in Section 12..1.12.(5)f. may be removed by the City.

13. Violations.

- a. Any of the following shall be a violation of this ordinance and shall be subject to the enforcement remedies and penalties provided by this ordinance, by the Zoning Ordinance, and by state law:
 - (1) To install, create, erect or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
 - (2) To install, create, erect, or maintain any sign requiring a permit without such a permit;
 - (3) To fail to remove any sign that is installed, created, or erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed or;
 - (4) To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this ordinance.

Each sign installed, created, erected, or maintained in violation of this ordinance shall be considered a separate violation when applying the penalty portions of this ordinance.

- b. Violation Notice. The Building Official and duly authorized staff shall have the authority to issue a sign violation notice and shall be empowered to enter upon the premises of any person subject to this article for the purpose of enforcing the provisions herein.
- c. Violation Sticker. When a sign is installed, created, erected, or maintained in any way that is inconsistent with this ordinance, including the failure to secure a required sign permit, the Building Official shall use the following procedure:
 - (1) The Building Official shall attach a highly visible sticker reading “VIOLATION” to the face of the sign. The sticker shall include the date that it was attached to the sign and instructions to call the Planning Department to get a permit for the sign or additional information concerning compliance. It shall be unlawful for any person other than Building Official to remove the violation sticker attached to the sign.
 - (2) If within seven (7) days, the owner of the sign fails to contact the Planning Department, bring the sign into conformance with this ordinance, or get a permit for the sign the Building Official shall have the sign removed and impounded without further notice.
- d. Impoundment of Signs.
 - (1) The Building Official and other duly authorized staff shall have the authority to remove all signs, without notice to the owners thereof, placed within any street or highway right-of-way. Signs attached to trees, fence posts, telephone or utility poles, other natural features, or signs otherwise prohibited by this ordinance, and to impound them for a period of ten (10) days.
 - (2) The Owner of a sign impounded may recover the same upon the payment of fifty dollars (\$50.00) for each sign, prior to the expiration of the ten-day impoundment period. In the event that it is not claimed within ten (10) days, the Building Official shall have authority to dispose of such sign.

14. Penalties.

Any person who violates the provision of this article upon conviction shall be guilty of a misdemeanor and shall forfeit and pay such penalties as the court may decide not to exceed five hundred dollars (\$500.00) or thirty (30)

days imprisonment, or both, at the discretion of the court of each violation. Each day's continued violation shall constitute a separate offense.

Notes for Tables:

A **Allowed without a sign permit**
AP **Allowed with sign permit**

N **Not allowed**
NA **Not applicable**

Table 12-1 Permitted Signs By Type and Zoning District

<i>SIGN TYPE</i>	R-15,R-12,R-7	R-5	R7M H	MH	TU	IU	B-1	HC	I
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Freestanding

Residential	AP AP		AP	AP	AP	AP	AP	AP	AP	<i>P</i>
Other	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP
Incidental	N	N	N	N	N	AP	AP	A	A	A
Home Occupation	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP

Building

Banner	N	N	N	N	N	AP	AP	AP	AP	<i>P</i>
Building Marker	A	A	A	A	A	A	A	A	A	A
Canopy	N	N	N	N	N	N	N	AP	AP	AP
Identification	A	A	A	A	A	A	A	A	A	A
Incidental	N	N	N	N	N	AP	AP	A	A	A
Marquee	N	N	N	N	N	N	N	N	N	N
Residential	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP
Suspended	N	N	N	N	N	N	N	AP	N	N
Temporary	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP
Wall	N	N	N	N	AP	AP	AP	AP	AP	AP
Window	N	N	N	N	N	N	N	AP	A	A

Miscellaneous:

Banner	N	N	N	N	N	AP	AP	AP	AP	AP
Flag	A	A	A	A	A	A	A	A	A	A
Portable	N	N	N	N	N	N	N	N	AP	AP

Note 1: Proposed signage in the Historical District is allowed upon review by Historical Commission

Note 2: For the purpose of calculating the maximum allowable wall signage in the Historical District, only the exterior façade associated with the first floor commercial tenant(s) shall be utilized in the calculation.

Note 3: Whether by physical, electronic, or other similar means, changeable copy signage for a gas station property is allowed per the following:

1. A single, changeable copy sign is allowed for each gas station/convenience store property;
2. The maximum allowable area for a gas canopy sign shall be governed by Table 12.3 and not exceed 42.5 sq ft;
3. The specifications for a freestanding sign shall be governed by Table 12.2. and
4. The sign content shall remain constant unless manually changed and this may be done by means of physically changing the content of the signage or by remotely electronically changing the content of the signage, but such signage may not in any manner be constantly changing nor automatically updating, nor have the capacity or ability to be constantly changing nor automatically updating.

Table 12-2 Freestanding Sign Regulations

	R-15, R-12, R-7 ²	R-5 ²	R7MH ²	MH ²	TU ²	IU ²	B-1 ²	HC ²	G1 ²
Max Area (sq.ft.)	2	2	2	6	2	SE ¹	SE ¹	50	35
Max Height (ft)	3	3	3	3	3	SE ¹	SE ¹	6	6
Min. Setback (ft)	2	2	2	2	2	SE ¹	SE ¹	10	10

Number Permitted

Per Zone Lot	1	1	1	1	1	1	NA	NA	NA
Per feet of Street Frontage	NA	NA	NA	NA	NA	NA	1/400	1/400	1/1000

Note 1: Special exception by Board of Zoning Appeals

Note 2: Signage regulations for schools, churches, residential uses (other than 1 & 2 family dwellings), and legal nonconforming uses shall be determined by special exception by the Board of Zoning Appeals.

Note 3: For shopping centers and aggregate business complexes occupying the same lot, one common freestanding identification sign is allowed. Requirements for the common freestanding identification sign shall be determined by special exception by the Board of Zoning Appeals.

Note 4: Proposed signage in the Historical District is allowed upon review by the Historical Commission.

Note 5: Reference Table 12.1 note- 3

Table 12-3 Wall-mounted Sign Regulations

	R-15, R-12, R-7¹	R-5¹	R7MH¹	MH¹	TU¹	IU¹	B-1	HC³	G1³
Max Area (sq.ft.)	2	2	2	2	200	4	200	500	500
Wall Area (%)	NA	NA	NA	NA	5%	NA	5%	5%	5%

- Note 1:** Signage regulations for schools, churches, residential uses (other than 1 & 2 family dwellings), and legal nonconforming uses shall be determined by special exception by the Board of Zoning Appeals.
- Note 2:** Proposed signage in the Historical District is allowed upon review by the Historical Commission. For the purpose of calculating the maximum allowable wall signage in the Historical District, only the exterior façade associated with the first floor commercial tenant(s) shall be utilized in the calculation
- Note 3:** Signage for facades larger than 10,000 sq ft. In area shall be approved by special exception by the Board of Zoning Appeals when the proposed wall signage exceeds 500 sq. ft. In no case shall the wall signage exceed 5% of the façade area.
- Note 4:** Incidental neon signs are allowed in the B1 and Historical District zoning classifications subject to the following:
- 1) Limit one (1) sign per business;
 - 2) Signs are to be no larger than two square feet in total size;
 - 3) Signs are to be displayed on the inside of the window or door;
 - 4) All lighting within the sign is to be constant; i.e., no flashing, blinking or any other motion of light.
- Note 5:** Reference Table 12.1 note-3.

Table 12-4 Sign Characteristic Regulations By Zoning District²

	R-15, R-12, R-7	R-5	R7MH	MH	TU	IU	B-1	HC	G1
Changeable Copy	N	N	N	N	SE ¹	SE ¹	AP	AP	AP
Illumination, internal	N	N	N	N	SE ³	SE ¹	N	AP	AP
Illumination, external	N	N	N	N	SE ¹	SE ¹	AP	AP	AP
Illumination, exposed (Bulbs or Neon)	N	N	N	N	N	N	N	N	N
Animated	N	N	N	N	N	N	N	N	N

- Note 1:** By special exception by Board of Zoning Appeals
- Note 2:** Proposed signage in the Historical District is allowed upon review by the Historical Commission.
- Note 3:** Internal illumination of wall signage is allowed as long as the subject wall façade faces a code-defined major street and the property is not adjacent to a R15, R12, R7, R5 or MH zoning district.
- Note 4:** Reference Table 12.1 note-3.

Table XII-5 Maximum Total Sign Area Per Zone Lot by Zoning District ¹

The maximum total area of all signs on a zone lot, except incidental, building marker, and identification signs and flags, shall not exceed the lesser of the following:

	R-15, R-12, R-7	R-5	R7MH	MH	TU	IU	B-1	HC	G1
Maximum Number of Total Square Feet	4	4	4	8	6	6	250	550	535
Square Feet of Signage per Linear Foot of Street Frontage	NA	NA	NA	NA	NA	NA	1	1	1

Note 1: Proposed signage in the Historical district is allowed upon review by the Historical Commission.

Note 2: Due to requirements of “Note 3”, Table 12-3, the Board of Zoning Appeals may allow larger areas by special exception.

Section 13- Landscaping Regulations

1.1 *Intent and Objectives*

1. The intent of this chapter is to improve the appearance of properties and parking areas; to protect, preserve, and promote aesthetic appeal; to promote public health and safety through the reduction of noise pollution, air pollution, and visual pollution.
2. Landscaping includes not only trees, shrubbery, grass and ground cover, but also such streetscaping as open paving stones, benches, fountains, and exterior light fixtures.
3. Any existing natural landscape character shall be preserved whenever possible. Preservation of trees and other landscaping is the goal, rather than destruction of existing trees or plant life. The planting of vegetation common to the immediate environment is required to ensure proper plant life development and maturation.
4. The landscaping ordinance is an affirmative action ordinance in that it is designed to improve the appearance of any and all properties and parking areas.

1.2 *Jurisdiction*

The requirements of this chapter shall apply to all land within the corporate limits of the City of York.

1.3 *Applicability*

1. Section 13 is not applicable to the following types of development:
 - a. Single-family residences that are occupied upon completion by the property owner that constructed the residence.
 - b. Pre-existing buildings and properties that have not changed in use or ownership
2. The provisions of Section 13 are applicable to all types of new development, as well as existing properties that have changed in use or ownership. For multiple-tenant properties, each tenant space shall be responsible for a proportionate share of landscaping on the property. Such property uses include, but are not limited to:
 - a. Businesses
 - b. Rental properties
 - c. Residential properties converted into commercial uses
 - d. Single-family residences or apartments not built to be occupied by owners
 - e. Entrances to subdivisions
 - f. Parking areas
 - g. Any alteration of any lot or structure
 - h. For clearing of wooded property, see subsection N
3. Section 13 does not permit pre-existing developed properties to destroy or dig up any existing landscaping and, further, prevents the destruction of any trees or plant life currently upon the premise without a replacement or substitute-landscaping plan that meets the approval of the City of York.
4. The City of York Historical Commission shall have review authority on all development within the designated Historic District.
5. Where a conflict between this section and another section of the City Code exists, the provisions of Section 13 shall apply.

1.4 *Application procedure*

1. Formal application for a landscaping plan shall be submitted before or at the same time as a building permit application. All applications for landscaping plans shall be reviewed and a decision rendered in writing by City staff. Alteration, clearing, cutting, or physical work shall not occur until the landscaping plan and building permit have been approved by the City.
2. All landscaping shall be installed according to the approved plan. Unless an extension is given for approved reasons, all landscaping shall be in place according to the plan prior to the issuance of a Certificate of Occupancy.

1.5 *Application requirements*

The landscaping plan application shall include the following:

1. A site plan (drawn to an appropriate scale) that depicts the following:
 - a. The location and size of all proposed structures or improvements and landscaping materials, including botanical and common names
 - b. The method of conserving trees that have a diameter of six inches (6") or more, measured twelve inches (12") from the ground
 - c. Total site area
 - d. Total parking area
 - e. Landscaped area required and provided for in the project
 - f. Number of trees required and provided for in the project
 - g. Buffer zone plan
 - h. Irrigation plan, if proposed
 - i. Driveways and curb cut requirements
 - j. Percent of impervious area
 - k. Stormwater runoff prevention plan
 - l. Location of trash receptacles and dumpsters
2. Any information deemed necessary by the applicant, City staff, or other City entity.

1.6 *Parking lot interior landscaping requirements*

1. For parking lots with 100 or more parking spaces, landscaped areas shall be installed as follows:
 - a. At the end of each row of parking spaces, so that each row is separated from internal driveways (each landscaped area shall be a minimum of six feet [6'] wide).
 - b. The number of continuous parking spaces in a row not interrupted by a landscaped area shall average not more than twelve (12') over the entire parking lot and shall not be greater than sixteen (16) in any one place. Each landscaped area shall be a minimum of six feet (6') wide by twenty feet (20') long.
 - c. A landscaped median shall be installed between adjacent rows of parking spaces as follows:
 - (1) At least fifty percent (50%) of the parking spaces shall have a median that is at least six feet (6') wide, or
 - (2) At least seventy-five percent (75%) of the parking spaces shall have a median that is at least three feet (3') wide.
 - d. A minimum of one (1) tree shall be planted per one hundred and twenty square feet (120 sf) of landscaped area.
 - e. Shrub coverage in the landscaped areas shall be at least thirty-three percent (33%).
 - f. Any one-site driveway leading to a parking area but not providing direct access to parking spaces within that parking area shall be separated from the parking area by a landscaped median with a minimum width of three feet (3') and a minimum shrub coverage of thirty-three percent (33%). All driveways shall be provided with landscaping that meets the approval of staff.

- g. At a minimum, five percent (5%) of the parking lot shall be landscaped and one (1) tree for every ten (10) parking spaces or fraction thereof shall be provided.
 - h. All landscaping areas shall be planted directly in the ground; i.e., planting on top of paved or gravel surfaces is prohibited.
 - i. Wheel stops or curbing shall be provided in all parking facilities to protect landscaped areas.
 - j. No parking space shall be farther than fifty feet (50') from the trunk of a tree.
2. For parking lots with fewer than 100 parking spaces, landscaping shall be provided as follows:
- a. At a minimum, five percent (5%) of the parking lot shall be landscaped and one (1) tree for every ten (10) parking spaces or fraction thereof shall be provided.
 - b. All landscaping areas shall be planted directly in the ground; i.e., planting on top of paved or gravel surfaces is prohibited.
 - c. Wheel stops or curbing shall be provided in all parking facilities to protect landscaped areas.
 - d. No parking space shall be farther than fifty feet (50') from the trunk of a tree.
 - e. At the site plan review stage, city staff and Planning Commission may require the inclusion of one or more elements contained in F.1.a. through F.1.f.

1.7 *Parking lot perimeter landscaping requirements*

- 1. Shrubs planted a maximum of four feet (4') on center shall be planted around the perimeter of the parking lot.
- 2. Properties having a street frontage in Gateway Corridor A shall provide trees a maximum of thirty feet (30') on center along such street frontage. The exact location and species of such trees shall meet the approval of staff and the Planning Commission. Gateway Corridor A is delineated on the official zoning map.

1.8 *Buffer zones*

- 1. The amount of land and the type of planting specified for each buffer zone required by this chapter are designed to limit possible nuisances between adjacent land uses or between a land use and a public road. The planting units required of buffer zones should be calculated to ensure that they do, in fact, function to "buffer".
- 2. A bufferyard shall be installed along each applicable side or rear property line. The side bufferyard shall extend from the front public right-of-way to the furthestmost rear property line. The rear bufferyard shall extend between the furthestmost side property lines.
- 3. A bufferyard shall be installed by the developer along or in close proximity to the property line as follows:
 - a. Proposed commercial adjacent to established residential – Type A or B
 - b. Proposed industrial adjacent to established residential – Type A or B
 - c. Proposed commercial adjacent to established industrial – Type A or B or C
 - d. Proposed industrial adjacent to established commercial – Type A or B or C
 - e. Proposed multi-family residential adjacent to established house or duplex – Type A or B
 - f. Proposed multi-family residential adjacent to established commercial – Type A or B
 - g. Proposed multi-family residential adjacent to established industrial – Type A or B
- 4. For each 100 feet of bufferyard, one of the following combinations (at a minimum) shall be provided:
 - Type A A berm and/or brick or textured block wall that is a minimum of six feet (6') tall. If a brick or textured block wall is used, it must be placed a minimum of six feet (6') from any property line. An evergreen shrub row (planted a maximum of three feet [3'] on center) shall be planted along each side of the brick or block wall or at the peak of the berm (if the berm is used alone). When a block/brick wall is used, it is preferable (but not required) to plant evergreen trees in the bufferyard as well.

Type B 40 evergreen trees planted six feet (6') apart with adjacent rows staggered to maximize the screening effect.

Type C Four (4) canopy trees, eight (8) understory trees, and thirty (30) evergreen shrubs.

For dimensions other than 100 feet, an appropriate ratio of landscaping components shall be provided. Fractions shall be rounded to the nearest whole number. For options H.4.Type B. and H.4.Type C. above, a minimum 6-foot-tall privacy fence shall be installed along each applicable property line on the commercial side of the aforementioned landscaping components. The fence may be removed with City of York approval, once the aforementioned landscaping components reach a size adequate to serve as a bufferyard.

5. The bufferyard shall have a minimum width of ten feet (10') for options listed in H.4.Type A above, fifteen feet (15') for option H.4.Type B, and eighteen feet (18') for options listed in H.4. Type C.

1.9. Fencing

Any proposed fencing shall comply with the following:

- a. A real property exterior may be enclosed only with materials that are normally used for fencing purposes in this area of the state, such as and similar to, but not limited to, wood, metal, aluminum, vinyl or PVC type material, as well as planted buffers, so long as the proposed fence or buffer complies with all pertinent City regulations. The fencing materials and buffers shall be maintained properly.
- b. The erection and use, whether temporarily or permanently, of any "tarp" style fencing or buffer or similar barrier is specifically prohibited and shall not be allowed at any time or under any circumstances. Any existing nonconforming materials shall be removed forthwith.
- c. Such fencing shall be affixed directly to the real property.
- d. In the area forward of the rear wall of the house and bounded by the side property lines and the street rights-of-way, the following requirements shall apply:
 - 1) Privacy fencing is not allowed; and
 - 2) Ornate fencing shall not exceed 32-inches in height.
- e. In the rear yard of the property, the following requirements shall apply:
 - 1) Privacy fencing shall not exceed 6-feet in height; and
 - 2) Privacy fences shall not have an unfinished side facing outward from the property under any circumstances.
- f. For corner lots, privacy fencing shall have a minimum side setback of 10-feet from the street right-of-way.

1.10 Screening of garbage containers

All dumpsters, whether side, rear, or front loading, shall be screened on three (3) sides by a brick or textured-block wall or a wood slat fence comprised of four-inch-wide slats set no farther than one inch (1") apart. For front or top loading dumpsters, there will be a minimum of eighteen inches (18") clearance between the dumpster and the fence on each side and on the back. For side loading dumpsters, there will be a minimum of three feet (3') clearance between the dumpster and the fence on each side and a minimum of eighteen inches (18") clearance in back. As much as practical, the dumpster shall be located to the rear of the property.

1.11 Landscaping at driveways, curb-cuts, and intersections

1. The "sight triangle" shall be measured in the following manner: Determine the midpoint of the driveway aisle at the intersection with the street. From that point, measure ten feet (10') inwards to the property and twenty feet (20') in both directions along the street.

2. The “sight triangle” shall be maintained at all driveways, curb-cuts and intersections, except where approved by the Planning Commission. No plant materials, signage, or any other obstruction shall interfere with an individual’s vehicular sight line. Plant materials shall not exceed thirty inches (30”) in height at maturity.
3. Landscaping shall be provided around freestanding signs and at the entrances to commercial, industrial, and residential developments. A landscaping plan shall be approved by staff prior to the installation of landscaping.

1.12 Landscaping maintenance of commercial property

After installation, all landscaping shall be maintained in healthy growing condition and be free of debris and dead vegetation. Maintenance shall include replacement of dead plant life, regular watering, weeding and fertilizing on a regular basis. Failure to maintain the landscaping plan shall be a violation of this chapter and may result in the imposing of penalties as set forth in this chapter.

1.13 Irrigation

1. An irrigation system is required for projects that have 200 or more parking spaces and is recommended for all projects.
2. Irrigation plans shall be submitted for staff review for compliance with City codes and shall show location, size and type of sprinkler heads and whether the system is automatic or manual.
3. Irrigation systems shall minimize spray onto any pedestrian/vehicular access or abutting property.
4. Water preservation should be considered in the design of any irrigation system.

1.14 Plant material

1. No artificial plant life or facsimile shall be permitted.
2. The landscaping components shall meet the following minimum sizing requirements:

Canopy tree	1½” Caliper 10’ tall (multi-stem)
Understory tree	1” caliper
Evergreen tree	5’ tall minimum (staff shall give final approval)
Shrub	24” tall (deciduous) 18” tall (evergreen) 3 gallon minimum size

Tables 13-1, 2, 3 provide evergreen tree, shrub, and deciduous tree types respectively that are approved for planting within the city limits of York.

TABLE 13-1 Evergreen Trees

Wax Myrtle	Loose growth habit keeps this from making dense screen. Can be tree form. Adds excellent texture. Needs some protection.
Leyland cypress	Extremely fast-growing. Very adaptable; however, short-lived on poorer sites. Dark green, needle-like foliage with branches retained to ground. Height will reach 30’. Space at 7-10’.

Hedge Bamboo	10-12' in height, spread 4-6'. Sun or shade. Fast grower.
Eastern Red Cedar	Adaptable. Avoid planting near apple and crabapples.
Nellie R. Stevens holly	Fast growth. Excellent windbreak and screen. May be pruned as a small tree.
Other hybrid hollies	Variety: East Palatka Savannah. Foster. Moderate growth. Winter fruit.

TABLE 13-2 – Deciduous Trees

Chinese Fringe	6-10' in height, spread 8-9'. Sun or part shade. Fast growth.
Southern Sugar Maple	Avoid compacted or dry sites. Intolerant of salt.
Red Maple	Own-rooted plants, preferred as graft. Compatibility can be a problem. Susceptible to verticillium wilt. Intolerant of high pH. Shallow-rooted.
River birch	Resistant to bronze birch borer. Drought sensitive.
Golden rain tree	Yellow flowers in mid-summer.
Ginko	Plant only male clones. Very adaptable. Excellent fall color.
Crepe Myrtle	Many cultivars have desirable, exfoliating bark and good fall color. Aphids and mildew.
Sweet gum	Intolerant of high pH. Fruit can be a problem. Drought sensitive. Rotundiloba' is fruitless.
Flowering crabapple	Avoid grafted plants on seedling understock. EMLA 111 rootstock is recommended.
Black gum	Excellent fall color.
Willow Oak	No major problems. Fast grower.
Northern Red Oak	No major problems.
Lacebark Elm	Exfoliating bark and fast growth. Train to a central leader and select branches with wide crotch angles.
Japanese Zelkova	Narrow crotch angles can result in splitting.
Southern Red Oak	Good branch structure, symmetrical form, and fast growth make this native oak a good street or shade tree.
Water Oak	Fast growth, good native shade tree. Easily transplanted.
London plane tree	Tolerates urban conditions. Beautiful peeling bark, fast growth. Good shade or street tree.

TABLE 13-3 Shrubs

Elaeagnus	Somewhat weeping growth form. Foliage is speckled on top with silvery bronze bottom. Fragrant, yet inconspicuous flower in fall. Can trim easily; suitable for espalier.
Burfordi Holly	Dense foliage of shiny dark green. Red berries in winter. Can be used as a small tree.

Ligustrum	Olive green leaf; white blooms in late spring, followed by black berry in fall. Densely-shaped, can be used as a small specimen tree.
Viburnum tinus	Coarse texture of medium-shaped leaves. Late winter flower of white, very unusual, good fragrance.
Osmanthus (Tea Olive)	Large leaves give coarse effect. Tight growing, flowers in fall. O. fragrans has greater scent than O. fortunei, but is less cold-hardy. O. fortunei has coarser look.
Banana shrub	Dense growth of glossy dark green. Flower in spring with a banana fragrance in evening. Cold protection is best. Height would be somewhat shorter than other plants on list.
Privet	Variegated leaf of yellow and green gives contrast to yard. Semi-deciduous, so winter screen somewhat reduced.
Anise	Open growth pattern, but coarse leaf texture makes a tight screen. Aromatic foliage is olive green.
Cleyera	Bronze new foliage makes this closest to a red tip in overall appearance. Growth rate much slower. Very shade tolerant, does not prefer full sun. Very dense growth form. New leaves retain shiny appearance.
Camellia sasanqua	Some varieties are dense, others somewhat looser. Fall blooms make this very appealing in landscape. Will tolerate some shade without bloom reduction. Dark green, shiny foliage. Can be used as tree form. Winter protection advised.
Camellia japonica	Winter-blooming, with large, glossy, dark green leaves. Dense growth pattern. Winter protection advised. Afternoon sun not suggested.
Chinese Horned Holly	8-10' in height, spread 5-7'. Part shade. Moderate grower.
Japanese Holly	10-12' in height, spread 3-5'. Sun or part shade. Fast grower.
Inkberry Holly	6-9' in height, spread 4-7'. Sun or shade. Moderate to slow growth.
Lusterleaf Holly	8-12' in height, spread 7-11'. Part shade. Moderate growth.
Yaupon Holly	5-15' in height, spread 6-12'. Sun or shade. Slow to moderate growth.
Hetzi Juniper	10-12' in height, spread 10-12'. Sun. Moderate growth.
Laurel	10-12' in height, spread 8-10'. Sun. Moderate growth.
Variegated Privet Ligustrum	4-6' in height, spread 4-6'. Sun. Moderate growth.
Holly Osmanthus	6-10' in height, spread 3-5'. Sun or shade. Moderate growth.

1.15 *Cutting of trees*

1. It shall be a violation of the provisions of this chapter to cut or remove any tree with a diameter of six inches (6") or greater, measured twelve inches (12") from the ground without first obtaining a permit for such cutting and clearing. The permit may be obtained from the Planning Department. No cutting of larger trees shall begin until review of the landscaping plans has been completed.
2. Clear cutting of trees and natural vegetation occupying a bufferyard shall be prohibited unless a permit for clear-cutting has been issued. All trees six inches (6") or more in diameter, measured twelve inches (12") from the ground, shall be retained, and the bufferyard shall remain in its natural state to the extent that the natural vegetation provides equal or better "buffering" than the requirements of this chapter. The removal of any vegetation exceeding six inches (6") or more in diameter must be approved by the Planning Department.

1.16 *Penalties*

Violation of this chapter, by any act specifically prohibited or declared unlawful, shall be punishable as follows:

1. For the cutting of trees without a permit, a fine will be imposed of not more than five hundred dollars (\$500) and/or not more than thirty (30) days imprisonment for each tree cut. Each of noncompliance may be considered a separate violation.
2. For failure to comply with the approved landscaping plan, a fine will be imposed of not more than five hundred dollars (\$500) and/or not more than thirty (30) days imprisonment. Each of noncompliance may be considered a separate violation.
3. For failure to maintain landscaping, a fine will be imposed not to exceed five hundred dollars (\$500) and/or thirty (30) days imprisonment. Each of noncompliance may be considered a separate violation.

1.17 *Repeal of inconsistencies*

All other ordinances or portions thereof inconsistent with this chapter are hereby repealed.

1.18 *Severability*

All sections and portions of sections of this chapter are considered several and separate. Any section or portion thereof that might be declared unconstitutional shall not affect remaining sections and portions thereof, such remaining in full force and effect.

Section 13 – continued Public Tree Regulations

1.1 Intent and objectives.

1. It is the purpose of this Section to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of public trees, and the abatement of certain public nuisances within the City.
2. It is the intent of the City Council that the terms of this Section shall be construed as to promote:
 - a. The planting, maintenance, restoration, protection and survival of desirable public trees, shrubs and other woody plants; and
 - b. The protection of community residents from personal injury and property damage, and the protection of the City from property damage, caused or threatened by damaged, diseased or hazardous trees or by the improper or indiscriminate planting, alteration, treatment or removal of public trees.

1.2 Definitions.

The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration: the removal of any part or portion of any tree, shrub or other woody plant, including but not limited to any stem, trunk, limb, branch, twig, leaf, bark or root.

Commission: tree commission of the City of York

City-owned property: property within the City limits that is:

1. Owned by the City in fee simple absolute; or
2. Implicitly or expressly dedicated for public use, accepted and maintained by the City.

Dripline: a vertical line extending from the outermost edge of the crown of a tree straight down through the surface of the ground beneath the tree.

Planning Director means the actual individual, or his agent, appointed to administer the provisions of this Section.

Property owner: the owner of record or contract purchaser of any parcel of land.

Public tree: any street tree, or any tree originating on City-owned property.

Street tree: any tree, shrub or other woody plant growing within the City limits and originating within the current right-of-way of a public roadway or trees hanging over street right-of-way, sidewalks, etc.

Treatment: the application, introduction or installation of any substance or material to any tree, shrub or other woody plant, either by direct application to the tree or by application to the soil or roots, including but not limited to fertilizers, other elemental nutrients, pesticides, growth-inhibiting agents, soaps, oils, chemicals, cabled or threaded bolt or other type of support systems, lightning protection systems or cavity fillers.

Urban forest management plan: a written plan, developed and maintained by the Planning Director and the tree commission, which prescribes a program of systematic management for the City's public trees.

Urban forestry program: all of those City resources, time and efforts directed toward the development and maintenance of a safe, healthy, aesthetically pleasing and fully stocked population of public trees.

1.3 Violations; penalty; recovery of damages for injured public trees.

Any person who violates any of the provisions of this Section shall be subject to any one or all or a combination of the penalties authorized in this section. In the case of damaged public trees, each individual tree damaged shall constitute a separate violation.

Criminal penalties. Any person who knowingly and willfully violates any provision of this Section shall have committed a misdemeanor, and upon conviction thereof shall be subject to punishment as provided in section 26-7: *Whenever the municipal judge finds a party guilty of violating a city ordinance or a state law within the jurisdiction of such court, he may impose a fine or imprisonment or both, not to exceed \$500.00 plus appropriate cost of 30 days or both]*

Recovery of damages.

- a. The Planning Director shall institute recovery of damages for injured public trees by providing written notice to the person responsible for such injured public trees by personal delivery, mail, or any method permitted by rule 4, South Carolina Rules of Civil Procedure, for the service of civil process. Such notice shall contain a copy of these provisions, a description of the damage or injury, and a statement for the costs of correction. If the costs of correction are not paid within 30 days after receipt of a statement from the City, the matter shall be referred to the City attorney for institution of a civil action in the name of the City for recovery of the costs of correction and all consequential damages.
- b. In establishing the monetary value of damaged public trees, the Planning Director or his agent may use the current edition of the Standard Evaluation Formula published by the Council of Tree and Landscape Appraisers and the International Society of Arboriculture.
- c. All damage-related tree work performed under this section shall conform to the regulations and standards of the urban forestry management plan.
- d. A nonmonetary penalty, in the form of tree planting requirements, may be imposed in addition to any monetary penalties prescribed under this Section.

1.4. Applicability.

The provisions of this Section shall apply to public trees and trees which constitute a public nuisance within the corporate limits of the City.

1.5 Interference with Planning Director.

It shall be unlawful for any person to hinder, prevent, delay or interfere with the Planning Director or his agent while engaged in the lawful execution or enforcement of this Section. This shall not be construed as an attempt to prohibit the pursuit of any legal or equitable remedy in a court of competent jurisdiction for the protection of personal or property rights by any property owner within the City.

1.6. Emergency work.

In the event of emergencies involving, but not limited to, hurricanes, tornadoes, earthquakes, severe ice storms or snowstorms, floods, freezes, fires, lightning or other disasters, the requirements of this Section may be temporarily waived by the City Manager during the emergency period so that the requirements of this Section will in no way hamper private or public work to restore order and safety in the City. This shall not be construed to be a general waiver of the intent or application of this Section.

1.7 Nonliability of City.

Nothing in this Section is intended to or shall be deemed to impose any liability upon the City or upon any of its officers or employees, or to relieve the owner and occupant of any private property from the duty to keep trees and shrubs upon private property under his control in a safe condition.

ADMINISTRATION

1.1. Jurisdiction

a. Authority.

The Planning Director shall have exclusive jurisdiction and supervision over all public trees. This shall not be construed as to relieve any person of such person's duties or responsibilities under this Section.

The Planning Director shall have the authority to supervise all work performed under any permit or contract issued under this Section.

The Planning Director shall have the authority to seek the abatement of public nuisances as described in article IV of this Section.

In accordance with Article I, Section -3, the Planning Director shall have the authority to institute the recovery of damages for injured public trees as described in Article III, Section 3.

b. Duties.

1. The Planning Director, with the assistance of the tree commission, shall develop and maintain the Urban Forestry Plan, which is incorporated in this Section.
2. The Planning Director shall issue such permits as are required by this Section. The Planning Director shall have the right to inspect all work performed pursuant to such permits, to revoke permits in cases of noncompliance, and to enforce the provisions of Article III, Section 2.

1.2 Tree commission.

a. *Established.* The City of York Tree Commission is hereby established

b. *Composition; appointment of members.*

1. The tree commission shall be composed of up to five members appointed by the City Council in accordance with standard City procedures regarding boards and commissions.
2. Members appointed by the City Council shall serve three-year terms.
3. Members shall be residents of the City of York or have a special interest in the City.

c. *Duties.*

1. The tree commission shall adopt rules of procedure for regular and special meetings to fulfill its obligations under this Section. These rules shall be set forth in the bylaws promulgated by the tree commission.
2. The tree commission shall advise the City Council based on an annual reevaluation of experience under this Section.
3. The tree commission shall provide leadership in the development of understanding of the objectives and methods of the urban forestry program, and shall assist the Planning Director in the development and maintenance of the urban forestry management plan and the urban forest management plan.

1.3 Public Trees

1. *Duties of private owners.*

It shall be the duty of any person planting or growing a public tree to:

- a. Place no tree so as to be, in the opinion of the Planning Director, a traffic hazard or an interference with overhead or underground public utilities.
- b. Prune trees so as not to cause a hazard and so that the minimum clearance of any overhanging portion is eight feet above any sidewalk and 14 feet above any street.
- c. Comply with the permit required in Public Trees, Section-2.
- d. Treat, alter or remove any tree so diseased or insect-infested as to constitute a hazard to other trees or plants.

2. *Permit requirements for actions affecting public trees.*

- a. **Actions requiring permit.** It shall be unlawful for any person except the Planning Director, an agent of the Planning Director, or a contractor under the jurisdiction and supervision of the Planning Director to perform any of the following acts or contract with another person to perform any of the following acts without first obtaining a permit, except as otherwise provided in this section:
 1. Remove, alter or treat any public tree.
 2. Plant or transplant any public tree.
 3. Attach any sign, poster or any other manmade object to any public tree.
 4. Tunnel or trench on City-owned property within ten feet of the base of any public tree. This provision shall not be construed to apply where tree roots do not ordinarily exist under previously established and properly paved surface.
 5. Within the dripline of a public tree, stockpile soil or other material, operate heavy equipment or machinery, change the soil grade, or engage in any other activity which damages tree roots, compacts soil or otherwise impedes the normal biological functions of tree roots for a period of time sufficient to cause a decline in tree health, vigor or structural integrity.
- b. **Issuance.** The Planning Director shall issue or deny in writing a permit to perform any of the acts for which a permit is required. A permit shall be issued whenever all the following conditions are met:
 1. The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Section and the regulations and standards of the urban forestry management plan.
 2. An application has been signed by the applicant and submitted to the Planning Director detailing the location, number, size and species of trees, shrubs or other woody plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Planning Director may find reasonably necessary.
 3. Such acts are not inconsistent with any regulations or standards of the urban forestry management plan.
- c. **Liability for violations.** The person performing the work and the person contracting for the performance shall be jointly and severally liable for any penalties or other enforcement action imposed pursuant to this Section or other provisions of law on account of work performed in violation of this Section.

- d. ***Compliance with enforcement.*** If the work performed pursuant to such permit is not in compliance with the requirements of this Section or with the regulations and specifications of the urban forestry management plan, the Planning Director shall provide written notice to the permit applicant by personal delivery or mail. Such notice shall be sufficient if served by any method permitted by rule 4, South Carolina Rules of Civil Procedure, for the service of civil process. The notice shall contain a copy of these provisions, and an estimate of the cost to correct such noncomplying work, and:
1. The permit shall thereafter be nullified and shall be void;
 2. The Planning Director may issue a written order that the permit applicant cease and desist all work for which the permit was required;
 3. The permit applicant shall be subject to penalty under the terms of this Section; and
 4. The Planning Director may take steps necessary to correct the results of the noncomplying work, and the reasonable cost of such shall be charged to the permit applicant. Such costs shall be collected in the manner described in Article I, Section-3.
- e. ***Public utility right-of-way maintenance; roadway construction and right-of-way maintenance***
1. Public utilities and persons who install or maintain public utilities, including their agents and contractors, shall comply with the regulations and standards of the urban forestry management plan and the provisions of this Section when performing work that affects public trees within the corporate limits of the City or within the jurisdiction of this Section. Permits for routine pruning and trenching shall be applied for on an annual basis; provided, however, that a permit shall be implicit for contracted or in-house tree crews under the supervision of the Planning Director, so long as their work is performed in accordance with the provisions of this Section and the regulations and standards of the urban forestry management plan.
 2. Persons who construct or maintain public roadways, including their agents and contractors, shall comply with the regulations and standards of the urban forestry management plan and the provisions of this Section when performing work that affects public trees within the corporate limits of the City or within the jurisdiction of this Section. Permits for routine pruning and trenching shall be applied for on an annual basis.
 3. Failure to comply with the regulations and standards of the urban forestry management plan shall be unlawful except under the following conditions: In lieu of strict compliance with the regulations and standards of the urban forestry management plan, a set of written specifications for pruning and trenching operations may be submitted for approval by the Planning Director. Upon approval of these specifications, a permit shall be issued, effective for the remainder of the year, for routine pruning and trenching operations affecting public trees.
 4. Permits for removal of public trees shall be handled on an individual basis.
 5. In the event of minor emergencies which necessitate the alteration of public trees in order to safely repair dangerously damaged or malfunctioning public utilities, the requirement of a permit is temporarily waived until public safety has been restored. The utility shall then provide the Planning Director with sufficient information to make a complete report of the pruning or removal of all public trees which were altered as a result of such emergency.
- f. ***Injuring public trees.***
1. ***Liability for damages.*** Persons who cause injury to any public tree shall be liable for the cost of tree damages, including assessment, repair or replacement of the damaged tree.
 2. ***Vandalism.*** It shall be unlawful to vandalize any public tree. This provision shall be construed to include theft of public trees.
 3. ***Harmful attachments.*** It shall be unlawful for any person to attach or cause to be attached any wire, nail, sign, poster or other object to any public tree without a permit.

1.4 Nuisance Trees

1. Duty of property owners to maintain trees.

It shall be the responsibility of every property owner or occupant to maintain the trees, shrubs and other woody plants on the owner's property in a safe and healthy manner, and to keep trees properly pruned and trimmed so as to avoid hazards to persons, property and other vegetation.

2. Nuisance trees defined.

The following are hereby declared to be public nuisances under this Section

1. A tree for which the following two conditions exist:
 - a. A structural defect which predisposes the tree to failure, and
 - b. A target (including but not limited to a building, structure, street, roadway, sidewalk, walkway or other area frequently used by people) where there may be people or property that could be reasonably expected to sustain damage should the tree fail.
2. Any otherwise healthy tree or shrub which harbors insects or diseases which reasonably may be expected to injure or seriously harm other valuable trees or shrubs.
3. Any tree or portion thereof which by reason of location or condition constitutes an imminent danger to the health, safety or welfare of the general public.
4. Any tree or portion thereof which obstructs the passage of pedestrian or vehicular traffic or is not maintained at a minimum clearance of eight feet over sidewalks and 14 feet over roadways.

3 Right of Entry

The Planning Director or his agent, after reasonable notice to the owner, shall have the authority to enter onto private property whereon is located a tree, shrub or portion thereof that is suspected to be a public nuisance.

4 Abatement

- a. Upon finding that any tree or portion thereof is in such condition as to constitute a public nuisance and that an imminent danger exists to persons, property or other valuable vegetation, the Planning Director shall, by order of abatement served on the owner, direct the property owner to remove, alter or treat the tree in such a manner as to cause abatement of the condition.
 1. The method of service by such order shall be by personal delivery, registered mail, or any method permitted by rule 4, South Carolina Rules of Civil Procedure, for the service of civil process.
 2. The order shall set forth the action required to abate the condition and the time limit for compliance, which shall depend on the degree of danger created by the condition, but shall in no case exceed thirty (30) days. In cases of extreme danger, the Planning Director shall have the authority to require immediate compliance.
- b. If, at the end of the time period set forth in the order, the action required by the order has not been taken or the tree has not been removed, altered or treated in such a manner as to cause abatement of the condition, it shall be declared a public nuisance and the Planning Director shall take the action required to cause the abatement of the condition. The cost of this service, including labor, equipment and materials, shall be assessed to the property owner.

- c. If the costs of abating the condition are not paid within thirty (30) days after receipt of a statement from the City, the account shall become a lien on the property and shall be collected in the same manner as other taxes against such property.

Section 14 - General and Supplemental Regulations

Residential Special Conditions

- 1.1 Purpose:** The intent of this section is to identify certain residential areas that presently do not comply with the square footage requirements of lot size in zones R-15, R-7, or R-5. In the event of a disaster or act of God, such as fire, flood, or total destruction of the residence, a hardship would result to the resident, due to the inability to replace the dwelling on the present lot which does not comply in total square footage with the ordinance.
- 1.2 Permitted uses:** In the event the dwelling is destroyed, special permission may be granted by the York Planning Commission to replace the residence on the same noncompliant lot, provided that:
- a. The building is used as a private residence;
 - b. The occupant of the residence is the owner or a member of the immediate family that owns the lot and building;
 - c. A hardship would result if the dwelling could not be replaced on the noncompliant lot.
- 1.3 Procedure:** Each case must be presented before the York Planning Commission at one of its regular, scheduled meetings. If the Commission rules that the particular situation meets the criteria stated, a special permit will be issued under the RS zoning regulation.

Group Developments

Group developments: A group housing development consisting of two (2) or more structures on a parcel of land which has not been subdivided. Customary streets and lots have unified design of buildings and coordinated organization of open residentially zoned districts permitting such use.

Purpose: To permit the creation of a more desirable living environment than would be possible through the development of smaller parcels. To encourage development of creative approaches in residential development. To encourage efficient, aesthetic, and desirable patterns of development.

1. *Minimum area.* Not less than one (1) acre
2. *Building heights.* Not to exceed two (2) stories
3. *Yard requirements.* Must conform to the required front, side, and rear yard setbacks of residential lot lines established for the district in which the building is located.
4. *Density.* May not contain more dwelling units than are permitted in the district in which the development is located.
5. *Off-street parking.* Must conform to the provisions in accordance with Section XI.

Cluster Housing

The intent of this article [section] is to define cluster housing and the uses and restrictions.

A cluster house may be a town house, condominium, duplex, or other single-family dwelling. A cluster house is a single-family dwelling not more than two (2) stories in height available for separate ownership and located in a complex containing not less than two (2) dwellings with each single-family dwelling

located on a separate lot having its own front and rear access to the outside at ground level with no dwelling located over another dwelling and with each dwelling separated from any other dwelling by one (1) or more fire resistant walls. The lot size shall be in accordance with that defined in each district.

1. **Permitted activities and building types.** Planned cluster developments shall provide for individual lots which are permitted one (1) dwelling unit in a single structure. Up to four (4) units may be attached (party wall, see diagram following). Mobile homes are excluded from consideration as a planned cluster development except in MH district
2. **Density and recreation area.**
 - a. The maximum overall density for a planned cluster development shall be in terms of the number of dwelling units per gross acre of land within the development, as provided in the table below.
 - b. The minimum total recreation area (that part of the living space which is any large contiguous area for recreation purposes) shall be provided at no less than a minimum ratio of recreation space area per total floor area, as provided in the table below. Recreation areas shall be of common ownership.
 - c. If a planned cluster development embraces one (1) or more zone districts requiring different maximum permitted overall densities and recreation area ratios, these values shall be calculated separately for each distinct district and a weighted average (weighing the area in each zone district in proportion to its share of the total area of said development in such district) of each of these values shall be applied to said development.

Zoning District	Maximum Density (Units per Gross Acre)	Minimum Recreation area (Acres per Acre)
R7	6	0.14

3. **Yards.** Except as required in the following, there shall be no minimum yard size within planned cluster developments; however, the Planning Commission shall have review authority for all yard designations and may require larger or smaller yard sizes based upon the particular site plans submitted for a specific development.
 - a. A perimeter boundary setback of thirty (30) feet measured from the structures to the property line shall be maintained uniformly for the total area within the planned cluster development.
 - b. Fewer than ten (10) units shall abide by the setback requirements of the zoning district in which the development is planned.
4. **Minimum lot size.** There shall be no required minimum lot size within planned cluster developments; however, the Planning Commission shall have review authority for all lot designations and may require larger, smaller or re-platted lot sizes and/or shapes based upon the particular site plans submitted for a specific development.
5. **Required accessory off-street parking.** A minimum of two (2) off-street parking spaces per dwelling unit shall be required in all planned cluster developments. All streets and parking areas shall be bordered with concrete curb and gutter. Curbs shall be six (6) inches high.
6. **Area maintenance.** Provisions shall be made for the perpetual maintenance of areas designated for use by the residents of a planned cluster development. This may be accomplished through a home owners association established in accord with and chartered by the state under the applicable regulations, or by any other means acceptable to the Planning Commission. Such association

charter or declaration of incorporation shall be submitted with the preliminary plat for approval by the Planning Commission.

7. ***Procedure for approval of a planned cluster development.*** A planned cluster development shall follow the same rules and procedures for subdivision approval as outlined in the City of York Subdivision Regulations. However, the submission for preliminary plat approval must include the following additional information:
 - a. Transportation routes, including streets, driveways, sidewalks, pedestrian ways and bikeways, and off-street parking and loading areas.
 - b. Location and dimensions of structures, including height and bulk, and the utilization of structures, including activities and the number of dwelling units.
 - c. Density of the development.
 - d. A tabulation of the area to be devoted to various uses and activities as needed to calculate requirements of subsection 4.
 - e. The substance of covenants, grants or easements or other restrictions to be imposed upon the use of the land, buildings or other structures, including proposed documents as required by subsection 6 for area maintenance.
 - f. When it is proposed that the development be constructed in stages, a development schedule for the project is required.

Home Occupations

A home occupation, as defined in Section I, shall be permitted in residential districts, and provided that such occupation:

1. Is conducted by no other person than members of the family residing on the premises;
2. Is conducted entirely within the principal building;
3. Utilizes not more than twenty-five (25) percent of the total floor area of the principal building;
4. Produces no alteration or change in the character or exterior appearance of the principal building from that of a dwelling;
5. Involves no sale or offering for sale of any article not produced or assembled by members of the family, or any service not entirely performed by members of the family residing on the premises;
6. Creates no disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, traffic hazard, unhealthy or unsightly condition;
7. Is not visibly evident from outside the dwelling, except for one (1) non-illuminated sign two (2) square feet or smaller in area, mounted against a wall of the principal building;
8. Provides adequate off-street parking for the maximum number of vehicles encountered in the conduct of the occupation in a manner and at such a location so as not to detract from the appearance of the premises or to inconvenience the neighboring residents; and

The Planning Commission shall render a decision regarding a home occupation application within seventy-five (75) days of the initial public hearing regarding the application.

If no action is taken by the Planning Commission at the end of seventy-five (75) days after the initial public meeting, the home occupation application shall be deemed to have been approved. (Revised 9/10/08)

Accessory Uses

In addition to the principal uses which are designated herein as being permitted within the several zoning districts established by the ordinance, it is intended that certain uses customarily incidental or accessory to such principal uses shall also be permitted.

For the purposes of this ordinance, therefore, each of the following uses is considered to be a customary accessory use and, as such, may be situated on the same lot with the principal use or uses to which it serves as an accessory:

1. ***Uses customarily accessory to dwellings:***
 - a. Private garages
 - b. Open storage space or parking area for non-commercial motor vehicles. Not more than one (1) commercial vehicle, with a gross weight limited to one and one-half (12) tons, may be housed or regularly parked on any lot.
 - c. Shed or tool room for the storage of equipment used in grounds or building maintenance.
 - d. Children's playhouse and play equipment.
 - e. Private kennel for family pets, provided they are of the type authorized by City ordinance.
 - f. Private swimming pool and bath house, cabana, or tennis court.
 - g. Structures designed and used for purposes of shelter in the event of man-made or natural catastrophes.
 - h. Noncommercial flower, ornamental shrub or vegetable garden greenhouse or slat house not more than eight (8) feet in height.
2. ***Uses customarily accessory to church buildings:***
 - a. Religious education buildings.
 - b. Parsonage, pastorium or parish house, together with any use accessory to a dwelling, as listed under paragraph 1 of this subsection.
 - c. Off-street parking area for the use, without charge, of members and visitors to the church.
3. ***Uses customarily accessory to retail businesses, offices and commercial recreation facilities:***
 - a. Off-street parking or storage area for customer, client or employee-owned vehicles.
 - b. Completely enclosed building for the storage of supplies, stock or merchandise.
 - c. Light manufacturing and/or repair facility incidental to the principal use; provided that dust, odor, smoke, noise vibration, heat or glare produced as a result of such manufacturing or repair operation shall not be perceptible from any boundary line of the lot on which such principal and accessory uses are located; and provided that such operation is not otherwise specifically prohibited in the district in which the principal use is located.
 - d. One (1) single-family dwelling for a miniwarehouse development, provided that the dwelling must be used by an individual employed for the purpose of providing security for the miniwarehouse development. Manufactured homes (mobile homes) are prohibited from use for the above-referenced residential purpose.
 - e. Offices shall be allowed when associated with apartment complexes.

Setback and other yard requirements, for accessory uses. In any district, other than residential, all accessory uses operated in structures above ground level shall observe all setbacks, yards and other requirements set forth

for the district within which they are located. In any district, an accessory drive to an accessory garage, parking area or truck loading space may be located within a required side yard.

Off-street parking and off-street loading requirements. All uses and establishments commenced hereafter shall provide the minimum number of off-street parking spaces required in this section. Minimum dimensions for each parking space shall be ten (10) feet by twenty (20) feet. There shall be adequate access to each parking space from a public street. Three hundred (300) square feet per car, which includes aisles, shall be allotted.

Communications Towers

1. Definitions

- a. The Appeal Authority is the Board of Zoning Appeals, Approval Authority is the Building Official, and Plan Review Authority is the Planning Commission.
- b. A communications tower or tower is a structure more than 60 feet tall used primarily for the support of one or more antennae erected on the ground or a similar structure more than 20 feet tall erected on a building. The height of the tower shall include any antenna that extends above the top of the tower.
- c. A communications antenna is an antenna operated by a communications provider. This definition does not include receiving antennae, including antennae less than one meter in diameter used for space-based services, for residences; or antennae less than two meters in diameter used in non-residential areas for space-based services; or antennae legally operated by FCC-licensed amateurs.
- d. A communications provider is any entity required to be licensed by the FCC.

2. General Requirements

General requirements for all structures are applicable to communications towers. All applicable health, nuisance, noise, fire, building, and safety code requirements shall apply in addition to the conditions of this Ordinance. Regulations covering visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except those specifically superseded by this section shall apply to the use.

3. Standards for Approval of Communications Towers

- a. A communications tower shall be permitted by the Approval Authority upon determination that all of the applicable conditions in this section are met.
- b. Height limitations
 - (1) Height limitations for ground-mounted freestanding or guyed towers, or the overall height of a tower mounted on an existing structure:
 - (a) Industrial and Major Commercial districts - GI, General Industrial, HC, Highway Commercial, 350
 - (b) Residential, office, and light commercial districts - R15, R7, R7-MH, R5, TU, BI, IU, MH, 100 feet, provided that in residential districts communications towers shall be permitted only on parcels with existing legal non-residential uses. Examples of such uses are schools, churches, and utility sites.
 - (c) Planned development districts - as determined in the development plan.
 - (d) All other districts - prohibited.
 - (2) The height limitation for communication towers mounted on existing structures, including buildings, water tanks, and other structures: one-half the height of the existing structure or 90 feet, whichever is less. For purposes of this subsection, a tower is not considered a structure on which another tower may be erected. This subsection shall not apply if the total height of

a communications tower and the existing structure on which it is mounted does not exceed the height limit in subsection 3.b.(1) above.

- c. If applicant proposes to establish a new tower within 1200 feet of an existing tower, applicant shall submit a statement that each such tower does not meet applicant's structural specifications or technical design requirements or that space on such other tower is not available at fair market value. Applicant may present evidence that multiple towers not more than 66% of the highest permitted tower height in such district would better serve the public interest. The Plan Review Authority shall afford the owner(s) of such existing tower(s) an opportunity for comment before making a decision.
- d. New tower locations shall be determined according to the following hierarchy. No site on a lower level of the hierarchy may be used unless the Plan Review Authority determines, based on the application and other information, that higher priority locations are unsuitable for operation of the facility under FCC regulations and applicant's requirements or are not available at fair market value.
 - (1) Publicly owned property, e.g., property owned by a city, town, or county, a school or other special purpose district, state or federal government, which the owner determines may be used for a tower.
 - (2) Private or public land within the height of the proposed tower from an existing high voltage transmission line, electric substation, elevated water tank, interstate scale billboard, smokestack, or other existing use taller than 45 feet.
 - (3) Other available privately owned sites in non-residential districts.
 - (4) A residential district, provided that the applicant must show that the area cannot be served by a facility placed in a non-residential district for valid technical reasons.
- e. Applicant shall use its best efforts to design any new tower to accommodate its own present and projected future needs, as well as a reasonable projection of one other comparable user's needs. Any unused tower space, not reserved for Applicant's own use, shall be made available at fair market value. Unused tower space does not have to be offered to third parties whose proposed use is likely to interfere technically or mechanically with the existing users of said tower. This requirement may be reduced by the Plan Review Authority.
- f. License to operate: If applicant is a communications provider, it shall have a current business license for all such services offered by any means to any customer located in the municipality. If applicant is not a communications provider, it shall obtain a business license under class 7. If the tower is used solely for non-commercial services, e.g., amateur radio, no business license shall be required.
- g. Communications towers shall be a blending color such as light gray, unless required to be painted otherwise by the Federal Aviation Administration. Properly maintained unpainted galvanized steel color shall meet this condition.
- h. Communications towers shall not be lighted unless required by the Federal Aviation Administration or for safety reasons as determined by the Plan Review Authority. When required, lights shall be strobe in daytime. After dusk and before dawn, lights shall be red. If allowed by federal authorities, lights shall be shaded to minimize visibility from the ground.
- i. The proposed installation shall meet all applicable FCC rules and shall be operated in accordance therewith.
- j. A tower shall satisfy the most stringent of the following setbacks:
 - (1) A tower must be set back from all lot lines a distance equal to the district or use setback requirements. For guyed towers, the setback shall be measured from a line connecting the outermost anchor points for guy wires. For self-supporting towers, the setback shall be measured from the foundation plus one-tenth the height of the tower.

- (2) A tower must be a minimum distance equal to one-half the height of the tower from property officially designated historic or architecturally significant.
 - k. A single sign, approximately two (2) square feet in size, shall be placed in a visible location on or near the tower identifying the owner, the street address, and owner's identification code of the tower and an all-hours emergency telephone number. Such sign may also identify other users of the tower.
 - l. Communications towers and associated buildings shall be secured from unauthorized access. Towers and associated buildings shall be protected by a security fence. Six-foot chain link fencing topped with barbed or razor wire shall meet this requirement. Other methods for providing security may be provided to the Plan Review Authority for review and approval.
- 4. *Application Required.*** Any person desiring to obtain a zoning permit for construction of a communications tower or placement of a telecommunications antenna on an existing structure shall file an application and fee with the Building Official. Said application shall include the following information and/or documents:
- a. A copy of FCC form 854, Application for Antenna Structure Registration, or the same information in a similar format if the tower is not subject to FCC registration. Any information on said form may be referenced on other documents.
 - b. Application fee (Building and other permit fees shall be in addition to the tower application fee): \$250, except that for a tower to be used solely for non-commercial services, e.g., amateur radio, the fee shall be \$50. The fee for an application for adding an antenna to an existing structure under section 6 shall be \$50.
 - c. Complete plans and specifications for the proposed communications tower including foundation, wind and ice loading, antennae and appurtenances, and any accessory building(s) as required by the building code.
 - d. A site plan showing property boundaries, zoning district and required setbacks, existing structures, latitude and longitude, zoning and uses of adjacent property. The site plan shall also indicate the proposed tower location, site elevation, tower height, guy anchors, driveway and parking, fencing and landscaping.
 - e. A map showing all of applicant's antenna sites that serve the City.
 - f. A list of other users of the proposed tower.
 - g. Written authorization from the owner of the site, if the applicant is not the owner.
 - h. A copy of the FCC license or other evidence of FCC approval of the proposed installation. If applicant has not applied for FCC license(s), applicant shall indicate what service(s) are to be provided by reference to FCC designation(s). If no FCC license is required, applicant shall indicate the purpose of the tower.
 - i. A check list covering applicable conditions in section 4 above, including documentation of 4.d.(1-4).
 - j. All information required for any other applicable code and any additional information required by the Building Official for determination that all applicable zoning regulations are met.
- 5. *Addition or Change of Antennae to Existing Structures, Including Towers***
- a. **This section applies to the following cases:**
 - (1) An antenna to be added to an existing communications tower by a communications provider not previously using such tower.
 - (2) Transfer of ownership of an existing antenna to a provider not already using the communications tower.

- (3) Installation or substitution of an antenna which exceeds the current structural/wind loading calculations.
- b. Any person subject to this section shall submit an application in the same manner as an application for construction of a new communications tower. Such application shall include only the information required by this section in addition to the permit application, if any, required under the electrical or building codes.
- c. Information required by section 4 hereof to the extent that such information has changed from previous submittal(s) or is applicable to the use of an existing structure.
- d. Information showing:
 - (1) That the additional loading on the tower or other structure will not exceed its design, or
 - (2) Changes that will be made to the tower or other structure to accommodate the additional antenna(e).

7. Appeals. An applicant may appeal as follows:

- a. If the Approval Authority or Plan Review Authority has denied a permit or failed to act on an application within 45 days, unless extended by agreement.
- b. Following opportunity for public input and findings of fact based on the following criteria, the Appeal Authority may grant a variance or special exception:
 - (1) Applicant has satisfied all requirements and conditions required by this Ordinance, except requirements for which a variance is permitted and sought.
 - (2) If requesting additional height beyond that permitted in the district, applicant has demonstrated that such additional height is necessary to serve the citizens of the City of York.
 - (3) Setback requirements and such additional conditions established by the Appeal Authority, as it deems necessary to remove danger to health and safety, and to protect adjacent property.
 - (4) There is insufficient cause to deny the permit under section 704 of the Telecommunications Act of 1996, which requires substantial evidence contained in a written record.

8. Applicability

- a. A tower shall not be allowed unless it is used to support operating antennae or is itself an antenna. If any tower is not used for a period of more than 90 days, the upon notice in writing given to the owner or his agent by the Building Official, said tower shall be removed if use is not resumed with 180 days of such notice, provided that for any tower on which antenna(e) have been installed in preparation for offering a new service, the total time allowed by this subsection shall be one year. The Appeal Authority may grant additional time to the tower owner.
- b. Existing towers shall be registered within 30 days of the effective date of this Ordinance. For purposes of this subsection, registration shall mean submission of information required by subsections 5.a., 5.d., 5.g., and 5.h. of this Ordinance. License fees required by section 4.f. shall be prorated until the next regular renewal date of such licenses.
- c. The tower owner shall comply with subsections 4.g., 4.h., 4.i., 4.k., and 4.l. Towers which do not meet the requirements of this Ordinance shall be a permitted non-conforming use to the extent of the location, height, and setbacks of such towers. Any addition to such towers shall not increase its nonconformity, except that existing public broadcasting facilities, because of the unique high frequency, unidirectional and line of sight nature of their facility, may increase their height to that allowed under the Highway Commercial district.

- d. Owners of existing towers which do not meet the requirements of this Ordinance who do not register their towers according to subsection 8.b. shall cause such towers to conform to this Ordinance within three (3) years of the effective date hereof.

Manufactured housing:

1. A manufactured housing unit must be a 1976 or newer HUD-approved unit (at construction) in order to be set up within the city limits of York. A manufactured housing unit older than 1976 may be set up, upon provision of the following:
 - a. Documentation confirming that the housing unit was legally permitted and legally connected to power (with power usage) in the City of York within a six (6) month period immediately preceding the permit application, and
 - b. Documentation confirming that the housing unit was owner-occupied at the previous and proposed locations.
2. A manufactured housing unit must be set up in accordance with the South Carolina Uniform Standards Code for Manufactured Housing or in accordance with manufacturer specifications, whichever is stricter.
3. All single family residential structures, except manufactured homes located in grandfathered manufactured home parks, must be underpinned with permanent brick, block, stone, Z-brick or equivalent. Mobile homes located in manufactured home parks or manufactured homes of less than twenty (20) feet in width will be allowed to use manufactured home vinyl underpinning kits. Underpinning must be vented in accordance with the Building Code. If underpinning is to be Z-brick or equivalent, then the underpinning must be installed by the manufacturer's specifications. Vinyl manufactured home kits must be installed as follows:
 - a) All vertical framing members and horizontal framing members not at ground level must be two inch by four inch (2"X4") galvanized steel studs.
 - b) Horizontal framing members at ground level must be four (4") inch galvanized steel tracks.
 - c) Vertical framing members must be on eight (8') foot centers.
 - d) Horizontal framing members must be at ground level, at the center of the distance between ground level and the bottom of the home if the bottom of the home is more than thirty-six (36) inches from the ground.
 - e) Horizontal framing members at ground level must be spiked at least twelve (12") inches into the ground at four (4') foot intervals.
4. All single-family residential structures must have all entrances completed in accordance with the Building Code prior to issuance of the Certificate of Occupancy.

NOTE:

When the manufactured housing unit is more than six feet (6') off the ground, a professional engineer must design the footings. The design must be sealed by a South Carolina registered professional engineer. In no case can a manufactured housing unit setup exceeding six (6') feet in height be underpinned with vinyl.

EXCEPTION TO THE ABOVE: Housing units in a flood plain must meet the flood plain ordinance requirements.

Adult Entertainment/Sexually-Oriented Businesses.

Section 1 - Purpose and intent of article.

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

Section 2 –Definitions.

Whenever any provision of this article shall prohibit or restrict an activity or condition used in this subsection to define the various types of sexually-oriented businesses, the fact that such activity or condition is used purely for definitional purposes shall not be construed as a contradiction or inconsistency with the substantive provisions of this article, and the described activity shall be prohibited or restricted as provided by the substantive provisions.

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

Adult bookstore, adult novelty store or adult video store means a commercial establishment which has as a significant or substantial portion of its stock in trade, or derives a significant or substantial portion of its revenues from, or devotes a significant or substantial portion of its interior business or advertising to, the sale or rental, for any form of consideration, of any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas", or
- b. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as an adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

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

- a. Persons who appear in a state of nudity; or
- b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the description of "specified sexual activities" or "specified anatomical areas."

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

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

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

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

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

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

Employee means a person who works or performs in and/or for a sexually-oriented business, regardless of whether or not the person is paid a salary, wage or other compensation by the operator of the business.

Establishment means and includes any of the following:

- a. The opening or commencement of any sexually-oriented business as a new business;
- b. The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;
- c. The addition(s) of any sexually-oriented business to any other existing sexually-oriented business; or
- d. The relocation of any sexually-oriented business.

Introductory service. Any person who, for financial consideration, offers to assist any person meet any other person for social or personal purposes not connected with or forming a part of another lawful business or professional activity.

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

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

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

Operator means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

Permitted or licensed premises means any premises that requires a license and/or permit and that is classified as a sexually-oriented business.

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

Public building means any building owned, leased or held by the United States, the state, the county, the city, any special purpose district, a school district, or any other agency or political subdivision of the state or the United States, where building is used for governmental or other public purposes.

Public park or recreation area means public premises which have been designated for park or recreational activities, including but not limited to parks, playgrounds, nature trails, swimming pools, gymnasiums, recreational centers, reservoirs, athletic fields, basketball or tennis courts, pedestrian or bicycle paths, open space, wilderness areas or similar public premises within the city that are under the control, operation or management of the city park and recreation authorities or the equivalent state, county or recreation district authorities.

Religious institution means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

Residential district means a geographical area recognized under the city zoning ordinance as primarily occupied by dwelling units for single-family, two-family, multiple-family or manufactured-home parks or subdivisions and campgrounds. It does not include other zoned districts intended primarily for industrial, service, commercial or office use but that permit residential uses.

Residential use means the lawful utilization of any structure as a dwelling unit for single-family, two-family or multiple-family occupation.

School means any public or private educational facility, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, technical colleges, junior colleges, colleges and universities. The term "school" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

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

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

Specified anatomical areas means the male genitals and/or the vulva or more intimate parts of the female genitals.

Specified sexual activities means and includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. Masturbation, actual or simulated;
- d. Human genitals in a state of sexual stimulation, arousal or tumescence; or
- e. Excretory functions as part of or in connection with any of the activities set forth in a. through c., above.

Substantial enlargement of a sexually-oriented business means the increase in floor areas occupied by the business by more than twenty-five (25) per cent as the floor areas existing on the date of adoption of this ordinance.

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

- a. The sale, lease, or sublease of the business;
- b. The transfer of securities which 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, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Youth activity center means a boys' club, a girls' club or any other facility that is not a school but which provides entertainment, recreation, crafts, tutorials or other quality of life enhancements for minors, whether a nonprofit facility or otherwise.

Section 3 - Sexually-oriented businesses approved by special exception are subject to the following:

1. A person commits a misdemeanor if he operates or causes to be operated a sexually-oriented business in violation of the City Code
2. A person commits a misdemeanor if he operates or causes to be operated a sexually-oriented business within fifteen-hundred (1,500) feet of:
 - a. A church;
 - b. A boundary of any residential district;
 - c. A public park adjacent to any residential district;
 - d. The property line of a lot devoted to residential use; or
 - e. A public or private elementary or secondary school.
3. A person commits a misdemeanor if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually-oriented business within one thousand (1,000) feet of another sexually-oriented business.
4. A person commits a misdemeanor if he causes or permits the operation, establishment, or maintenance of more than one sexually-oriented business in the same building, structure, or portion thereof, or the increase of floor areas of any sexually-oriented business in any building, structure, or portion thereof containing another sexually-oriented business.

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

For purposes of this ordinance, the distance between any two (2) sexually-oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

Any sexually-oriented business lawfully operating on the date of adoption of this ordinance that has thereafter continuously lawfully operated, and which is in violation of this ordinance shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of six (6) months or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually-oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually-oriented business which was first established and continuously operating at a particular location is the conforming use and the later-established business(es) is nonconforming. Further, the provisions of this ordinance relating to nonconforming uses shall not apply to businesses governed by the terms of this section.

A sexually-oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually-oriented business permit and/or license, of a church, public park, residential district or a residential lot within fifteen-hundred (1,500) feet of the sexually-oriented business or within fifteen-hundred (1,500) feet of a public or private elementary or secondary school. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

Section 4 - Permit required; application for permit.

- (a) *Permit required.* No person shall establish or operate a sexually-oriented business without first obtaining a valid permit issued by the city for the operation of a sexually-oriented business, which permit shall be in addition to any other permit or license required by municipal ordinance. A person commits a misdemeanor if he operates a sexually-oriented business without a valid permit issued by the municipality.
- (b) *Filing of application.* An application for a permit must be made on a form provided by the city. Any person desiring to operate a sexually-oriented business shall file with the city an original and two copies of a sworn permit application on the standard application form supplied by the city.
- (c) *Contents of application.* The completed application shall contain the following information and shall be accompanied by the following documents:
1. If the applicant is an individual, the individual shall state the applicant's legal name and any aliases and submit satisfactory proof that he/she is at least 18 years of age. If the applicant is a partnership, the partnership shall state its complete name, and the names of all partners, and whether the partnership is general or limited, and shall provide a copy of the partnership agreement, if any. If the applicant is a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the state, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process. Any person having a 10% or greater interest in the application shall be listed in the application.
 2. If the applicant intends to operate the sexually-oriented business under a name other than that of the applicant, he must state the sexually-oriented business's fictitious name and submit the required registration documents.
 3. The application shall state whether the applicant or any of the other individuals whose identity is addressed in section 4-c.1 has had a previous permit under this article or other similar sexually-oriented business ordinances from another city or county denied, suspended or revoked. If so, the applicant shall include the name and location of the sexually-oriented business for which the permit was denied, suspended or revoked; the date of the denial, suspension or revocation; and the name of governmental entity by which the permit was denied, suspended or revoked. The application shall also state whether the applicant or any other individual listed pursuant section 4-c.1 of this section has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this article whose permit has previously been denied, suspended or revoked. If so, the applicant shall include the name and location of the sexually-oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
 4. The application shall state whether the applicant or any other individual listed pursuant to this holds any other permits and/or licenses under this article or another similar sexually-oriented business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.
 5. The application shall state the location of the proposed sexually-oriented business, including a legal description of the property, street address, and telephone number.
 6. The application shall state the applicant(s) mailing addresses and residential addresses.
 7. A recent photograph of the applicant(s) shall be included.
 8. The application shall state the applicant's driver's license number, social security number, and state or federally issued tax identification number.
 9. The applicant shall submit a sketch or diagram showing the configuration of the premises, including a statement of total floorspace occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

10. The applicant shall submit a current certificate and straight-line drawing prepared within 30 days prior to application by a South Carolina registered land surveyor depicting the property lines and the structures on premises located within 1,500 feet of the property to be certified. The applicant shall by separate document identify all existing or established uses within 1,500 feet of the property line of the premises for which a permit is sought. For purposes of this section, a use shall be considered existing or established if it is in existence at the time the application is submitted.
11. *Application fee.* The applicant shall be required to pay a nonrefundable application fee at the time of an application under this section. The application fee shall be in addition to the annual permit fee otherwise required. The application fee shall be fixed from time to time by the city council and is set forth in the fee schedule of the City Code (initial fee of \$500).
12. *Persons holding other licenses not exempt from permit.* The fact that a person possesses other types of state, county or city permits and/or licenses does not exempt him from the requirement of obtaining a sexually-oriented business permit.
13. *Consent to regulation.* By applying for a permit under this section, the applicant shall be deemed to have consented to the provisions of this article and to the exercise by the city's police department and all other city agencies charged with enforcing the laws, ordinances and codes applicable in the city of their respective responsibilities under this article.
14. *List of employees.* The applicant shall be required to provide the city with the names of any and all employees who are required to be licensed, this shall be a continuing requirement even after a permit is granted or renewed.

Section 5 - Issuance or denial of permit.

- A. If the Board of Zoning Appeals approves a special exception request for a sexually-oriented business application, the City shall approve issuance of a permit to an applicant unless it finds one or more of the following to be true.
 1. An applicant is under 18 years of age.
 2. An applicant or other person residing in the applicant's household or the applicant's spouse is overdue in payment to the city of taxes, fees, fines or penalties assessed or imposed in relation to a sexually-oriented business.
 3. An applicant has failed to provide information required by this article for the issuance of the permit or has falsely answered a question or request for information on the application form.
 4. An applicant is residing with a person who has been denied a permit by the city to operate a sexually-oriented business within the preceding 12 months, or residing with a person whose permit to operate a sexually-oriented business has been revoked within the preceding 12 months.
 5. The premises to be used for the sexually-oriented business have not been approved by the health department, the fire department and the building official or other governmental agency having jurisdiction over the premises as being in compliance with applicable laws and ordinances.
 6. The application or permit fees required by this article have not been paid.
 7. An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this article.
 8. The applicant has a permit under this article which has been suspended or revoked.
 9. An applicant has been convicted of a specified criminal act for which:
 - a. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of an offense with a potential jail or prison term of one year or less, for these specified criminal acts; sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually-oriented business, including but not

limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations.

- b. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of an offense with a potential prison term of more than one year, for these specified criminal acts; sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually-oriented business, including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations.
- c. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, of the most recent conviction of two or more offenses with potential jail or prison terms of one year or less, for these specified criminal acts; sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually-oriented business, including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations, for offenses occurring within any 24-month period.

The fact that a conviction is being appealed shall have no effect on disqualification of the applicant. An applicant who has been convicted of the specified criminal acts described in this article may qualify for a sexually-oriented business permit only when the time period required in this subsection has elapsed.

- 10. An applicant operating a sexually-oriented business in the city, at the time of application for another permit, or a renewal, knowingly has in his employment an unlicensed employee who is subject to the licensing provisions of this article.
- B. The permit, if granted, shall state on its face the name(s) of the person(s) to whom it is granted, the expiration date, and the address of the sexually-oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time.
- C. If the city denies the application, it shall notify the applicant of the denial and state the reasons for the denial.
- D. If a person applies for a permit for a particular location within a period of 12 months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

Section 6 - Permit fee.

No sexually-oriented business permit shall be issued without the owner or operator having first paid the annual sexually-oriented business permit fee, nor shall any permit be renewed without the same fee first having been paid. The sexually-oriented business permit fee shall be in addition to any other fee or tax which may be due in connection with the operation of a business within the city. The sexually-oriented business permit fee shall be fixed from time to time by the city council and set forth in the standard fee schedule (initial fee of \$500). Each applicant shall be required to have a background check. Charges for background checks shall be in addition to other fees and be paid in accordance with the City Police Department policy.

Section 7- Suspension of permit.

- (a). The city shall suspend a permit issued under this article for a period not to exceed 30 days if it determines that a permittee, or an employee of a permittee, has:
 - 1. Violated or is not in compliance with any section of this article;
 - 2. Engaged in excessive use of alcoholic beverages while on the sexually-oriented business premises;
 - 3. Refused to allow an inspection of sexually-oriented business premises as authorized by this article;
 - 4. Knowingly permitted gambling by any person on the sexually-oriented business premises;

5. Operated the sexually-oriented business in violation of a building, fire, health or zoning statute, code, ordinance or regulation, whether federal, state or local, such determination being based on investigation by the division, department or agency charged with enforcing such rules or laws. In the event of such statute, code, ordinance or regulation violation, the city or its designee shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven-day period, the city shall forthwith suspend the permit and shall notify the permittee of the suspension. In the event of an emergency or other situation which is potentially life threatening, the time period provided in this subsection shall not apply and the city may take such immediate action as shall be appropriate;
 6. Engaged in permit transfer contrary to this article. If the city suspends a permit on the grounds that a permittee engaged in a permit transfer contrary to this article, the city shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this article has been satisfied;
 7. Operated the sexually-oriented business in violation of the hours of operation provided in this article;
or
 8. Knowingly employs a person who does not have a valid license as required in this article or knowingly permitted any patron, customer or member of the public to appear nude or nearly nude on the premises.
 9. Such determination may be based upon information obtained by the enforcement officer from other inspection or enforcement officers of the city.
- (b.) If, at the end of the period of suspension, the violation has not been corrected, then the suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

Section 8 - Revocation of permit

- (a) The city shall revoke a permit if a cause of suspension listed in this article occurs and the permit has been suspended within the preceding 12 months.
- (b) The city shall revoke a permit if it determines that:
 - A permittee gave false or misleading information in the material submitted during the application process when the permittee knew or should have known the correct information;
 - A permittee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premises;
 - A permittee or an employee has knowingly allowed prostitution or solicitation for prostitution on the premises;
 - A permittee or an employee knowingly operated the sexually-oriented business during a period of time when the permittee's permit was suspended;
 - A permittee has been convicted of a specified criminal act for which the time period required in this article has not elapsed;
 - On two or more occasions within a 12-month period, a person committed an offense, occurring in or on the permitted premises, constituting a specified act for which a conviction has been obtained, and the person was an employee of the sexually-oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit;
 - A permittee is delinquent by more than 30 days in payment to the city, county or state for any taxes or fees due;

A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or any other specified sexual activities to occur in or on the permitted premises;

A permittee has been operating more than one sexually-oriented business under a single roof, except as may be addressed for preexisting nonconforming uses under provisions of the city zoning ordinance relating to the sexually-oriented businesses; or

A permittee knowingly permitted an owner, operator, employee or agent to appear nude or nearly nude on the premises.

- (c.) When the city revokes a permit, the revocation shall continue for one year and the permittee shall not be issued a sexually-oriented business permit for one year from the date revocation becomes effective. If, subsequent to revocation, the city finds that the basis for revocation has been corrected, the applicant, for good cause, may be granted a permit if at least 90 days have elapsed since the date revocation became effective.

Section 9 - Transfer of permit; conduct of business at other than specified location.

- (b) A permittee shall not operate a sexually-oriented business under the authority of a permit at any place other than the address designated in the permit, nor shall a permit be granted for any place other than that identified in the application.
- (c) A permittee shall not transfer his permit to another.
- (d) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void and, in addition to any other penalties, the permit shall be deemed revoked as of the date of the attempted transfer.

Section 10 - Employee license.

- (a) **Required fee.** Each employee to be employed in a sexually-oriented business shall be required to obtain a sexually-oriented business employee license. Each applicant shall pay a fee as fixed from time to time by the city council and as set forth in the standard fee schedule. The fee is to cover reasonable administrative costs of the licensing application process.
- (b) **Application.** Before any applicant may be issued a sexually-oriented business employee license, the applicant shall submit, on a form to be provided by the city, the following information:
- (e) The applicant's name and any other names, including stage names or aliases used by the individual.
- (f) Age, date and place of birth.
- (g) Height, weight, hair and eye color.
- (h) Present residence address and telephone number.
- (i) Present business address and telephone number.
- (j) State driver's license or identification number.
- (k) Social security number.
- (l) Acceptable written proof that the individual is at least 18 years of age.
- (m) Attached to the application form, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
- (n) A statement detailing the license or permit history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant, previously operating or seeking to operate in this city or any other city, county, city, state or country, has ever had a license, permit or authorization to do business denied, revoked or suspended, or had

any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, the applicant shall state the date and the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

- (o) Whether the applicant has been convicted of a specified criminal act as defined in this article. This information shall include the date, place and nature of each conviction or plea of nolo contendere and identify the convicting jurisdiction.
- (c) **Investigation, issuance.** The city shall refer the sexually-oriented business employee license application to the police department for an investigation to be made of such information as is contained on the application. The application process shall be completed within ten days from the date the completed application is filed. After the investigation, the city shall issue a license unless the information gathered establishes that one or more of the following findings is true:
- (1) The applicant has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the police department or other department of the city.
 - (2) The applicant is under 18 years of age.
 - (3) The applicant has been convicted of a specified criminal act as defined in section 3 and the prescribed time period has not yet passed the from date of conviction or release from confinement, whichever is later.
 - (4) The sexually-oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this article.
 - (5) The applicant has had a sexually-oriented business employee license revoked by the city within two years of the date of the current application.
- (d) **Renewal.**
- 1. A license granted pursuant to this section shall be subject to annual renewal by the city upon the written application of the applicant and a finding by the city in accord with the procedures of this article that the applicant has not been convicted of any specified criminal act as defined in this article or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.
 - 2. The renewal of the license shall be subject to payment of a fee as set by a resolution of the city council.

Section 11 - Additional regulations for adult motels.

Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this ordinance.

A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually-oriented permit and/or license, he rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.

For purposes of this section, the terms “rent” or “sub-rent” mean the act of permitting a room to be occupied for any form of consideration.

Section 12 - Exhibition of films or videos in video booths.

- (a) A person who operates or causes to be operated a video arcade or other sexually-oriented business, other than a sexually oriented motel, which exhibits on the premises, in a viewing room of less than 150 square feet of floorspace, a film, videocassette or other video reproduction which depicts “specified sexual activities” or “specified anatomical areas”, shall comply with the following requirements:
- (1) Upon application for a sexually-oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures, and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area, with no dimension greater than eight feet. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The city may waive the requirement for this diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - (2) The application shall be sworn to be true and correct by the applicant.
 - (3) No alteration in the configuration of the premises as shown may be made without the prior approval of the city.
 - (4) It is the duty of the owners, operators and permittees to ensure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.
 - (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 - (6) It shall be the duty of the owners, operators and permittees, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in this article remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.
 - (7) No viewing room may be occupied by more than one person at any one time. No holes, commonly known as "glory holes," shall be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or restroom.
 - (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access with an illumination of not less than 1.0 footcandle as measured at the floor level.
 - (9) It shall be the duty of the owners, operators and permittees, and it shall also be the duty of any agents and employees present on the premises, to ensure that the illumination described in this article is maintained at all times that any patron is present on the premises.

- (b) A person having a duty under this article commits a violation of this Code if he knowingly fails to fulfill that duty.

Section 13- Prohibited conduct.

- (a) No person shall perform or permit to be performed at a sexually-oriented business a dance or other physical performance for entertainment in which the performer is nude or nearly nude, nor shall any person in the performance of his duties or activities as operator or employee of a sexually-oriented business carry out such duties nude or nearly nude.
- (b) Any person, otherwise appropriately attired in accord with this Code, who performs a dance or other physical performance for entertainment at a sexually-oriented business establishment shall at no time during the performance have physical contact with any patron, invitee or member of the public. No operator of a sexually-oriented business shall permit to be performed such dance or other physical performance that allows physical contact with any patron, invitee or member of the public, or knowingly encourage, permit any patron, invitee or member of the public to have physical contact with the performer during the performance.
- (c) No patron of a sexually-oriented business shall knowingly have physical contact with a dancer or person providing any other physical performance for entertainment while the performance is being presented, regardless of the amount of clothing worn by the patron or dancer or other performer.
- (d) All operators of sexually-oriented businesses at which dances or other physical performances for entertainment are provided shall post, in a conspicuous place near the performance area, a sign using at least three-inch lettering which states "CITY ORDINANCE: PATRONS SHALL HAVE NO PHYSICAL CONTACT WITH PERFORMERS DURING PERFORMANCE, PENALTY: \$500.00 FINE, THIRTY (30) DAYS IN JAIL, OR BOTH."
- (e) Nothing in this section shall be deemed to prohibit nudity or near nudity incidental to a theatrical performance or presentation which is part of a business operation which is not otherwise subject to a defined activity qualifying as a sexually-oriented business under the provisions of this Code.

Section 14 - Prohibitions regarding minors.

No person shall operate or cause to be operated a sexually-oriented business and, knowingly or with reasonable cause to know, permit, suffer or allow:

- (1) Admittance of a person under 18 years of age to the business premises unless accompanied by a parent or guardian;
- (2) A person under 18 years of age to remain at the business premises unless accompanied by a parent or guardian at all times;
- (3) A person under 18 years of age to purchase goods or services at the business premises without the specific consent of a parent or guardian; or
- (4) A person who is under 18 years of age to work at the business premises as an employee.

Section 15 - Hours of operation.

No sexually-oriented business shall open to do business before 10:00 a.m. Monday through Saturday or remain open after 12:00 midnight Monday through Saturday. No sexually-oriented business shall open for business on a Sunday. This section shall not apply to an adult motel or to a business whose hours of operation are regulated by state law.

Section 16 - Advertising; visibility of interior; exterior lighting.

- (a) No person shall operate or cause to be operated a sexually-oriented business and advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.

- (b) No person shall operate or cause to be operated a sexually-oriented business and display or otherwise exhibit the materials and/or performances at such sexually-oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually-oriented business.
- (c) No owner, operator, permittee or employee of a sexually-oriented business shall allow any portion of the interior premises to be visible from outside the premises.
- (d) All off-street parking areas and premises entries of the sexually-oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one footcandle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

Section 17 - Inspections.

- (a) An applicant or permittee under this article shall permit representatives of the police department, health department, fire department, building codes department, zoning department, or other city departments or agencies or such county and state agencies as may have jurisdiction to inspect the premises of a sexually-oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.
- (b) Regardless of whether or not a permit has been issued for the business under this ordinance, any person who operates a sexually-oriented business or his agent or employee commits a violation of this Code if he refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business.

Section 18 - Distribution of sexual devices prohibited.

- (a) It is unlawful for anyone to distribute anywhere within the city for commercial purposes, including free distribution for advertising, sale or offering for sale, any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- (b) Such devices, instruments or paraphernalia include but are not limited to phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sadomasochistic abuse.

Section 19- Exemptions and defenses.

- (a) A person appearing in a state of nudity or nearly nude and doing so in a modeling class is exempt from the provisions of this article and any other municipal ordinance prohibiting appearance in the nude, provided that the modeling class is:
 - (1) At a proprietary school licensed by the state, or a college, junior college or university supported entirely or partly by taxation;
 - (2) At a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
 - (3) In a structure:
 - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
 - b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
 - c. Where no more than one nude model is on the premises at any one time.

- (b) It is a defense to prosecution for a violation of this article that an employee of a sexually-oriented business, regardless of whether or not it is permitted under this article, exposed any “specified anatomical area” during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

Section 20 - Enforcement.

- (a) The city manager shall be responsible for enforcement of this article by and through such officers and employees as he may designate from time to time to act on behalf of the city for purposes of application review, permit suspension or revocation, inspection, and any other act or assessment by the city provided for in this article.
- (b) The city personnel charged with enforcement of this article and related state and local laws and codes shall be immune from prosecution for reasonable, good faith trespass upon a sexually-oriented business while acting within the scope of authority conferred by this article.

Section 21 - Injunction.

A person who operates or causes to be operated a sexually-oriented business without a valid permit and/or license or in violation of any section of this ordinance is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of five hundred dollars (\$500.00) plus court costs or thirty (30) days imprisonment.

Section 22 - Appeal procedure.

An appeal of any requirement of this ordinance shall be done in accordance with the general appeal procedures of the Zoning Ordinance.

Section 23 - Separability.

If any subsection or clause of this section shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

Section 15 - Nonconforming Uses

- A. ***Nonconforming use may be continued.*** Except as otherwise provided herein, the lawful use of land or buildings existing at the effective date of this ordinance may be continued although such use does not conform to the provisions hereof. Except as provided in this section, such nonconforming use may not be enlarged, extended, reconstructed, or structurally altered except in compliance with the provisions of this ordinance. However, nothing in this section shall be deemed to prevent the repair, strengthening, or restoring to a safe and substantially improved condition any part of a nonconforming building or structure.
- B. ***Nonconforming lots of record.*** Where a lot of record at the time of the effective date of this ordinance has less area or depth than herein required in the district in which it is located, and the owner of such lot does not own any other parcel or tract adjacent thereto, said lot may nevertheless be used for any use permitted within the district in which it is located, provided that yard requirements are reduced no more than forty (40%) percent. If a variance of greater than forty (40%) percent is needed, the applicant must apply to the Board of Zoning Appeals for relief. If, however, the owner of two (2) or more adjoining lots, with insufficient land dimensions, decides to build on or sell off these lots, he must combine said lots to comply with the dimensional requirements of this ordinance.
- C. ***Change of nonconforming use.*** If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same general classification. Whenever a nonconforming use of land or building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted or nonconforming use.
- D. ***Extension of use within existing building.*** The nonconforming use of a building may be hereafter extended throughout those parts of a building which are primarily arranged or designed for such use at the time of the enactment of this ordinance.
- E. ***Buildings nonconforming in height, area, or yard.*** A building nonconforming only as to height, area or yard requirements may be altered, extended, or replaced if razed by fire or other natural cause, provided such alteration, extension, or replacement does not increase the degree of nonconformity in any respect.
- F. ***Discontinuance of nonconforming use.*** No building or portion thereof used in whole or in part for a nonconforming use in a residential district which remains idle or unused for a continuous period of one hundred eighty (180) days, or which remains idle or unused in any other district for a period of six (6) months, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located. No nonconforming mobile home shall be replaced by another nonconforming mobile home after removal for thirty (30) consecutive days.
- G. ***Destruction of a nonconforming use.*** No building which has been damaged by any cause whatsoever to the extent of more than fifty (50) percent of the fair market value of the building, immediately prior to the damage, shall be restored except in conformity with the regulations of this ordinance, and all rights as a nonconforming use are terminated. If a building is damaged by less than fifty (50) percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repair or reconstruction be substantially completed within twelve (12) months of the date of such damage. The provisions of this subsection shall not apply to any bona fide residence, including mobile homes, used for residential purposes. Said uses may be reestablished regardless of the extent of damage.
- H. ***Intermittent use.*** The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

- I. ***Nonconforming signs.*** In a residential district where any sign does not comply with the provisions of this ordinance, such sign and any supporting structures may be maintained, but shall not be replaced, reconstructed, moved, structurally altered, repainted or relighted except in compliance with the provisions of this ordinance and may continue in use unless subject to removal under other provisions of this ordinance. Removal, replacement, reconstruction, moving or structural alteration for any cause whatsoever shall be considered as loss of nonconforming status. Supporting structures for nonconforming signs may continue in use for a conforming sign if said support structures comply in all respects to the applicable requirements of these regulations and other codes and ordinances. No permits for additional signs shall be issued for any premise on which there is any nonconforming sign.

J. *Mobile home subdivisions*

A mobile home subdivision is defined as a subdivision of property into 5 or more individual parcels for the intended purpose of installing a mobile home on each such parcel.

An existing nonconforming mobile home in a previously-approved mobile home subdivision may be replaced with another code-approved mobile home subject to the following:

- The replacement mobile home shall be in place no longer that 12-months after removal of the previous nonconforming mobile home, and
- The subject property shall be maintained in accordance with all City property maintenance requirements.

As long as the mobile home and property are maintained to City standards, an existing, nonconforming mobile home in a previously-approved mobile home subdivision may continue to be used for single family dwelling purposes regardless of lapses in occupancy. (cc July 5, 2005)

K. *Vested rights*

1. Scope and title

All applicable ordinances, municipal code sections, and regulations relating to zoning, planning and land development within the municipality are subject to this section.

2. Definitions

- a. Except as hereinafter set forth, the words, terms and phrases when used in this section shall have the meaning as set forth in Section 6-29-1520 of the South Carolina Code of Laws, as enacted by Act 287 of 2004.
- b. “Site specific development plan” means a development plan submitted to a local governing body by a landowner describing with reasonable certainty the types and plan density or intensity of uses for a specific property or properties. The plan may be in the form of, but is not limited to, the following plans or approvals; planed unit development; subdivision plat; site plan; variance; conditional use or special use permit plan; conditional or special use district zoning plan; or other similar approval that authorizes the landowner to proceed with investment in grading; installation of utilities, streets, and other infrastructure; and to undertake other significant expenditures necessary to prepare for application for a building permit.
- c. “Vested right” means the right to undertake and complete the development of property under the terms and conditions of a site specific development plan as provided in this ordinance.
- d. “Phased development plan” means a development plan submitted to the City by a landowner that shows the types and density or intensity of uses for a specific property or properties to be developed in phases, but which does not satisfy the requirements for a site specific development plan.

3. Establishment and conditions of vested rights

- a. A vested right to develop property in accord with a site specific development plan is triggered upon the final approval of the site specific development plan by the final official or body of the municipality authorized to approve a site specific development plan and the payment to the municipality of all applicable established fees.
- b. Except as hereinafter set forth, a vested right established by this section is subject to the conditions and limitations as set out in Sections 6-29-1540 and 6-29-1550 of the Code of Laws of South Carolina, as enacted by Act 287 of 2004.
- c. The vested rights for any Planned Unit Development (PUD) given final approval by City Council between January, 2007 and January, 2009 shall terminate five (5) years from the date of the original PUD approval given by City Council. A vested right for any other approved site-specific development plan expires two (2) years after the date of final approval by the final official or body authorized to approve a site-specific development plan. *(CC 6/29/10 - 10-509)*
- d. No vested rights are established for phased development plans, including approved or conditionally approved phased development plans and including phased development plans applicable to property proposed for annexation. An approved or conditionally approved site specific development plan is required prior to approval with respect to each phase of a phased development plan.
- e. A vested site specific development plan may be amended by the Planning Commission if the amendment conforms to, or does not cause greater nonconformity with, the then current provisions of the municipal zoning, planning, and land development ordinances, municipal code sections or regulations. Approval or conditional approval of an amendment does not re-set or re-start the expiration period of a vested right.
- f. Unless otherwise specified, extensions of vested rights are prohibited.
- g. Previously-approved, solely-commercial Planned Use Developments shall be granted a two-year extension to the previously-allowed vested- rights period.

Section 16 - Administration, Enforcement, Penalties and Fees

- A. ***Building Official.*** The designated Building Official shall administer and enforce this ordinance. The duties shall include receiving permit applications, issuing permits, issuing zoning compliances, inspecting premises, and issuing certificates of occupancy for uses and structures that meet the requirements of this ordinance. All records pertaining to each request processed by the Building Official shall be kept on file and open for public inspection.
- B. ***Information required.*** The designated Building Official requires information from the applicant necessary to determine the conformity of the application proposal with this ordinance. Plans accompanying applications shall include but not be limited to the number of dwelling units each building is designated to accommodate, if any; the setback lines of the building on the lot; the number, layout, and dimensions of proposed parking spaces, if any; and the locations and dimensions of points of ingress and egress from abutting public streets or alleys.
- C. ***Conditional Uses.*** Conditional uses, as defined in the zoning district section of this ordinance, are permitted, subject to a determination by the designated Building Official that they conform to all regulations set forth herein and elsewhere in this ordinance, with particular reference to those requirements established for the district where the location is proposed.
- Application for permission to build, erect, or locate a conditional use shall be submitted and proposed in accordance with the regulations set forth in this ordinance. Building permits issued for conditional use shall bear a stamp stating “ Conditional Use”.
- Permits authorizing conditional uses shall be valid only for the particular use issued and shall expire if the conditional use, or operations pertaining thereto, shall cease for more than six (6) months for any reason.
- D. ***Reserved.***
- E. ***Temporary Uses.*** The designated Building Official is authorized to issue a temporary certificate of occupancy for uses as follows:
1. Carnival or circus, or other entertainment activity, only in the zoning districts where such use is permitted in this ordinance, for a period not to exceed thirty (30) days, subject to the approval of the York City Council
 2. Religious meetings in a temporary facility, only in the zoning districts where such use is permitted in this ordinance, for a period not to exceed sixty (60) days.
 3. Open lot sale of Christmas trees, only in districts permitted in this ordinance, for a period not to exceed sixty (60) days.
 4. Real estate sales office in any district for a period not to exceed six (6) months, provided that no cooking or sleeping accommodations shall be maintained in the structure.
 5. Contractor’s office and equipment storage sheds, in any district for a period of twelve (12) months; provided, such office shall be placed on the property to which it is appurtenant.
 6. All temporary permits may be secured provided such use is of a temporary nature and further provided that no traffic congestion or nuisance to surrounding property results.
- F. ***Sign Permits.*** The designated Building Official shall issue sign permits in accordance with the requirements of this ordinance. Application for erection of a sign must be made to the designated

Building Official; such application must describe in detail the configuration, size, and text of the sign. Details of the method and location of mounting the sign must be provided.

Signs must be maintained at all times. Failure to maintain the sign properly will result in notice to remove the sign. Failure to adhere to the removal notice will result in a fine.

Unlawful signs shall be made to comply with all regulations upon written notice from the City of York. Failure to make the sign comply with the regulations will result in a notice of removal.

Section 17- Building Permit Procedure

No land shall be used or occupied and no land shall be excavated and no building or other structure shall be erected, structurally altered, added to or moved until a certificate of zoning compliance and building permit shall have been issued by the Building Official in conformity with this ordinance and all other ordinances, rules and regulations of the City.

A. *Application procedure.*

1. **Zoning Compliance.** Application for a zoning compliance shall be made to the Building Official prior to the issuance of all building permits. Any information necessary for the processing of a zoning compliance application shall be provided to the Building Official at the time of application. Such information shall include but not be limited to a plat of relevant properties showing the location of any new construction on such plat. All zoning compliances are subject to the applicable standards of the Board of Zoning Appeals, Planning commission, and Historical Commission. All applications except those for one single-family dwelling or one duplex shall also be reviewed and approved by the Planning Commission.
2. **Building Permits.** Once a zoning compliance (if required) is issued for a particular project, a building permit can be obtained. At the point of applying for a permit, the applicant must provide all relevant information and documentation as required by the Building Official. After review of the permit application, plans, specifications, and other relevant information, the Building Official may issue a building permit if all facets of the job are in compliance with applicable codes, laws, and ordinances. The issuance of a building permit does not grant the applicant the right to violate any applicable code, law, or ordinance; the project must be conducted in accordance with the appropriate standards.

B. *Issuance procedure.*

1. If the proposed plan conforms with the provisions of this ordinance, the Building Official shall issue a zoning compliance and return one (1) copy of the zoning compliance to the applicant. The Building Official shall mark the plan as approved and attest the same with his signature. All plans except those for one single-family dwelling or one duplex must be signed by the majority of members of the Planning Commission. The second copy of the plan and zoning compliance, similarly marked, shall be retained by the Building Official.

All zoning compliances shall expire twelve (12) months from the date of issuance unless a building permit has been issued for such work and physical construction has begun. Reapplication for zoning compliance will be required for all expired zoning compliances according to the zoning laws in effect at the time of reapplication.

2. **Building Permits.** Once an application for a building permit is approved by the Building Official, copies will be forwarded to all applicable parties, with one copy being retained by the Building Official.

Section 18- Board of Zoning Appeals

A. **Appointment of Board of Zoning Appeals.** The Board of Zoning Appeals of the City of York (hereinafter referred to as “the Board”) is hereby established in accordance with the provisions of this ordinance. The Board shall consist of at least five (5) and no more than seven (7) members, appointed by the York City Council, who have lived and resided in the city a minimum of twelve (12) consecutive months prior to appointment on the Board. The Board shall not convene without at least four (4) members present. The City shall make every effort to maintain a seven (7) person Board membership. The members shall serve for overlapping terms of four (4) years or until succeeded.

Any vacancy in the membership shall be filled for the unexpired term in the same manner that the initial appointment was made. Members shall be removable for cause by the City Council upon written charges and after a public hearing. Members may succeed themselves.

B. **Jurisdiction.** The Board shall have jurisdiction over certain matters arising in connection with administration of this ordinance as herein provided.

C. **Procedure.** The Board shall elect one of its members as chairperson, who shall serve in this capacity for one (1) year or until he is reelected or his successor is elected. The Board shall appoint a secretary, who may be an officer of the governing authority or of the Planning Commission. The secretary shall not be permitted to vote on any issue before the Board. The Board shall adopt rules in accordance with the provisions of this ordinance.

Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson or, in his absence, the acting chairperson may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. No member of the Board shall participate in a hearing in which he has any pecuniary or special interest.

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

On all appeals, applications and other matters brought before the Board, the Board shall inform, in writing, all the parties involved of its decisions, stating the reasons therefore, including city council and city manager.

D. **Appeal procedure.** Appeals to the Board may be made by any person aggrieved, or by an officer, department, Board or bureau of the City of York affected by a decision of the Planning Director or other city official based on this ordinance. A completed appeal application must be received by the Planning Director no later than 30 days after aforesaid decision; thereafter, the decision of the respective city official shall become final. Appeals shall be submitted on application forms obtainable from the Planning Director. All documentation related to the appeal shall be transmitted to the Board by the Planning Director. The application shall be processed in accordance with the meeting date/application deadline schedule approved by the Board of Zoning Appeals.

The Board of Zoning Appeals shall render a decision regarding a variance, special exception or appeal application within seventy-five (75) calendar days of the initial public hearing on the matter. If no decision has been made within that time, the request shall automatically be considered approved by the Board, and the secretary of the Board shall direct that the necessary permits be issued. (Ord. 08-483)

Action shall not be initiated on the same appeal by the same applicant more often than once every twelve (12) months. Any communication purporting to be an application for an appeal shall be regarded as mere notice to seek relief until it is made in the form required.

A maximum of two (2) continuation requests from the applicant is allowed per appeal application.

E. **Powers and duties.** The Board shall have the following powers and duties:

1. To hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;
2. To hear and decide appeals for a variance from the requirements of the Zoning Ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
 - b. These conditions do not generally apply to other property in the vicinity;
 - c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
 - d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
 - i. The Board may not grant a variance that would allow the establishment of a use not otherwise permitted in a zoning district, that would extend physically a nonconforming use of land, or that would change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance. Other requirements may be prescribed by the Zoning Ordinance.

Note:

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit such a variance, it may require the affirmative vote of two-thirds of the local adjustment Board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the Board of Zoning Appeals concerning a use variance.

- ii. 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.
3. To hear and decide a special exception request the Board shall considering the following factors where applicable:
 - a. The proposed design and location of the particular development.
 - b. The possible traffic-generating characteristics of the proposed development.
 - c. The effects of the proposed development on the present or intended character of the area in which it is proposed for location.
 - d. The availability of public utilities, facilities and services.

After such consideration, the Board shall take such actions or establish such reasonable conditions of approval as will accomplish the intents and purposes of this ordinance.

Applications for special exceptions or variances may be referred to the Planning Commission for comment and recommendations and returned to the Board within a specified period of time.

F. **Action on appeals.** In exercising the above powers, the Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement or decision of

the Planning Director or other administrative official and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

- G. ***Stay of proceedings.*** An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Planning Director certifies to the Board after the notice of appeal shall have been filed with him that, by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the official from whom the appeal is taken and on due cause shown.
- H. ***Public Notice on appeals.*** The Board shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give public notice thereof in a newspaper of general circulation throughout the City of York, such notice to consist of two (2) insertions in such newspaper, the first of which shall be at least fifteen (15) days prior to the date of such hearing. Property owners or tenants adjacent to appeal/variance/special exception request shall be notified of the respective Board of Zoning Appeals case by certified mail (return receipt - restricted delivery). In cases involving variances or special exceptions, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice visible from each public thoroughfare that abuts the property. At a hearing, any party may appear in person or be represented by agent or by attorney.
- I. ***Final decision and Order:*** All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board, which must be delivered to parties of interest by certified mail.
- J. ***Appeals from decisions:*** A person who may have a substantial interest in any decision of the Board of Appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the Board to the circuit court in and for the county by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the decision of the Board is mailed.
- K. ***Financing of Board:*** The governing authority may appropriate such monies, otherwise unappropriated, as it considers fit to finance the work of the Board of Appeals and to generally provide for the enforcement of any zoning regulations and restrictions authorized under this chapter which are adopted and may accept and expend grants of money for those purposes from either private or public sources, whether local, state or federal.

Section 19- Amendments

- A. ***Authority.*** This ordinance, including the official zoning map of the City of York, may be amended from time to time by the York City Council as herein specified, but no amendment shall become effective unless it shall have been proposed by or shall first have been submitted to the Planning Commission for review and recommendation. The Planning Commission shall have no more than thirty (30) days within which to submit its report to the city council. If the Planning Commission does not submit its report within the prescribed time, the City Council may proceed to act on the amendment without awaiting the recommendations of the Planning Commission.
- B. ***Requirement for change.*** Whenever the public necessity, convenience, general welfare or good zoning practice justifies such action, and after the required review and report by the Planning Commission, the city council may undertake the necessary steps to amend this ordinance.
- C. ***Procedure for amendments.*** Requests to amend this ordinance shall be processed in accordance with the following requirements:
1. ***Initiation of amendments.*** A proposed amendment to this ordinance may be initiated by the Planning Commission, or by application filed with the secretary of the Planning Commission, by the owner or owners of the property proposed to be changed; provided that action shall not be initiated for a zoning amendment affecting the same parcel or parcels of property, or any part thereof, by a property owner or owners more than once every twelve (12) months.
 2. ***Application forms; fees.*** Application forms for amendment requests shall be obtained from the building official. Completed forms, together with fees required to cover administrative costs, plus any additional information the applicant feels to be pertinent, shall be filed with the secretary of the Planning Commission. Any communication purporting to be an application for an amendment shall be regarded as mere notice to seek relief until it is made in the form required.

Applications for amendments shall be submitted in proper form at least two (2) weeks prior to a Planning Commission meeting in order to be heard at that meeting. Applications shall be accompanied by a fee of fifty dollars (\$50). The building official shall issue a receipt. Such fees are intended to offset the costs of advertising and administrative expenses.
 3. ***Action by Planning Commission.*** All papers and other data submitted by the applicant on behalf of the amend request shall be transmitted to the Planning Commission. The Planning Commission, at regular meeting, shall review and prepare a report, including its recommendation, for transmittal to the city council. All meetings of the Planning Commission shall be open to the public. At a meeting, any party may appear in person, or be represented by an agent or by attorney. No member of the Planning Commission shall participate in a matter in which he has any pecuniary or special interest. Following action by the Planning Commission, all papers and data pertinent to the application shall be transmitted to the city council for final action.

The Planning Commission shall render a recommendation regarding a rezoning application or a zoning amendment application within seventy-five (75) calendar days of the initial public meeting regarding the particular application.

If action is not taken by the Planning Commission within the prescribed time-period, the application shall be forwarded to City Council for action. (Revised 9/10/08)
 4. ***Public hearing.*** Before enacting or amending this ordinance, the City Council or the Planning Commission, if authorized by the city council, shall hold a public hearing thereon, at which parties in interest and citizens shall have an opportunity to be heard. Two (2) notices of such hearing shall be published in a newspaper of general circulation in the City of York. One (1) notice shall be published at least thirty (30) days prior to the hearing, and the second notice at least fifteen (15) days prior thereto.

When a proposed amendment affects the district classification of property, notice of such amendment shall be conspicuously posted on or adjacent to property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. Such signs shall be posted at least 15 days prior to the hearing and shall indicate the nature of the change proposed, identification of the property affected, and the time, date and place of the hearing.

5. **Changes in zoning map.** Following final action by the city council, any necessary changes shall be made in the zoning map by the city clerk. A written record of the type and date of such change shall be maintained by the city clerk. Until such change is made, no action by the city council on amendments to this ordinance shall be considered official.

Section. XX

Legal Status Provisions

- A. **Zoning ordinance control.** Whenever the regulations of this ordinance require a greater width or size of yards, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied or impose other more restrictive standards than are required in or under any other statutes or private deed restrictions, the requirements of this ordinance shall govern. Whenever the provisions of any other statute shall require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.
- B. **Validity.** Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby to the extent of such inconsistency.