

**CITY OF TEGA CAY**  
**SOUTH CAROLINA**

**ORDINANCE NO. 77**

THIS IS A ZONING ORDINANCE FOR THE CITY OF TEGA CAY, SOUTH CAROLINA UNDER THE AUTHORITY GRANTED BY SECTION 6-7-100 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED BY THE SOUTH CAROLINA LOCAL GOVERNMENT COMPREHENSIVE PLANNING ENABLING ACT. THIS ORDINANCE SHALL BE EFFECTIVE THROUGHOUT THE CITY'S PLANNING JURISDICTION.

THIS ORDINANCE INCLUDES GENERAL PROVISIONS, DEFINITIONS OF BASIC TERMS, ADMINISTRATIVE MECHANISMS, PERMIT APPROVALS, ENFORCEMENT AND REVIEW, NON-CONFORMITIES, SUPPLEMENTARY USE REGULATIONS, USE REQUIREMENT BY DISTRICT, A ZONING MAP, CONDITIONAL USE AND SPECIAL USE PERMIT REGULATIONS, OFF STREET PARKING AND LOADING REQUIREMENTS, FENCING REQUIREMENTS, SHADING AND AMENDMENTS.

# **ZONING ORDINANCE**

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# **ZONING ORDINANCE**

## **CITY OF TEGA CAY, SOUTH CAROLINA**

### **ARTICLE I.**

#### **GENERAL PROVISIONS**

##### **SECTION 19-1 - SHORT TITLE**

This ordinance shall be known and may be cited as the Tega Cay Zoning Code.

##### **SECTION 19-2 - PURPOSE**

These zoning regulations have been enacted to guide development in accordance with existing and future needs and in order to protect, promote and improve the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare.

The zoning regulations have been designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers, to promote the public health and the general welfare, to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to protect scenic areas, historic and ecologically sensitive areas; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. These regulations have been applied to individual areas within the City with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the value of land and buildings, and encouraging the most appropriate use of land and buildings and structures.

##### **SECTION 19-3 - AUTHORITY**

These zoning regulations are adopted under authority granted by Title 6, Chapter 29 of the Code of Laws, South Carolina Local Government Comprehensive Planning Act of 1994 as amended. Any amendments to the state code sections cited in this ordinance shall automatically amend the provisions of this ordinance to the extent of such amendment, whether or not such amendment is incorporated by amendatory ordinance.

##### **SECTION 19-4 - JURISDICTION**

This ordinance shall be effective throughout the City's planning jurisdiction and all extraterritorial areas that may be authorized by the Code of Laws of South Carolina. A copy of a map showing the boundaries of the City's planning jurisdiction shall be available for public inspection in the planning department.

##### **SECTION 19-5 - EFFECTIVE DATE**

The provisions in this ordinance were originally adopted and became effective on September 18, 2000. Subsequent amendments are effective upon Second Reading of said amendment by City Council.

#### **SECTION 19-6 - RELATIONSHIP OF THIS ORDINANCE TO OTHER ORDINANCES**

This ordinance hereby supersedes and repeals Ordinances 17, 19, 23, 37, 49, 54, 65, and 152, as well as Sections 1010, 1108, 1109, 1204, and 1301 of Ordinance 50. Subject to Article VIII, this Ordinance is not intended to interfere with any easements, covenants, or other agreements between parties. However, if the provisions herein impose a greater restriction or higher standards for the use of size of lots or structures than the provisions of other ordinances, covenants, permits and easements, then the provisions of this ordinance will take precedence over the others and will control the use or development.

#### **SECTION 19-7 - RELATIONSHIP TO COMPREHENSIVE PLAN**

It is intended that this ordinance will implement the planning policies adopted by the City Council as reflected in the Comprehensive Plan of the City of Tega Cay and other planning documents. While the Council reaffirms its commitment that this ordinance and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

#### **SECTION 19-8 - ZONING AFFECTS EVERY BUILDING AND USE**

No building, structure, or land used or occupied, and no building, structure, or part thereof may be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with all the regulations of this ordinance for the district in which it is located, except as otherwise provided by this ordinance.

#### **SECTION 19-9 - PRIOR RESTRICTIVE COVENANTS**

Any lot that had been platted and recorded or any structure that had been built prior to the adoption of this ordinance that would not meet the standards outlined in this ordinance but met the standards under the Restrictive Covenants recorded for that section, is grandfathered to those standards under the Restrictive Covenants. Any vacant, platted lot subject to no Restrictive Covenants or Restrictive Covenants that are silent as regards area, height, setback, or building lines shall be subject to the standards contained in Sections 19-186 and 19-187.

#### **SECTION 19-10 - FEES**

(A) Fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for zoning permits, conditional use permits, special use permits, zoning amendments, variances and any other administrative fees that may be required. The amount of the fees charged shall be as set forth in the City's miscellaneous fees and charges schedule.

(B) Fees established in accordance with subsection (A) shall be paid upon submission of a signed application or notice of appeal.

**Sections 19-11 through 19-14 reserved.**

## **ARTICLE II. DEFINITIONS OF BASIC TERMS**

For the purpose of interpreting this ordinance, certain words or terms are herein defined. Unless otherwise expressly stated, the following words, for the purpose of this ordinance, have the meaning herein indicated.

### **SECTION 19-15 - INTERPRETATION OF COMMONLY USED TERMS AND WORDS**

Words used in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.

The phrase "used for" includes the meaning "designed for" or "intended for".

The word "lot" includes the words "plot", "parcel", or "tract".

The word "structure" includes the word "building".

The word "shall" is always mandatory and not merely directory.

The word "may" is always permissive.

### **SECTION 19-16 - DEFINITIONS OF SPECIFIC TERMS AND WORDS**

**(1) Abandonment.** The relinquishment of property, or a cessation of the use of the property, by the owner with no intention of transferring property rights to another or of resuming the use of the property or structure.

**(2) Accessory building or structure.** A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use, or on a contiguous lot in the same ownership.

**(3) Accessory use.** A subordinate use, clearly incidental and related to the principal structure, building or use of land, and located on the same lot as that of the principal structure, building or use, or on a contiguous lot in the same ownership.

- (4) **Adult Bookstore.** An establishment that has a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:
- (a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, digital materials, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or
  - (b) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- (5) **Adult Cabaret.** A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, digital materials, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (6) **Adult Entertainment Establishment.** An establishment including, but not limited to, adult bookstores, adult cabarets, adult motion picture theaters, adult theaters, sexual encounter establishments and any other establishment which contains activities characterized by the performance, depiction or description of “specified sexual activities,” or “specified anatomical areas.” NOTE: An establishment where a person appears in a state of nudity as part of a modeling class will not be construed as an adult entertainment establishment or a sexual encounter establishment if the establishment is operated:
- (a) By a proprietary school, licensed by the State of South Carolina, a college, junior college, or university supported entirely or partly by taxation;
  - (b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
  - (c) In a structure;
    - 1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
    - 2) Where, in order to participate in the class, a student must enroll at least three days in advance of the class; and
    - 3) Where no more than one nude model is on the premises at any one time.
- (7) **Adult Motion Picture Theater.** An establishment where, for any form of consideration, films, motion pictures, video cassettes/compact discs, slides, digital materials, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

- (8) **Adult Theater.** A theater, concert hall, auditorium, or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities.
- (9) **Adult Video Store.** A commercial establishment which has as a significant or substantial portion of its stock in trade, or derives a significant portion of its revenues from the sale of, films, video cassettes/compact discs, digital materials or similar photographic reproductions and visual representations which depict or describe specified sexual activities or specified anatomical areas.
- (10) **Antenna.** A device used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or space based users.
- (11) **Apartment.** The lease or rent of single units in a multi-unit structure with common areas and facilities.
- (12) **Arterial Street.** A high-volume street which functions to conduct traffic between communities and activity centers and to connect communities to major state and interstate highways.
- (13) **Assisted Living Facility.** A licensed residential facility in which people with special needs, especially seniors with disabilities, reside and are provided help with everyday tasks such as bathing, dressing, and taking medication.
- (14) **Bee Apiary.** A place in which a colony or colonies of bees are kept, as a stand or shed for beehives or a bee house containing a number of beehives.
- (15) **Bed and Breakfast Inn.** A use that takes place within a building, that prior to such an establishment, was a single family residence, that consists of renting one or more dwelling rooms on a daily basis to tourists, travelers and business people, where the provision of meals is limited to the breakfast meal, and available only to guests. The owner of the residence shall reside on the site and employment shall not exceed two full-time employees, not including the owner(s).
- (16) **Berm.** A mound or wall of earth, or the act of pushing earth into a mound.
- (17) **Bikeway.** A pathway, often paved and separated from streets and sidewalks, designed to be used by bicycles.
- (18) **Boarding house.** Any dwelling in which persons who are not members of the resident of record's family are housed or lodged for compensation in individual rooms used or intended to be used for living and sleeping purposes, with meals provided.
- (19) **Body Piercing Establishment.** Any permanent place or premise, where occurs the retail practices of puncturing or penetration of the skin of a person with pre-sterilized single-use needles and the insertion of presterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.

- (20) **Buffer.** Vegetative material and/or structures (i.e. berms, walls, fences) that are used to separate one type of use from another and which may or may not be within deeded lots and which may be naturally or artificially forested or may have grass or other herbaceous ground cover. Buffers can further be defined as; A) Land Use, B) Streamside, or C) Lakeside. In such cases as B) and C) the buffer would serve as protection for water quality purposes.
- (21) **Bufferyard.** A dedicated strip of land with natural or planted vegetation located adjacent to a property line(s) and/or road right-of-way(s) intended to separate and partially obstruct the sound and view of two adjacent land uses or properties from one another. A **BUFFERYARD** may include required fences, berms and plantings as contained herein.
- (22) **Building.** A structure having a roof used for the shelter, housing, or enclosure of persons, animals, or goods.
- (23) **Building height.** The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof, and to the deck line in the case of a mansard roof.
- (24) **Building lines.** Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side and rear lot lines, and referred to as front, side and rear building lines, respectively.
- (25) **Build-to Zone.** The area on the lot where a certain percentage of the building facade must be located, measured as a minimum and maximum setback range from the edge of the right-of-way.
- (26) **Caliper.** A horticultural method for measuring the diameter of a tree trunk for the purpose of determining size. The standard trunk diameter measurement for nursery-grown trees is measured six inches above the ground for trees up to and including four inches in diameter, twelve inches above the ground for trees greater than four inches, and up to ten inches in diameter and at breast height for trees ten inches or greater in diameter.
- (27) **Canopy Tree.** A tree that has an expected height at maturity greater than 30 feet and which produces significant shade because it has a crown that is oval, round, vase-shaped, or umbrella-shaped.
- (28) **Collector Street.** A street that is characterized by a roughly even distribution of highway access and mobility functions.
- (29) **Cluster development.** A tract of land, at least ten acres in area, under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved preliminary site plan.
- (30) **Commercial.** Any nonresidential use of land engaged in commerce of commercial activity such as wholesale or retail trade or the provision of services.
- (31) **Common drive.** A parcel of land jointly used by two or more property owners regardless of ownership for providing access to a public roadway.

- (32) **Common open space.** A parcel or parcels of land or an area of water or a combination of both land and water within the site designated, designed and intended for the use and enjoyment of residents of the development or for the general public, not including streets or off-street parking areas. Common open space shall be substantially free of structures but may contain such improvements as are in the plan as finally approved and are appropriate for the benefit of residents of the development.
- (33) **Common parking area.** A parcel of land jointly used by two or more property owners regardless of ownership for the purpose of parking.
- (34) **Communications antenna.** 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.
- (35) **Communications provider.** Any entity required to be licensed by the FCC.
- (36) **Communications tower.** A structure more than sixty (60) feet tall used primarily for the support of one or more antennae erected on the ground or a similar structure more than twenty (20) feet tall erected on a building. The height of the tower shall include any antenna that extends above the top of the tower.
- (37) **Conditional use.** A use which, owing to some special characteristics attendant to its operation or installation (for example, potential danger, smoke, or noise), is permitted in a district subject to approval by the City Council, and subject to special requirements, different from those usual requirements for the district in which the conditional use may be located.
- (38) **Condominium.** The ownership of single units in a multi-unit structure with common areas and facilities.
- (39) **Condominium unit.** An enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use; and shall include such accessory spaces and areas as may be described in the declaration, such as garage space, storage space, balcony, terrace or patio, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.
- (40) **Customary home occupation.** A customary home occupation shall be defined as any use customarily conducted entirely within a dwelling by the resident of record, which does not constitute a nuisance or adversely affect the use and development of adjoining properties in the neighborhood. Customary Home occupations shall include, in general, but not be limited to, personal services such as furnished by an artist, musician, seamstress or instructor but not include such occupations as motor vehicle repairs, non-motor vehicle repairs, beauty parlors, tea rooms, tourist homes, bed and breakfasts, rooming or boarding houses, animal kennels or hospitals, physicians, dentists or other offices for diagnosis, prevention, alleviation, or cure of disease or disability, or retail businesses.

**(41) Day care center.** A facility providing adult day care as licensed by the South Carolina Department of Health and Environmental Control; or preschool instruction or daytime care of children as defined by the South Carolina Department of Social Services, Chapter 114, Article 5, Part A, Section 20-7-2700, et seq.

(a) **Commercial Day Care Center.** A day care center in a business district for more than six children.

(b) **In-Home Day Care Center.** A day care center in a residential district providing daytime care for six children or less.

(c) **Day Care Facility for Adults.** A facility, for adults 18 years of age or older, which offers in a group setting a program of individual and group activities and therapies. The program is directed toward providing community-based day care services for those adults in need of a supportive setting, thereby preventing unnecessary institutionalization. The program shall provide a minimum of four and a maximum of 14 hours of operation a day.

**(40) DBH (Diameter at Breast Height).** The tree trunk diameter measured in inches at a height of 4.5 feet above the ground.

**(41) Drive-in service window.** A customer service facility designed for the convenience of the motoring public as an accessory part of a business which is intended to enable the customer to transact business with a salesperson located within the principal structure without exiting the motor vehicle. It is presumed that the motor vehicle exits the premises immediately upon the transaction of business.

**(42) Dwelling.** A house, apartment, or building designed or used primarily for human habitation, but not including boarding houses or rooming houses, hotels, motels, tourist homes or other structures for transient residents.

**(43) Dwelling, one-family.** A detached building or an attached structure where each unit extends from the foundation to the roof, and is designed for and occupied exclusively by one family.

**(44) Dwelling, two-family (duplex).** A building containing two dwelling units that are connected by a common structural or load-bearing wall of at least ten linear feet and designed for occupancy by not more than two families.

**(45) Dwelling, multi-family.** A building containing three or more dwelling units in which each unit does NOT extend from the foundation to the roof.

**(46) Dwelling unit (DU).** An enclosure of one or more rooms and separate bathrooms, sleeping and kitchen facilities designed and constructed as a unit for permanent residential occupancy by one family. When one dwelling unit is built above another dwelling unit it shall be considered two dwelling units.

- (47) Family.** A single individual, doing his/her own cooking, and living upon the premises as a separate housekeeping unit or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, legal right (such as foster children, guardianship, etc.) or other domestic bond as distinguished from a group occupying a boarding house or rooming house. But in no event may more than three (3) persons, eighteen (18) years of age or older, unrelated by birth, marriage or legal right constitute a “family” hereunder. Domestic servants employed on the premises may live on the premises without being counted as a family or person.
- (48) Fence.** A fence is a structure intended to enclose a portion of real property to provide screening, prevent intrusion or escape, or form a barrier and/or obstructs access or passage.
- (49) Fence, perimeter.** A fence abutting the property line or within ten feet (10’) of the property line.
- (50) Fence, non-perimeter.** A fence enclosing a portion of real property beyond ten feet (10’) from the property lines.
- (51) Floor Area Ratio.** The ratio of a building’s gross floor area to the area of the lot on which the building is located.
- (52) Golf Course.** An area designed for golf, including a Par 3 golf course, having at least nine (9) holes, each with a tee, fairway, green, and one or more hazards.
- (53) Gross Floor Area.** The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include basements when at least one-half the floor-to-ceiling height is below grade, accessory parking (i.e., parking that is available on or off-site that is not part of the use’s minimum parking standard), attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.
- (54) Heated, finished floor area.** The total floor area enclosed within a building, and directly accessible from within the building, including interior balconies, mezzanines, and interior stairways, exclusive of garages and elevator shafts. For multi-family units the total floor area contained within the individual unit and rooms accessible from the unit, as measured from the inside of the exterior walls of the unit exclusive of exterior stairways.
- (55) Land disturbance.** Any activity involving the clearing, excavating, filling, or grading of land or any other activity which alters land topography or vegetative cover.
- (56) Livestock.** Domestic animals such as cattle, horses, mules, goats, sheep and swine.
- (57) Local Street.** Streets used or intended to be used for moving traffic from local developments to major thoroughfares, including the principal entrance and circulation street of a development and streets used or intended to be used primarily for access to abutting properties.

- (58) Lot.** A parcel of land or any combination of several lots of record having frontage on a common driveway or on a street or road, occupied or intended to be occupied by a principal building or a building group as permitted herein, together with their accessory buildings or uses, and such access, yards and other open spaces required under this ordinance.
- (59) Lot, corner.** A lot which occupies the interior angle at the intersection of two street lines which make an angle of less than 135 degrees with each other.
- (60) Lot of record.** A lot, described by plat or metes and bounds, which has been recorded in the office of the Clerk of Court.
- (61) Lot, through.** A lot, other than a corner lot, having frontage on more than one street.
- (62) Lot width.** The distance between the side lot lines, measured along the front setback line as established by this ordinance or the distance between the side lot lines measured along the front setback line on a duly recorded plat. If no front setback line is established, the distance between the side lot lines measured along the street right-of-way.
- (63) Marina.** A facility for the storing, servicing, fueling, berthing and securing of pleasure boats and which may include eating, sleeping, and retail facilities for owners, crews, and guests.
- (64) Minor residential access street.** A street used predominantly to provide access to abutting residential properties.
- (65) Mixed-use Building.** A building that contains at least one floor devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.
- (66) Mixed-Use Development.** A tract of land or structure developed for two or more uses, including residential and non-residential. Such uses may be vertically integrated within a multi-story building or horizontally integrated within a single story building or on a lot or development site.
- (67) Mobile Food Vending Service.** A service establishment operated from a licensed and moveable vehicle that vends or sells food and/or drink processed or prepared on-site to walk-up customers.
- (68) Mobile home.** A movable or portable dwelling, designed and constructed to be transported on its own chassis and designed without a permanent foundation, whether or not a permanent foundation is subsequently provided, which includes one or more components that can be retracted for transporting purposes and subsequently expanded for additional capacity, or two or more units separately transportable but designed to be joined into one integral unit.
- (69) Net residential area.** That portion of a project site designated for residential lots and common open space areas.
- (70) Nursing home.** A facility providing care for two or more sick or aged persons not related by blood or marriage to the operator.

- (71) Outside Display of Merchandise.** A portable display of retail merchandise and products used to attract and entice the buying public into a connected adjacent commercial business.
- (72) Outside Table Service.** An open air seating/service area on a public or common sidewalk or patio area provided by a restaurant located on the adjoining property.
- (73) Park.** An area or facility designed to meet the demand for active and passive recreation, including but not limited to, play fields, ball diamonds, picnic and playground equipment, tennis courts, fitness trails, swimming pools, and similar uses, available to the public and under the management or control of a public agency.
- (74) Patio House.** A single family detached dwelling located parallel and close to a side lot line, upon which line is situated a patio wall designed to create privacy, patio areas and/or usable yard space between adjacent dwellings.
- (75) Pedestrian.** A person traveling on foot under their own locomotion.
- (76) Planned Development District (PDD).** A development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments. A planned development district is established by rezoning prior to development and is characterized by a site Master Plan design for a mixed use development.
- (77) Planned Unit Development (PUD).** A tract of land under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation and according to an approved outline development plan and a preliminary site plan.
- (78) Poultry.** Domestic fowls such as chickens, turkeys, ducks, or geese.
- (79) Principal building or structure.** A building or structure containing the principal use of the lot.
- (80) Principal use.** The primary purpose or function that a lot serves or is intended to serve.
- (81) Public Street.** This means, relates to and includes the entire right-of-way of streets, avenues, boulevards, roads, highways, freeways, lanes, courts, thoroughfares, collectors, local streets, cul-de-sacs and other ways considered public and both dedicated to and accepted by a municipality or the State of South Carolina.
- (82) Residential area.** The portion of a project site designated for residential uses and, more specifically, the following: residential lots, streets directly serving residential lots, and common open space areas.
- (83) Restaurant.** An establishment designed in, whole or in part, to cater to or accommodate the consumption of food and beverages.

- (84) Retail.** Commercial enterprises that provide goods and/or services directly to the consumer where such goods are available for immediate purchase and removal from the premises by the purchaser.
- (85) Right-of-Way (ROW).** Any land set aside for public travel which has been accepted for maintenance by the State of South Carolina, or has been established as a public street prior to the adoption of this ordinance, or has been dedicated for public travel by the recording of a plat of a subdivision which has been approved by either the Planning Commission or City Council subject to the requirements of this ordinance.
- (86) Rooming house.** Any dwelling unit (DU) in which persons who are not members of the resident of record's family are housed or lodged for compensation in individual rooms used or intended to be used for living and sleeping purposes.
- (87) SCDHEC.** South Carolina Department of Health and Environmental Control.
- (88) Screening.** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, gates, or densely planted vegetation.
- (89) Sexually Oriented Business.** Any commercial establishment offering its customers goods of which a substantial portion are of sexually oriented materials. A retail business in which more than ten (10) percent of the display area is for sexually oriented materials is presumed to be a sexually oriented business.
- (90) Sexually Oriented Materials.** Any textual, pictorial or any other material that depicts nudity, sexual contact, sexual enticement or any obscene sexual activities.
- (91) Service station.** An establishment designed to provide fuel, minor adjustments, repairs, and lubrication services to automobiles, trucks, and motorcycles.
- (92) Sign.** Any surface, fabric, or device bearing lettered, pictorial, or sculptured matter designed to convey information visually and exposed to public view; or any structure (including poster panel) designed to carry the above visual information.
- (93) Sign area.** The area of a sign composed in whole or in part of freestanding letters, devices, or sculptured matter, not mounted on a measurable surface, shall be construed to be the area of the least square, rectangle, or circle that will enclose the letters, devices, and/or sculptured matter. The area of a double-faced sign shall be the area of one face of the sign.
- (94) Special use permit.** A permit issued by the Board of Zoning Appeals for selected land uses complying with additional development standards to ensure that these uses are compatible with surrounding development.
- (95) Story.** That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof.

**(96) Street.** A public right-of-way not less than 30 feet wide which is set aside for public travel and either which has been accepted for maintenance by the State of South Carolina or the City of Tega Cay, has been established as a public street prior to the date of adoption of this ordinance, or which has been dedicated to the State of South Carolina or the City of Tega Cay for public travel by the recording of a plat of a subdivision which has been approved by either the Tega Cay City Council or the Planning Commission. For the purpose of sign regulations, streets are further designated:

- a) **State Maintained Highway.** Streets within or bordering the City of Tega Cay that have been accepted for maintenance by the State of South Carolina. For example, Tega Cay Drive, Gardendale Road, New Gray Rock Road, Dam Road. Unless otherwise designated, the street ROW for state maintained highways is five (5) feet beyond the edge of pavement/back of curb on both sides.
- b) **Federal-aid primary highway.** A subset of state maintained highways that are designated by the United States Government as the federal-aid primary highway system. For example, Highway 160.
- c) **City Owned Streets.** Public streets that have been accepted by the City of Tega Cay per above. For example, Windjammer Drive, Shoreline Parkway, Orchid Way, Stonecrest Boulevard, etc.

**(88) Street property line.** A line which separates a lot or parcel of land from a street right-of-way.

**(89) Structure.** Anything constructed or erected, the use of which either requires location on the land or attachment to something having a permanent location on the land.

**(90) Structure setback, required.** The minimum distance required between the front, side and rear of a principal building or structure, projected to the side lines of the lot property lines and the base of any structure or any projections thereof including eaves, chimneys, steps, bay windows, fire escapes or other appurtenances.

**(91) Swimming Pool.** Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes inground/aboveground and onground swimming pools, hot tubs and spas.

**(92) Tattoo.** To place any design, letter, scroll, figure, symbol or any other mark upon or under the skin or any person with ink or any other substance resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

**(93) Tattoo Parlor.** Any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or other instrument designed to touch or puncture the skin.

- (94) Tourist home.** A one-family dwelling, two-family dwelling (duplex) or multi-family dwelling that is rented, leased or assigned for tenancies of less than ninety (90) days or three (3) calendar months, whichever time period is less, and for a monetary consideration, or which is advertised or held out to the public as a place periodically rented for a monetary consideration for periods of less than ninety (90) days or three (3) calendar months, whichever time is less. For the purposes of this definition, subleases for less than ninety (90) days are to be considered as separate rental periods. This definition does not include month-to-month hold-over leases from a previous lease longer than ninety (90) days. A vacation rental shall be deemed a “tourist home”.
- (95) Townhouse.** A single family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides.
- (96) Understory Tree.** A small to medium tree, growing 15 to 30 feet in height at maturity, which is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.
- (97) Variance.** An exception to one or more of the zoning restrictions on a piece of property.
- (98) Yard, established front.** An open, unoccupied space between the street property line, and the building line of a building or structure, as constructed, projected to the side lines of the lot.
- (99) Yard, established rear.** The area extending from the rear building line of a building or structure, as constructed, to the rear lot line between the side lot lines.
- (100) Yard, required front.** The minimum open, unoccupied space required between the street property line, and the front building line of a principal building or structure, projected to the side lot lines of the lot.
- (101) Yard, required rear.** The minimum open space required between the rear lot line and the rear building line of a principal building or structure, projected to the side lot lines of the lot, and which may contain permitted accessory buildings, structures or uses.
- (102) Yard, required side.** The minimum open, unoccupied space including driveways and parking areas required between the side lot line and the side building line, extending from the required front yard to the required rear yard. If no front yard is required, the side yard shall be defined as extending from the street property line to the required rear yard.
- (103) Zero Lot Line Dwellings.** A building structure with one wall of the structure on a property line with the opposite side wall within the required structure setback.
- (104) Zoning permit.** A document, also commonly referred to as the certificate of compliance, issued by the Zoning Administrator stating that the proposed land use complies with the requirements of this ordinance.

**Sections 19-17 through 19-20 reserved.**

### **ARTICLE III.**

## **ADMINISTRATIVE MECHANISMS**

### ***PART I. PLANNING COMMISSION***

#### **SECTION 19-21 - APPOINTMENT AND TERMS OF PLANNING COMMISSION MEMBERS**

(A) Pursuant to the authority of the Local Government Comprehensive Planning Enabling Act of 1994, South Carolina Code 6-29-310 through 6-29-1200, there shall be a Planning Commission consisting of seven members, appointed by the City Council, and each member shall reside within the City limits and be at least 18 years of age. No member may hold an elected public office in the City. All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.

(B) The Planning Commission shall elect a chairman and vice-chairman from its Members whose terms shall be one year with eligibility for re-election. It shall appoint a secretary who may be an officer or an employee of the governing authority or the Planning Commission.

(C) Members may be removed by the appointing authority for failure to attend three consecutive regular meetings without excuse or for failure to attend 30 percent or more of the meetings within any 12-month period or for other good cause related to performance of duties after written notice from the Mayor of the reasons for removal and after a public hearing before the City Council.

(D) Planning Commission Members shall be appointed for two-year, staggered terms, but members shall continue to serve until their successors have been appointed. Vacancies shall be filled for the unexpired term only by appointment of the City Council. Members may be appointed to successive terms without limitation.

#### **SECTION 19-22 - MEETINGS OF THE PLANNING COMMISSION**

(A) The Planning Commission shall meet at the call of the chairman and at such times as the chairman or Commission may determine.

(B) A majority of the members of the Planning Commission shall constitute a quorum. A quorum must be present before any business is conducted other than rescheduling the meeting.

(C) The Commission shall adopt rules for the transaction of business. Since the Commission has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas. Adoption, amendment, extension or addition to all or any part of the Comprehensive Plan shall be by affirmative majority vote of the entire Planning Commission.

(D) Minutes shall be kept of all Commission proceedings including, but not limited to, its resolutions, transactions, findings and determinations. The vote of every member on each issue shall be recorded.

(E) All Commission meetings shall be open to the public, and the agenda for each meeting shall be made available in advance of the meeting duly advertised according to the South Carolina Code of Laws.

(F) Whenever the Commission is called upon to make recommendations concerning a conditional use permit request, special use permit request, or zoning amendment proposal, the Commission shall have posted on or near the subject property one or more notices that are sufficiently conspicuous in terms of size, location, and content to provide reasonably adequate notice to potentially interested persons of the matter that will appear on the Commission's agenda at a specified date and time. Such notice(s) shall be posted at least seven days prior to the meeting at which the matter is to be considered.

#### **SECTION 19-23 - CONFLICT OF INTEREST**

(A) A member shall not participate in any activities, discussions or decisions in a manner that would constitute a violation of the South Carolina Ethics, Government, Accountability, and Campaign Reform Act of 1991, as amended.

#### **SECTION 19-24 - PLANNING COMMISSION POWERS**

(A) It shall be the function of the Planning Commission to:

- (1) Make studies and recommend to the City Council plans, goals and objectives relating to the growth, development and redevelopment of the City.
- (2) Develop and recommend to the City Council policies, resolutions, ordinances, maps, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
- (3) Make recommendations to the City Council concerning proposed conditional use permits and proposed amendments in the zoning ordinance and official city map, as well as subdivision regulations.
- (4) Revise periodically the Tega Cay Comprehensive Plan.
- (5) Perform any other duties assigned by the City Council or authorized by State law.

(B) All public officials shall, upon request, furnish to the Planning Commission, within a reasonable time, such available information as it may require for its work. The Commission, its members, officers and employees, in the performance of its functions, may enter upon any land, with consent of the property owner, or after ten days' written notification to the owner of record, make examinations and surveys, and place and maintain necessary monuments and marks thereon.

#### **SECTION 19-25 - PLANNING COMMISSION ADVISORY COMMITTEES**

(A) From time to time, the City Council may appoint one or more individuals to assist the Commission to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the City Council may appoint advisory committees to

consider the thoroughfare plan, bikeway plans, housing plans, economic development plans, or other planning issues.

(B) Members of such advisory committees shall sit as nonvoting members of the Planning Commission when such issues are being considered and shall lend their talents, energies, and expertise to the Commission. However, all formal recommendations to the City Council shall be made by the Planning Commission.

(C) Nothing in this section shall prevent the City Council from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the City Council.

## ***PART II. BOARD OF ZONING APPEALS***

### **SECTION 19-26 - APPOINTMENT AND TERMS OF BOARD OF ZONING APPEALS**

(A) Pursuant to the authority of the Local Government Comprehensive Planning Enabling Act of 1994, South Carolina Code 6-29-310 through 6-29-1200, there shall be a Board of Zoning Appeals consisting of not less than three nor more than nine members, appointed by the City Council and each member shall reside within the City limits and be at least 18 years of age. No member may hold an elected public office in the City. All members shall serve without compensation, but may be reimbursed for actual expenses in connection with their official duties.

B) Members may be removed by the appointing authority for failure to attend three consecutive meetings without excuse or for failure to attend 30 percent of the called meetings during any 12-month period or for other good cause related to the performance of duties after written notice from the Mayor of the reasons for removal and after a public hearing before the City Council.

(C) Board of Zoning Appeals members shall be appointed for three-year, staggered terms, but members may continue to serve until their successors have been appointed. Members may be reappointed to successive terms without limitations.

### **SECTION 19-27 - BOARD OF ZONING APPEALS OFFICERS**

(A) The Board shall elect a Chairman and a Vice-Chairman from its members. The officers' terms shall be one year with eligibility for re-election. The Board shall appoint a member of the staff of the City of Tega Cay to serve as Secretary. The Secretary's term shall be one year with eligibility for re-appointment.

(B) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the Board and compel the attendance of witnesses by subpoena.

(C) The chairman or vice-chairman may take part in all deliberations and vote on all issues.

(D) The Board shall adopt rules of procedure for the transaction of business.

### **SECTION 19-28 - MEETINGS OF THE BOARD OF ZONING APPEALS**

(A) The Board of Zoning Appeals shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 19-63 (Applications to be Processed Exeditiously).

(B) Minutes shall be kept of all Board proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Board shall keep records of its examination and other official actions in conformity with Section 19-103, and such records shall be a public record.

(C) All meetings of the Board shall be held subject to the requirements of Article VI herein and shall be open to the public, and the agenda for each Board meeting shall be made available in advance of the meeting duly advertised according to the Code of Laws of South Carolina.

### **SECTION 19-29 - QUORUM AND VOTING**

(A) A quorum for the Board of Zoning Appeals shall consist of two-thirds of its members. A quorum is necessary for the Board to take official action.

(B) Voting requirements in actions of the Board of Zoning Appeals are:

- (1) **Special Use Permit:** A majority of those present and voting.
- (2) **Administrative Review:** A majority of those present and voting to override a decision of the official charged with enforcement of this Ordinance.
- (3) **Variance:** Requires a vote of two-thirds of the members voting affirmatively.

(C) Once a member is physically present at a Board meeting; his presence shall be counted as part of a quorum present.

(D) A member shall not participate in any activities, discussions or decisions in a manner that would constitute a violation of the South Carolina Ethics, Government, Accountability, and Campaign Reform act of 1991, as amended.

(E) A roll call vote shall be taken upon the request of any member.

### **SECTION 19-30 - POWERS AND DUTIES OF BOARD OF ZONING APPEALS**

(A) The Board of Zoning Appeals shall hear and decide:

- (1) Appeals from any order, decision, requirement, or interpretation made by the Zoning Administrator in enforcement of this ordinance, as provided in Section 19-91.
- (2) Applications for special use permits, as provided in Section 19-53.
- (3) Applications for variances, as provided in Section 19-92.

- (4) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 19-93.
- (5) Any other matter the Board is required to act upon by any other town ordinance.

**Sections 19-31 through 19-36 reserved**

***PART III. ZONING ADMINISTRATOR***

**SECTION 19-37 - APPOINTMENT OF THE ZONING ADMINISTRATOR**

An administrative official appointed by the City Manager shall administer and enforce this ordinance. Said official shall be known as the Zoning Administrator.

**Sections 19-38 and 19-39 reserved.**

***PART IV. APPEARANCE COMMITTEE***

**SECTION 19-40 - APPOINTMENT, TERMS, AND DUTIES OF APPEARANCE COMMITTEE MEMBERS**

(A) In order to protect and enhance the visual environment of the City of Tega Cay, there may be an Appearance Committee, which shall consist of seven members appointed by the City Council. All members of the Committee shall either reside, own property, or operate a business within the City's planning jurisdiction.

(B) Appearance Committee members shall be appointed for three-year, staggered terms, but members shall continue to serve until their successors have been appointed. Initially, three members shall be appointed for three-year terms, two members for two-year terms, and two members for one-year terms. Vacancies shall be filled for the unexpired terms only. Members may be appointed to successive terms without limitation.

(C) Members shall be removed by the appointing authority for failure to attend three consecutive meetings without advance notice to the chairman and without excuse or for failure to attend 30 percent or more of the meetings within any 12-month period, or for any good cause related to performance of duties after written notice from the Mayor of the reasons for removal and a public hearing before the City Council.

(D) In making appointments to the Committee, the City Council shall seek to appoint persons with impartial and broad judgment and, when possible, persons with training or experience in a design profession. As wide a range of community interests as possible should be represented on the Committee.

(E) The Appearance Committee may make the recommendations on any permit or other item regarding the protection and enhancement of the visual environment referred to the Committee by the City Council, Planning Commission, Board of Zoning Appeals, or Zoning

Administrator, or take any other action authorized by this ordinance or any other ordinance or resolution of the City Council.

(F) The Appearance Committee may appoint subcommittees (consisting of Committee members) or advisory groups (consisting of Committee members, non-Committee members or any combination thereof) to advise and assist the Committee in carrying out its duties.

(G) The Appearance Committee shall report in writing at least quarterly to the Mayor and City Council. It shall submit its requested budget of funds needed for operation during the ensuing fiscal year to the City Administrator no later than June 15. All accounts and funds of the Committee shall be administered in accordance with the requirements of the City's fiscal control policy.

(H) The Appearance Committee may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance.

**Sections 19-41 through 19-45 reserved.**

## **ARTICLE IV. PERMIT APPROVAL**

### **SECTION 19-46 - PERMITS REQUIRED**

(A) The use made of property shall not be changed; clearing, grading, or excavation shall not be commenced; and buildings or other structures shall not be constructed, erected, moved, or altered except in accordance with and pursuant to one of the following permits:

- (1) A zoning permit issued by the Zoning Administrator;
- (2) A special use permit issued by the Board of Zoning Appeals.
- (3) A conditional use permit issued by the City Council.
- (4) A Land Disturbance Permit issued by the Zoning Administrator.

(B) A zoning permit, conditional use permit, or special use permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All such permits issued with respect to tracts of land in excess of one acre (except zoning permits for single-family residential uses and duplexes) shall be recorded with the Clerk of Court after execution by the record owner.

(C) A Zoning permit, conditional use permit or special use permit issued on the basis of plans and applications approved by the appropriate officer or authority pursuant to 19-46 authorizes only the use, arrangement, location and/or construction set forth in the approved plans and

applications. Any other use arrangement, location or construction at variance with the permit shall be deemed a violation of this ordinance, punishable as provided in Section 19-114.

(D) Land disturbance, cut and/or fill, for the purpose of the principal or structure construction shall be limited to the area within the structure setback lines except for driveway construction access to the street and sidewalks. Lots greater than ½ acre are limited to 55% of area within the setback lines. For more information, see Ordinance No. 96, Section 5.

#### **SECTION 19-47 - WHO MAY SUBMIT PERMIT APPLICATIONS**

(A) Applications for permits required by this ordinance will be accepted only from persons having the legal authority to take action in accordance with the permit or the subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).

(B) The Zoning Administrator may require an applicant to present evidence of his authority to submit the application in accordance with subsection (A) whenever there appears to be a reasonable basis for questioning this authority.

#### **SECTION 19-48 - PERMIT PROCEDURE**

(A) All applications for permits must be filed with the Zoning Administrator and must follow the processing procedure established by the City Council or the Board of Zoning Appeals as the case may be.

(B) All applications for permits must be accompanied by the appropriate application fee as established by the City Council.

#### **SECTION 19-49 - APPLICATIONS TO BE COMPLETE**

(A) All applications for permits required by this ordinance must be complete before the permit-issuing authority is required to consider the applications.

(B) An application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the land use, land disturbance, or structure, if completed as proposed, will comply with all of the requirements of this ordinance.

(C) The Zoning Administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the Zoning Administrator to determine compliance with this ordinance, such as applications for zoning permits to construct single-family houses, the Zoning Administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

## **SECTION 19-50 - CONSULTATION BEFORE FORMAL APPLICATION**

To minimize planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this ordinance, pre-application consultation between the applicant and the Zoning Administrator is encouraged or required as provided in this section.

## **SECTION 19-51 - CONSULTATION AFTER APPLICATION SUBMITTED**

(A) Upon receipt of a formal application for a zoning, special use, or conditional use permit, the Zoning Administrator shall review the application and confer with the applicant to ensure that he understands the Zoning Administrator's interpretation of the applicable requirements of this ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

(B) If the application is for a special use or conditional use permit, the Zoning Administrator shall place the application on the agenda of the appropriate Board when the applicant indicates that the application is as complete as he intends to make it. However, as provided in Sections 19-57 and 19-58, if the Zoning Administrator believes that the application is incomplete, he shall recommend to the appropriate Board that the application be denied on that basis.

## **SECTION 19-52 - ZONING PERMITS**

(A) A completed application form for a zoning permit shall be filed with the Zoning Administrator.

(B) The Zoning Administrator shall not issue a zoning permit until he is satisfied that the request is in compliance and conformity with the provisions of the ordinance.

(C) If the Zoning Administrator determines that the use or structure or both for which a zoning permit is requested will have or may have substantial impact on surrounding properties, he shall notify owners or occupants of such properties, by any means reasonably calculated to give notice to affected persons, that:

- (1) An application has been filed for a permit authorizing identified property to be used in a specified way;
- (2) All persons wishing to comment on the application should contact the Zoning Administrator by five days prior to the hearing; and
- (3) Persons wishing to be informed of the outcome of the application should send a written request for such notification to the Zoning Administrator.

## **SECTION 19-53 - SPECIAL USE PERMITS AND CONDITIONAL USE PERMITS**

(A) An application for a special use permit shall be submitted to the Board of Zoning Appeals by filing a copy of the application with the Zoning Administrator.

(B) An application for a conditional use permit shall be submitted to the City Council by filing a copy of the application with the Zoning Administrator.

(C) The City Council shall not issue a conditional use permit and the Board of Zoning Appeals shall not issue a special use permit unless they conclude based upon the information submitted at the hearing, that:

- (1) The request complies and conforms to the provisions of this ordinance.
- (2) If completed as proposed, the structure, more probably:
  - (a) Will not materially endanger the public health or safety;
  - (b) Will not substantially injure the value of adjoining or abutting property; and
  - (c) Will be in harmony with the area in which it is to be located; or
  - (d) Will be in general conformity with the Tega Cay Comprehensive Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.

#### **SECTION 19-54 - BURDEN OF PRESENTING EVIDENCE; BURDEN OF PERSUASION**

(A) The burden of presenting a complete application (as described in Section 19-49) shall be upon the applicant. If the application is judged incomplete, the appropriate officer or authority shall inform the applicant in what way the application is incomplete and provide the applicant an opportunity to complete the application either at that meeting or at a continuation hearing.

(B) Once a completed application has been submitted, the burden of presenting evidence to the appropriate officer or authority that the application should be denied for any reasons stated in Section 19-53(C)(2) shall be upon the party or parties urging this position.

#### **SECTION 19-55 - RECOMMENDATIONS ON SPECIAL USE PERMIT APPLICATIONS**

(A) When presented to the Board of Zoning Appeals, the application for a special use permit shall be accompanied by a report setting forth the Zoning Administrator's proposed findings concerning the application's compliance with Section 19-53(C) as well as any recommendations for additional requirements to be imposed by the Board of Zoning Appeals.

(B) If the Zoning Administrator's report finds that the application fails to comply with Section 19-53(C), it shall identify the requirement in question and the reasons therefor.

(C) The Board of Zoning Appeals may, by general rule applicable to all cases or any class of cases, or on a case by case basis, refer applications to the Planning Commission or the Appearance Committee (if created) to obtain the recommendations of either or both of those boards.

#### **SECTION 19-56 - RECOMMENDATIONS ON CONDITIONAL USE PERMITS**

(A) Before being presented to the City Council, an application for a conditional use permit shall be referred to the Planning Commission and Appearance Committee (if created) for action in accordance with this section. Subject to subparagraph (D) below, the City Council may not hold a public hearing on a conditional use permit application until the Planning Commission and Appearance Committee (if created) have had an opportunity to consider the application.

(B) When an application is presented to the Planning Commission and Appearance Committee (if created), it shall be accompanied by a report setting forth the Zoning Administrator's findings concerning the application's compliance with Section 19-53(C), as well as recommendations for additional requirements to be imposed by the City Council. If the Zoning Administrator's report finds that the application fails to comply with Section 19-53(C) or any other requirement of this ordinance, it shall identify the requirement in question and the reasons therefore.

(C) The Planning Commission and Appearance Committee (if created) shall consider the application and the attached Zoning Administrator's report in a timely fashion, and may, in its discretion, hear from the applicant or members of the public.

(D) Within 30 days after receiving the application, the Planning Commission and Appearance Committee (if created) shall report to the City Council in writing, whether it concurs in whole or in part, with the Zoning Administrator's findings and conditions, and to the extent that there are differences, the respective Boards shall propose their own recommendations and the reasons therefore. Failure to submit a report within 30 days shall be deemed as approval by the Planning Commission and the Appearance Committee (if created) of the application. A copy of the report shall be sent to the applicant.

(E) After City Council receives the reports from the Zoning Administrator, Planning Commission, and Appearance Committee (if created), the applicant shall have 10 days in which to submit an amended application in response thereto. If an amended application is submitted, the Zoning Administrator, Planning Commission and Appearance Committee (if created) shall be given an opportunity to revise their reports.

#### **SECTION 19-57 - ADDITIONAL REQUIREMENTS ON SPECIAL USE AND CONDITIONAL USE PERMITS**

(A) Subject to subsection (B) in granting a special or conditional use permit, the Board of Zoning Appeals or City Council respectively, may attach to the permit such reasonable requirements in addition to those specified in this ordinance as will ensure that the development in its proposed location:

- (1) Will not endanger the public health or safety;
- (2) Will not injure the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is located; and
- (4) Will be in conformity with the Tega Cay Comprehensive Plan, Thoroughfare Plan or other plan officially adopted by the Council.

(B) The permit-issuing body may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the land and/or proposed structure in question presents extraordinary circumstances that justify the variation from the normal requirement. The Council or Board shall make written findings of such extraordinary circumstances.

(C) Without limiting the foregoing, the Council or Board may attach to a permit a condition limiting the permit to a specified duration.

(D) All additional conditions or requirements shall be entered on the permit.

(E) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this ordinance.

(F) A vote may be taken on additional conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Section 19-53(C) (2).

#### **SECTION 19-58 - CERTIFICATE OF OCCUPANCY REQUIRED; EXCEPTIONS**

This section REPEALED by Ordinance 177 and INCLUDED in Ordinance 300 "Establishing a Building Inspection Department; Building Codes; Administrative Procedures; Fees", Exhibit A, Section 110.

#### **SECTION 19-59 - EXPIRATION OF PERMITS**

(A) Subject to subsection (B), if the work or activity authorized by a zoning, special use, or conditional use permit is not commenced within six months after the issuance of the permit, the permit shall immediately expire.

(B) If the work or activity authorized by one of the foregoing permits is such that connection to a sewage disposal system operated by a utility company is proposed or required, then the permit shall expire if the work or activity authorized by it is not commenced by the later of the following dates:

- (1) Six months after the issuance of the permit; or
- (2) One year after a utility company authorizes the permit recipient to connect to the system.

(C) For purposes of this section, a permit is issued when a copy of the permit is delivered to the permit recipient. Delivery is accomplished when the permit is hand delivered or mailed to the permit recipient.

(D) For purposes of this section, work is commenced when some physical alteration of land or structures begins to take place.

(E) If the work or activity authorized by a permit is discontinued for a period of 12 months after the work or activity is commenced, then the permit shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 19-64.

(F) Notwithstanding any of the provisions of Article VIII (Non-conforming Uses), this section shall be applicable to permits issued prior to the date this section becomes effective, provided written notice of these provisions is given to such permit holder.

(G) Written notice of such expiration including notice that work may not commence thereafter unless and until a new permit is obtained shall be sent to the applicant from the Zoning Administrator on the next working day following the date of expiration.

#### **SECTION 19-60 - EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS**

(A) Zoning, special use, or conditional use permits are transferable. All successors and assignees of the permit recipient as well as all persons who subsequently obtain any interest in all or part of the property subject to a zoning, special use or conditional use permit are subject to the terms and requirements of the permit.

(B) Whenever a zoning, special use or conditional use permit is issued to authorize development on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded with the Clerk of Court and indexed under the record owner's name as grantor.

#### **SECTION 19-61 - AMENDMENTS TO AND MODIFICATIONS OF PERMITS**

(A) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the Zoning Administrator. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(B) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the City Council or Board of Zoning Appeals, new conditions may be imposed in accordance with Section 19-60, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

#### **SECTION 19-62 - RECONSIDERATION OF BOARD ACTION**

Whenever the City Council disapproves a conditional use permit application, or whenever the Board of Zoning Appeals disapproves an application for a special use permit on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective Board at a later time unless the applicant clearly demonstrates that:

- (1) Circumstances affecting the property that is the subject of the application have substantially change; or
- (2) The application is changed in some substantial way; or
- (3) New information is available that could not with reasonable diligence have been presented at a previous hearing.

#### **SECTION 19-63 - APPLICATIONS TO BE PROCESSED EXPEDITIOUSLY**

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the City shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this ordinance.

#### **SECTION 19-64 - MAINTENANCE OF COMMON AREAS, IMPROVEMENTS, AND FACILITIES**

The recipient of any zoning, special use, or conditional use permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities specified in the permit or required by this ordinance except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As an illustration, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that the vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

**Sections 19-65 through 19-90 reserved.**

### **ARTICLE V. APPEALS, VARIANCES, INTERPRETATIONS**

#### **SECTION 19-91 - APPEALS**

(A) An appeal from any final order or decision of the Zoning Administrator may be taken to the Board of Zoning Appeals by any person aggrieved. An appeal is taken by filing with the Zoning Administrator and the Board of Zoning Appeals a written notice of appeal specifying the grounds therefore. A notice of appeal shall be considered filed when it is delivered to the Zoning Administrator. The date and time of filing shall be entered on the notice.

(B) An appeal must be made within 30 days after the date of the decision or order appealed from.

(C) Whenever an appeal is filed, the Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

(D) An appeal stays all actions by the Zoning Administrator seeking enforcement of or compliance with the order or decision appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Zoning Appeals or a court of record, issued on application of the party seeking the stay, for due cause shown, after the notice to the Zoning Administrator.

(E) The Board of Zoning Appeals may in conformity with this ordinance reverse, affirm (in whole or part) or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board shall have all the powers of the officer from whom the appeal is taken.

(F) All final decisions and orders of the Board of Zoning Appeals 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.

## **SECTION 19-92 - VARIANCES**

(A) An application for a variance shall be submitted to the Board of Zoning Appeals by filing a copy of the application with the Zoning Administrator. Applications shall be handled in the same manner as applications for special use permits in conformity with the provisions of Sections 19-48, 19-49, and 19-55.

(B) A variance may be granted by the Board of Zoning Appeals if it concludes that strict application of the ordinance would result in unnecessary hardships for the applicant. The Board may grant a variance in an individual case of unnecessary hardship if it concludes in writing the following findings:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
- (2) Such conditions are peculiar to this particular piece of property involved and do not generally apply to other property in the vicinity;
- (3) Such conditions do not result from the applicant's actions;
- (4) Because of these conditions, the application of this ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
- (5) The authorization of a variance would not cause substantial detriment to the adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance; and

- (a) Except as otherwise provided herein, the Board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.
- (b) The Board may not grant a variance which will authorize the extension of a non-conformity resulting in a violation of Article VIII.
- (c) The Board may grant a variance which will permit a use of land, a building, or a structure that is prohibited in a given district. Notwithstanding any other provision of this section, the City Council may overrule the decision of the Board of Zoning Appeals concerning a use variance.

(C) Before granting a variance, the Board must have a two-thirds majority vote on the required findings stated in subsection (B).

(D) In granting variances, the Board of Zoning Appeals may attach to it 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.

(E) A variance may be issued for an indefinite duration or the Board of Zoning Appeals may specify that the variance be for a limited duration only.

(F) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit (or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information). All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.

#### **SECTION 19-93 - INTERPRETATIONS**

(A) The Board of Zoning Appeals is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Zoning Administrator, they shall be handled as provided in Section 19-91.

(B) An application for a map interpretation shall be submitted to the Board of Zoning Appeals by filing a copy of the application with the Zoning Administrator in the planning department. The application shall contain sufficient information to enable the Board to make the necessary interpretation.

#### **SECTION 19-94 - REQUESTS TO BE HEARD EXPEDITIOUSLY**

As provided in Section 19-63, the Board of Zoning Appeals shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with

the need to follow regularly established agenda procedures, provide notice in accordance with Article VI, and obtain the necessary information to make sound decisions.

### **SECTION 19-95 - BURDEN OF PROOF IN APPEALS AND VARIANCES**

(A) When an appeal is taken to the Board of Zoning Appeals in accordance with Section 19-91, the Zoning Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(B) When an application for a variance is submitted, the burden of presenting evidence and the burden of persuasion in support of granting the variance is on the applicant.

**Sections 19-96 through 19-99 reserved.**

## **ARTICLE VI. HEARING PROCEDURES FOR APPEALS AND APPLICATIONS**

### **SECTION 19-100 - HEARING REQUIRED ON APPEALS AND APPLICATIONS**

(A) Before making a decision on an appeal or an application for a variance, special use permit, or conditional use permit, or a petition from the Zoning Administrator to revoke a special use permit or conditional use permit, the City Council or Board of Zoning Appeals as the case may be, shall hold a hearing on the appeal or application.

(B) Subject to subsection (C), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify. Any interested party may appear in person or by agent or by attorney.

(C) The City Council or Board of Zoning Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.

(D) The hearing board may reconvene the hearing to receive additional evidence and arguments. Notice of the date, time and place of the reconvening may be given at the original hearing, otherwise, the notice requirements of Section 19-101 must be complied with. The hearing board may also permit the submission of additional documentary evidence or written argument after the close of the hearing provided that all interested parties are provided with a copy, or in lieu thereof (at the hearing board's discretion) said evidence or arguments be made available for public inspection and copying, and any interested party is given a reasonable time (to be set by the hearing board) to submit documentary evidence or written argument in response thereto.

### **SECTION 19-101 - NOTICE OF HEARING**

The Zoning Administrator shall give notice of any hearing required by Section 19-100 as follows:

(1) Notice shall be given to the appellant or applicant, the other parties in interest, and any other person who makes a written request for such notice by mailing to such persons a written notice not less than 15 days before the hearing.

(2) Notice shall be given to neighboring property owners by mailing a written notice not less than ten days before the hearing to those persons appearing on the real property records of the City who own real property within 200 feet of the lot that is the subject of the application or appeal. Notice may also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted not less than 15 days prior to the hearing.

(3) Public notice shall be given by publishing a notice in a newspaper, having general circulation in the area, one time not less than 15 days prior to the hearing.

(4) The notice required by this section shall state the date, time and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

#### **SECTION 19-102 - MODIFICATION OF APPLICATION AT HEARING**

(A) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the City Council or Board of Zoning Appeals, the applicant may agree to modify his application, including the plans and specifications submitted.

(B) Unless such modifications are so substantial or extensive that the City Council or Board of Zoning Appeals cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the City Council or Board of Zoning Appeals may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are filed with the Zoning Administrator.

#### **SECTION 19-103 - RECORD**

(A) A tape recording shall be made of all hearings and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

(B) Whenever practicable, all documentary and other types of physical evidence presented at a hearing or pursuant to 19-100(D) shall be made a part of the record of the proceedings and shall be kept by the City for at least two years.

#### **SECTION 19-104 - ACTIONS OF THE BOARD OF ZONING APPEALS**

All final decisions and orders of the Board of Zoning Appeals shall be in writing and placed in the minutes of the meeting and permanently filed in the office of the Board. All findings of fact and conclusions of law shall be separately stated in the decision or order.

## **SECTION 19-105 - ACTIONS OF THE CITY COUNCIL**

All final decisions by the City Council on applications for conditional use permits or for revocation of such permits shall be in writing and placed in the minutes of the meeting. All findings of fact and conclusions of law shall be separately stated in the decision.

**Sections 19-106 through 19-110 reserved.**

## **ARTICLE VII. ENFORCEMENT AND REVIEW**

### **SECTION 19-111 - COMPLAINTS REGARDING VIOLATIONS**

Whenever the Planning Department receives a written, signed complaint alleging a violation of this ordinance, the Zoning Administrator shall investigate within 15 days the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

### **SECTION 19-112 - PERSONS LIABLE**

The owner, tenant, or occupant of any buildings or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

### **SECTION 19-113 - PROCEDURES UPON DISCOVERY OF VIOLATIONS**

(A) Subject to (B) below, if the Zoning Administrator finds that any provision of this ordinance is being violated, he shall send a written notice to any person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The notice shall order the discontinuance of any illegal use of land or structures or any illegal work being done or the removal of any illegal structure or illegal addition, alteration or change thereto. The notice shall also list the penalties which could be imposed for failure to comply with this ordinance and note that the Zoning Administrator's order or decision may be appealed as provided in Section 19-91. Additional written notices may be sent at the Zoning Administrator's discretion.

(B) However, if the Zoning Administrator determines that delay would seriously threaten the effective enforcement of this ordinance or would pose a danger to public health, safety or welfare, the Zoning Administrator may take any other action authorized by this ordinance prior to sending a written notice.

(C) The Zoning Administrator may, upon finding a violation of this Ordinance, issue and serve upon a person violating this Ordinance a stop order requiring that the person stop immediately all actions in violation of this Ordinance, including land disturbance, illegal occupation of a building, illegal work being done, or any other action in violation of this Ordinance.

## **SECTION 19-114 - PENALTIES AND REMEDIES FOR VIOLATIONS**

(A) Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use or conditional use permits, shall constitute a misdemeanor.

(B) If any structure is erected, constructed, altered, maintained or used in violation of this ordinance, or any land is used in a manner which violates this ordinance, or regulations in furtherance hereof, the City Council, City Attorney, Zoning Administrator or any person aggrieved in addition to other remedies provided by law and this ordinance, may institute injunction, abatement or other appropriate action to prevent, abate, enjoin, or remove such unlawful construction, alteration, change, maintenance or use of the structure or land.

(C) Any act constituting a violation of the provisions of this ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use or conditional use permits, shall subject the offender to a penalty in the discretion of the courts not to exceed the amount allowable by state law. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty shall be recovered by the City in a civil action in the nature of debt.

(D) Each day that any violation continues shall be considered a separate offense.

(E) Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this ordinance.

(F) In addition to the remedies and penalties available in this section, signs that are in violation are subject to Section 19-137 (H) *Remedies and Penalties for Violations*.

## **SECTION 19-115 - PERMIT REVOCATION**

(A) A zoning, special use, or conditional use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to construct, use or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing authority.

(B) No person may continue to construct or erect a structure, to disturb land, or to make use of land or buildings in the manner authorized by any zoning, special use or conditional use permit after such permit has been revoked in accordance with this section.

## **SECTION 19-116 - JUDICIAL REVIEW**

(A) Every decision of the City Council granting or denying a conditional use permit and every final decision of the Board of Zoning Appeals shall be subject to review by the Circuit Court of York County by proceedings in nature of certiorari.

(B) The petition for the writ of certiorari must be filed with the York County Clerk of Court within 30 days after the filing of the decision.

(C) A copy of the writ of certiorari shall be served upon the City of Tega Cay.

**Sections 19-117 through 19-120 reserved.**

## **ARTICLE VIII. NON-CONFORMITIES**

### **SECTION 19-121 - PURPOSE**

Within the districts established by this ordinance or amendments which may later be adopted there exist land, structures, uses of land and structures, and accepted land use proposals which were lawful at the time of the adoption of the ordinance or amendment thereto, as the case may be, but which would be prohibited, regulated or restricted under this ordinance or future amendment. The City Council recognizes that the strict application of the standards herein to such uses or structure may create certain hardships for the property owner. It is the intent of this ordinance to 1) permit these non-conforming uses and structures to continue until they are removed, but not to encourage their survival, not to assist in adding other structures or uses prohibited by this ordinance; and 2) pursuant to the authority granted by Section 6-29-730 of the South Carolina Code of laws, provide for the termination of certain non-conformities by specifying the period or periods in which the nonconformity is required to cease or be brought into conformance. Therefore, the uses or situations described below are accorded a non-conforming status with all the specific privileges and limitations set forth to govern their existence.

### **SECTION 19-122 - NON-CONFORMING LOTS**

A non-conforming lot is a lot which does not meet the dimensional requirements for the district in which it is located, but which was recorded by plat or description in the office of the Clerk of Court prior to the adoption of this ordinance. A non-conforming lot may be used for any of the uses permitted by this ordinance in the district in which it is located if the use of the lot meets the following standards:

- (1) The minimum requirements for front, side and rear yards, height of structures, and unobstructed open space for the particular district must be met.
- (2) Lots zoned for duplexes and multi-family dwellings must meet the minimum lot standards for those uses in the particular district in addition to the dimensional requirements listed in subsection (1) above.
- (3) The lot in question does not adjoin a lot under the same ownership which could be combined with it to create one or more lots that will meet the dimensional requirements.

### **SECTION 19-123 - NON-CONFORMING USES OF LAND**

A non-conforming use of land is a use of land which existed prior to the adoption of this ordinance which would not be permitted by this ordinance in the district in which it is located. This type of use may be continued subject to the following limitations:

- (1) No non-conforming use shall be enlarged or intensified or extended to occupy a greater area of land than was occupied on the date this ordinance was adopted.
- (2) No non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the date this ordinance was adopted.
- (3) No non-conforming use of land shall be changed to another non-conforming use.
- (4) Once a non-conforming use of land has been changed to a conforming use it shall not be allowed to return to any non-conforming use.
- (5) If a non-conforming use ceases for more than 30 days it shall not be re-established.

#### **SECTION 19-124 - NON-CONFORMING STRUCTURES**

- (1) A non-conforming structure is a structure in existence at the time this ordinance was adopted, but which does not meet the minimum requirements for width, area, front, side, or rear yard, height, and unobstructed open space for the district in which it is located. Any structures on this type of lot may not be expanded. Such structure may be moved within the confines of the lot provided that it shall be relocated so as to conform as nearly as possible to the requirements imposed by this ordinance.
- (2) Maintenance and repairs necessary to keep a non-conforming structure in a safe and sound condition are permitted.
- (3) Dwelling units and attached ancillary structures which are non-conforming may be expanded provided the expansion meets the current minimum requirements for width, area, front, side, or rear yard, height, and unobstructed open space for the district in which it is located.

#### **SECTION 19-125 - NON-CONFORMING USES OF STRUCTURES AND STRUCTURES AND LAND IN COMBINATION**

A non-conforming use of a structure is a use in a structure which existed prior to the adoption of this ordinance which would not be permitted by this ordinance in the district in which it is located. This type of use may be continued subject to the following limitations:

- (1) A non-conforming use of a structure may be extended only into portions of the structure which existed at the time that the use became non-conforming and which were designed or arranged to accommodate the use.
- (2) An existing structure devoted to a non-permitted use may not be enlarged or altered unless the use of the structure is changed to permitted use, provided however that existing non-conforming residential uses in a business district may be enlarged or extended as long as no additional dwelling units result. Structural alterations may also be permitted to a structure

devoted to a non-conforming use as required by law or an order from the Zoning Administrator to insure the safety of the structure. All enlargements or alterations permitted must be completed in accordance with the requirements of this ordinance.

(3) Maintenance and repairs which are necessary to keep a structure which houses a non-conforming use in a safe and sound condition are permitted.

(4) A non-conforming use of a structure may not be changed to another non-conforming use. For the purpose of this section, a change from one type of business to another, though both may be classified under the same principal use, constitutes a change from one non-conforming use to another non-conforming use. Once a non-conforming use of a structure has been changed to a conforming use no non-conforming use will be resumed.

(5) Neither a change in land from unoccupied to occupied nor a change in ownership of an enterprise constitutes a change in use.

(6) If a non-conforming use ceases for more than 30 days, it may not be re-established as to the land or structure and all subsequent uses of the structure must be in conformance with the particular district regulations.

#### **SECTION 19-126 - RECONSTRUCTION OF DAMAGED STRUCTURES**

(A) If a non-conforming residential structure or portion thereof is damaged or destroyed to the extent of more than 75% of its replacement cost at the time of the damage or destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance. If the damage or destruction is less than 75% of its replacement cost, reconstruction must be completed within one year of the occurrence of the damage; otherwise the reconstruction must conform to the provisions of this ordinance.

(B) Subject to subsection (C) below, if a non-conforming, non-residential structure is damaged, the structure may be repaired and restored to its original dimensions and conditions so long as the reconstruction will not adversely impact, in the judgment of the Zoning Administrator, public health, safety, and general welfare, and the reconstruction is completed within one year of the occurrence of the damage.

(C) If a non-residential structure containing a non-conforming use is destroyed or damaged to the extent described in subsection (A) above, the structure may be repaired or restored in accordance with subsection (B) above, but the non-conforming use shall not be resumed.

#### **SECTION 19-127 - NON-CONFORMING SIGNS**

A non-conforming sign is one which existed prior to the adoption of this ordinance, but which does not meet the standards for signs for the use of the district in which it is located. A non-conforming sign may be allowed to continue subject to the following limitations:

(1) Non-conforming signs made of paper, cloth or other non-durable materials or free-standing signs which are not attached to a building or to the ground must be removed within six months of the adoption of this ordinance.

(2) A non-conforming sign will not be replaced with another non-conforming sign. However, the replacement of poster panels, painted boards, or other demountable materials on non-conforming signs is allowed.

(3) Minor repairs and maintenance of non-conforming signs such as repainting, electrical repairs, and neon tubing repairs will be permitted. However, no structural repairs or changes in the size, shape or message of a sign will be permitted except to make the sign comply with the requirements of these regulations.

(4) New signs related to legally establish non-conforming uses may be erected provided they comply with the sign regulations which apply to the use in the most restricted district in which the use is permitted.

#### **SECTION 19-128 - CHANGES IN ZONING**

Any nonconformance created by a change in a zoning classification or zoning district boundary or by a change in the regulations in the ordinance will be regulated by the provisions of this Article.

**Sections 19-129 through 19-134 reserved.**

### **ARTICLE IX. SUPPLEMENTARY USE REGULATIONS**

#### **SECTION 19-135 - UTILITY FACILITIES: NEIGHBORHOOD AND COMMUNITY OR REGIONAL**

(A) As provided, neighborhood utility facilities located within a public right-of-way with the permission of the owner of the right-of-way (state or city) do not require a zoning, special use, or conditional use permit.

(B) Neighborhood utility facilities may be located on any size lot without regard to the minimum lot size requirements set forth. However, if a substandard size lot is created after the effective date of this ordinance to accommodate neighborhood utility facilities, then such a lot shall not thereafter be regarded as a legitimate non-conforming lot for purposes of Section 19-122. The plat creating such a substandard lot shall bear a notation indicating that use of the substandard lot is restricted to utility purposes by this subsection.

(C) Neighborhood public utility facilities shall be permissible in any district only if such facilities do not generate any noise, smoke, odor, vibration, electrical interference, or other disturbance that is perceptible beyond the boundaries of the lot where such facilities are located or that adversely affects the use of adjoining or neighboring properties.

#### **SECTION 19-136 - WATERFRONT CONSTRUCTION AND LAND USE**

For the intent of providing for the orderly development, enhancement, and protection of environmentally sensitive shoreline properties the City of Tega Cay, South Carolina, has enacted special regulations to regulate waterfront construction (Ordinance 91).

## **SECTION 19-137 - SIGN REGULATIONS**

**(A) PURPOSE.** This section is intended to accomplish the following objectives:

- (1) To ensure that signs are designed, constructed, installed and maintained so that public safety and traffic safety are not compromised.
- (2) To minimize the distractions and the obstructing-of-view that contribute to traffic hazards and endanger public safety.
- (3) To encourage a high standard for signs in order that they should be appropriate to and enhance the aesthetic appearance and attractiveness of the community and, further, create an aesthetic environment that contributes to the ability of the community to attract sources of economic development and growth.
- (4) To allow for adequate and effective signs for communication and identification while preventing signs from dominating the visual appearance of the area in which they are located.

**(B) DEFINITIONS.** The following are types of signs included in these regulations (**See Appendix V**).

- (1) **Awning sign.** A sign attached to a structure made of cloth, metal or other material affixed to a roof like structure, as over a window or door, that serves as shelter.
- (2) **Banner.** A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, educational, religious or corporate organizations.
- (3) **Bulletin board sign.** A sign of a permanent nature used to announce meetings or programs to be held on or off the premises of a church, school, auditorium, library, museum, community recreation center, or for similar non-commercial use.
- (4) **Canopy sign.** A sign attached to or supported by a permanent roof-like structure or marquee of rigid materials supported by and extended from the façade of a building. Any structure that shields water from any heated area of the building will not be considered a canopy.
- (5) **Changeable Electronic Variable Message Sign (CEVMS).** A sign on which light is turned on or off intermittently by any means, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at

all times when such sign is in use; including alternative sign displays of a digital or controlled light emitting variety, including digital signs that may be scrolling message boards, liquid crystal display (LCD), or plasma display panels, electronic billboards, projection screens, or other emerging display types like living surfaces like organic light-emitting diode (OLEDs), light emitting diode (LED), light emitting polymer (LEP) and organic electro-luminescence (OEL), that can be controlled electronically using a computer or other devices, allowing direct or remote access and control of graphic, text or content, and which may vary in intensity or color. A CEVMS sign does not include a sign located within the right of way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard. For the purposes of this Ordinance all Changeable Electronic Variable Message Signs (CEVMS) shall be considered a Ground Sign.

- (6) **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. Construction signs shall be deemed a type of “temporary sign”.
- (7) **Directional or instructional sign.** A sign designed to guide vehicular and/or pedestrian traffic by using words such as “entrance”, “exit”, “parking”, “one-way” or similar directional instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.
- (8) **Directory sign.** A secondary sign on which the names and locations of occupants or the use of a building or property are identified. The name or logo of the shopping center or complex may also be included on the sign. This sign is required to be a ground sign, and the height of the sign cannot exceed two (2) times the width (**See Appendix IV**).
- (9) **Estate Sale sign.** A sign which advertises a sale of household items from the estate of a resident. Estate Sale signs shall be deemed a type of “temporary sign”.
- (10) **Flag.** A piece of durable fabric of distinctive design that is used as a symbol or decorative feature.
- (11) **Flashing sign.** A sign that uses an intermittent or flashing light source to attract attention
- (12) **Freestanding sign.** A sign in which the structural element is permanently attached to the ground.
- (13) **Freestanding business identification sign.** A sign that directs attention to a business, profession or industry located upon the premises where the sign is displayed.

- (14) **Home occupation sign.** A sign which identifies any occupation or profession conducted within a principal residence.
- (15) **Ground sign.** A sign affixed to the ground by a solid base not less than the width of the message area, in which the height of the sign does not exceed two (2) times the width **(See Appendix I)**.
- (16) **Illegal sign.** Any sign erected after October 1, 2001, not in compliance with the provisions herein, or an unlawfully erected sign prior to October 1, 2001.
- (17) **Illumination sign.** A sign internally or externally lit.
- (18) **Incidental sign.** A sign used in conjunction with equipment or other functional elements of a use or operation. These will include, but not be limited to, drive-through window menu boards, sign on automatic teller machines, gas pumps, vending machines or newspaper delivery boxes, etc.
- (19) **Landscaped sign.** Hedging and similar lawn material cut in a manner that represents an object, number or letter.
- (20) **Memorial sign or plaque.** Signs designating names of buildings and/or dates of erection and other items, such as architect, contractor or others involved in the building's creation and/or dedication, cut into or attached to a building surface.
- (21) **Monument sign.** A monolithic sign indicating a historical event or achievement in which the bottom of the sign is flush with the ground and the vertical dimension of the sign is greater than the horizontal dimension.
- (22) **Noncommercial sign.** Any sign authorized by the zoning code may contain a noncommercial message in lieu of any other message. A noncommercial 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.
- (23) **Outdoor advertising display (billboards)** 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 will not be deemed to be located on or carried on at the premises of local retail outlet or branch office.
- (24) **Permanent sign.** A sign, permanently installed in the ground or affixed to any structure or building. "Permanently" will mean the sign support(s) being anchored into a concrete footing that extends below the frost line for signs not affixed to the structure (roof, walls, canopy). For signs attached to the structure,

they must be permanently affixed using an approved anchoring system or method.

- (25) **Planned development sign.** Signs indicating the name of an apartment, campground, industrial or mixed use development. No advertising material, except the name of the development, will be indicated on the sign. This does not include mobile home parks or recreation vehicle parks.
- (26) **Portable sign.** A sign that is not permanently attached to a structure, a building or the ground and can easily be moved from one (1) location to another. Portable signs shall be deemed a type of “temporary sign”.
- (27) **Projecting sign.** Any sign which projects more than twenty-four (24) inches, including the total width of the sign and mounting bracket(s), and is affixed to the exterior wall or other exterior surface of a building, canopy or awning.
- (28) **Public interest sign.** A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public, such as warning signs and no trespassing signs.
- (29) **Reader board.** An area of a sign which has changeable lettering. This area will be included in the total square footage allowed.
- (30) **Real estate sign.** A sign that is used to offer for sale, lease, or rent the premises upon which the sign is placed. Real estate signs shall be deemed a type of “temporary sign”.
- (31) **Real estate off-premise sign.** A sign which attracts attention to or directs persons to a proposed development or area for sale, lease or rent, located on other than the premises where the activity is located. Real estate off-premise signs shall be deemed a type of “temporary sign”.
- (32) **Roof sign.** A sign which is over or on a roof, is wholly or partially dependent on the roof of any building for support, is attached to the roof in any way, or any combination of the above. A roof will be considered a portion of the building structure that shields water from any heated area of the building.  
**NOTE:** Signs located on building towers, cupolas, etc. are considered roof signs if located above the main roof line of the building.
- (33) **Sandwich Board Sign.** An “A” frame sign. Sandwich board signs or (A-frame signs) shall not exceed 24 inches in width and 48 inches in height from the top of the sign to the ground where the sign is located. Sandwich board signs shall be deemed a type of “temporary sign”.

- (34) **Special Event Sign.** A noncommercial campaign, directional or information sign or banner of a public or quasi-public nature, which is used for the purpose of informing the public of major events, open to the public, with community-wide interest or regional significance. Special events may include, but are not limited to, religious, educational, charitable, civic, fraternal, sporting, or similar events including, but not limited to, concerts, sporting league signups, festivals, golf tournaments, and major sporting events. Special Event signs are to be used for short duration events (no longer than 10 days) and not for longer events such as a sporting season. Special Event signs shall be deemed a type of “temporary sign”.
- (35) **Sponsorship Sign.** A sign or banner employed by a school or by a city, civic, fraternal, religious, charitable or similar organization which identifies the sponsor (by name, address and/or logo, crest, insignia, trademark or emblem only) of recreational or sports a) events, b) programs, or c) the facility itself; provided on the premises where such signs are displayed. Sponsorship Signs shall mean sponsorship signs affixed to permanent fencing or structures such as scoreboards. "Facility" shall mean the entire premises of an elementary or secondary school or a recreational or sports facility.
- (36) **Subdivision sign.** A sign identifying a land subdivision or planned development area. No advertising material, other than the name of the development, will be indicated on the sign. This does not include mobile home parks, campgrounds or recreation vehicle parks.
- (37) **Temporary planned development sign.** A sign that pertains to the development of a new or under construction subdivision, planned multifamily development, planned shopping center, industrial, office or business park, or similar parcel of land. Temporary planned development signs shall be deemed a type of “temporary sign”.
- (38) **Temporary sign.** A sign, not permanently installed in the ground or affixed to any structure or building, which is erected for a period of time as permitted in this ordinance.
- (39) **Vehicular sign.** Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise products or direct people to a business or activity. This will not include signs on vehicles while in use in a normal course of business. Use in a normal course of business will mean driving a current licensed vehicle on any street, or parking the vehicle at the place of business or overnight at the residence of the owner or an employee of the business.
- (40) **Wall sign.** Any sign attached to or painted on the exterior wall or surface of a building or other structure which projects not more than twenty-four (24) inches from the wall or surface.
- (41) **Window sign.** Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of the

building.

(42) **Yard sale sign.** A sign which advertises a sale of used household items from a residence. This is not considered an outdoor advertising display. Yard sale signs shall be deemed a type of “temporary sign”.

(42) **Yard sale off premise sign.** A sign which attracts attention to or directs persons to a yard sale, located on other than the premises where the activity is held. Yard sale off-premise signs shall be deemed a type of “temporary sign”.

**(C) PROCEDURES FOR ZONING COMPLIANCE.**

(1) **Zoning compliance required.** Except as otherwise provided in this ordinance, it will be unlawful for any person to erect, construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a zoning compliance for the signs from the Zoning Administrator as required by these regulations. Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign will not require a zoning compliance, provided the copy change does not change the size or nature of the sign to render the sign in violation of these regulations.

(2) **Application and issuance of zoning compliance.** Applications for a zoning compliance will contain the following information:

- (a) The address of the building/structure of which the sign is to be erected, and the property tax map reference number for the lot onto which the sign is to be located;
- (b) Names(s), address(es), and telephone number(s) of the applicant/owner of the property where the sign is to be erected or affixed, the owner of the sign, and the licensed contractor erecting or affixing the sign;
- (c) A site plan and survey of the property showing accurate placement of the proposed sign;
- (d) Two (2) scaled drawings of the plans and specifications of the sign to be erected or affixed as deemed necessary by the Zoning Administrator. The plans will include, but will not be limited to, details of dimensions, materials, and size of the proposed sign. For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and size of the existing wall signs will also be included; and,
- (e) Other information as the Zoning Administrator may require to determine full compliance with this and other applicable codes.

(3) All applications for a sign permit deemed complete by the Zoning Administrator shall be submitted to the Architectural Review Committee (if created) for review. Following the guidelines in

subsection (4), the Committee (if created) shall issue its report to the Zoning Administrator within 10 days. The report and its recommendations are advisory only and not binding on the Zoning Administrator. Failure to issue a report within 10 days shall be deemed approval by the Committee (if created).

- (4) All signs requiring a permit shall be reviewed by the Zoning Administrator regarding the proposed general design, arrangement, texture, materials, colors, lighting, placement and appropriateness of the proposed sign in relation to other signs and other structures on the premises and contiguous area. After reviewing the application and the Committee's report (if submitted) the Zoning Administrator shall promptly act on the application. If the permit is denied the Zoning Administrator shall recommend to the applicant such modifications or adjustments determined to be necessary to enforce the intent of this ordinance.
- (5) Any person having an interest in a sign may appeal the determination of the Zoning Administrator by filing a written notice of appeal to the Board of Zoning Appeals within 30 days after the filing of the decision.

**(D) GENERAL PROVISIONS FOR ALL SIGNS.**

- (1) **Location.** Permanent ground-type signs may be located in required buffer yards and yard setbacks; provided the minimum setbacks will be not less than ten (10) feet from the street right-of-ways, and not less than ten (10) feet from any side property line(s). Measurement to be taken horizontally from the portion of the sign (base or face) which is nearest to road right-of-way or property line.
- (2) **Height of sign.** The height of the sign is to be measured from the highest point of the sign to the base of the sign at the ground (**See Appendix I**). Altering the topography of the land, through the placement of a berm, mound, hill, etc. for the purpose of elevating a sign, is not allowed.
- (3) **Condition and Maintenance.** All signs will be maintained in sound structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs will be evidence of the lack of maintenance. Signs which have deteriorated to such a condition will be deemed to be in violation of this ordinance and, must be either repaired, removed or replaced. The Zoning Administrator shall inspect signs and shall have the authority to order the painting, repair, alteration, or removal of a sign which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence. For all permanent signs and similar advertising structures, including existing conforming or nonconforming signs, the following regulations shall apply:
  - (a) All signs, support structures, braces, guys, anchors, and electrical equipment shall be kept in safe repair and shall be well maintained;

- (b) All signs and support structures shall be maintained in such a manner so as to allow a clear and unobstructed view of traffic when approaching an intersection or exiting or entering private property;
  - (c) The area around all signs shall be properly maintained, clear of brush and other obstacles so as to make signs readily visible;
  - (d) All burned out bulbs or damaged panels shall be promptly replaced;
  - (e) All sign copy shall be maintained securely to the sign face and all missing copy shall be replaced;
  - (f) Any sign or similar advertising structure failing to meet the requirements of this Section shall be repaired or removed within thirty (30) days after receipt of notification from the Administrator of this Ordinance.
- (4) **Repairing.** The repairing, changing of parts, and preventive maintenance of signs will not be deemed alterations requiring a zoning compliance.
- (5) **Lighting.** Signs, when illuminated by direct lighting, will have the lighting shielded so as not to directly shine onto abutting properties or in the line of vision of the public using the streets or sidewalks.
- (6) **Area Measurement (See Appendix II, III, IV).**
- (a) For purposes of determining the area of a sign on a building, whether made in one (1) or more pieces or when lettering or figures are painted thereon, or attached thereto; the total square footage of all sign areas will be used.
  - (b) For purposes of determining the area of a ground-type sign, whether made in one (1) or more pieces or parts; the total square footage of all sign areas, exclusive of supports, will be used. In all instances, the largest plain view measurement on one (1) side only will prevail.
  - (c) For purposes of determining the area of a wall to which a Sign will be affixed; the shortest perimeter encompassing the exterior wall will be used. The area where the building is intersected by tenant separation partitions will be construed as the entire wall. A parapet will be included as the building wall.
- (7) **Anchoring.** All ground-type signs will have self-supporting structures permanently anchored in concrete foundations, except portable signs will be secured to prevent motion, but are not required to have concrete foundations extending beyond the frost line.

**(E) PROHIBITED SIGNS.**

The following signs are expressly prohibited:

- (1) Flashing signs, except a sign indicating time and/or temperature.
- (2) Outdoor advertising displays. "Billboards" shall be deemed a type of Outdoor advertising display.

- (3) Portable signs, except off premise signs carried by persons.
- (4) Projecting signs, except as allowed within this ordinance.
- (5) Roof signs.
- (6) Signs or advertising devices attached to or painted on a fence, power or telephone pole, tree, stone or any other natural object.
- (7) Signs which emit sounds, odors or visible matter.
- (8) Signs which obstruct the view of or may be confused with governmental traffic control or directional safety signs, including signs using the word “stop”, “danger”, or other phrases, symbols, or characters in a manner that may mislead, confuse, or distract a driver.
- (9) Strings of lights or any illuminated tubing outlining property lines or open sales areas, roof lines, doors, edges of signs, windows, or wall edges of any building or structure, except holiday lights, provided these lights are not connected or illuminated prior to November 1<sup>st</sup>, and disconnected no later than February 1<sup>st</sup>.
- (10) Vehicular signs.
- (11) Signs placed on public property without prior approval except as otherwise provided in this ordinance.
- (12) Signs containing untruthful or misleading information.
- (13) Signs that display a message or graphic representation that is lewd, indecent or otherwise offensive to public morals.
- (14) Any other sign not listed as a permitted use.

**(F) PERMANENT SIGNS**

**A. Permanent Signs Not Requiring A Zoning Compliance:**

The following types of signs are exempt from the provisions of a zoning compliance provided; (a) the conditions attached thereto are met; (b) the sign is not located within a state supported highway right-of-way (ROW) – except as exempted by S.C. State Code at Title 57, Chapter 25; (c) the sign is installed in accordance with the structural and safety requirements of the building code; and (d) a building permit is obtained if applicable.

- (1) Bulletin board on-premise signs not to exceed thirty-two (32) square feet.

- (2) Café style umbrellas containing advertising logos, trademarks, or copy, provided: (a) the diameter cannot exceed ten feet; (b) the total area of the advertising logo, trademark, or copy shall not be greater than 20 percent of the total exterior surface of the umbrella; (c) the placement of umbrellas shall not be allowed without seating for use in connection thereof; (d) the placement of umbrellas shall only be permitted in connection with an outdoor table service area; (e) umbrellas may not be unfurled when winds make it unsafe to do so, or for the duration of a declared severe storm watch or warning, or a declared emergency.
- (3) Commercial signs (On premise). Signs allowed by any provision of these regulations can have a noncommercial message displayed or published on the signs.
- (4) Directional signs on premises not to exceed four (4) square feet in area.
- (5) Flags; provided:
  - (a) A maximum of five (5) flags per lot.
  - (b) The maximum height of the flag pole should not exceed twenty-five (25) feet.
  - (c) Flag poles cannot be used as supports for freestanding signs.
  - (d) Proper display of the United States Flag, South Carolina State Flag, York County Flag or Tega Cay City Flag is not controlled by this ordinance.
- (6) Home occupation and family day care signs. One (1) name plate or business identification sign, provided it does not exceed three (3) square feet in area, is non-illuminated, and is affixed to the inside of the home. The sign may be displayed in a window of the home.
- (7) Incidental on-premise signs.
- (8) Landscaped signs.
- (9) Mailboxes and similarly located on-premise signs identifying a private residence.
- (10) Signs not exceeding one square foot in area and bearing only property numbers, post office box numbers, names of occupants or premises, no trespassing signs or water related warning signs.
- (11) Memorial signs.
- (12) Monument signs denoting a historical event or achievement.
- (13) Noncommercial directional or information signs of a public or quasi-public nature, which may be used for the purpose of stating or calling attention to:

- (a) The name or location of a town, village, hospital, community center, private school, college, YMCA, YWCA, church or other place of worship; or the name or place of a meeting of an official or civic body such as a chamber of commerce, board of trade, or service club, not to exceed thirty-two (32) square feet in area.
  - (b) Soil conservation, 4-H and similar projects.
- (14) On-premise signs within a business or manufacturing district which are not visible from a public road or abutting property line.
  - (15) Public interest signs, provided signs are non-illuminated and do not exceed four (4) square feet in area.
  - (16) Signs of duly constituted governing bodies, including traffic regulatory devices and legal notices.
  - (17) Signs on the interior side of a window glass.
  - (18) Signs on vehicles while in use in a normal course of business. Use in a normal course of business will mean driving the vehicle on any street, parking the vehicle at the place of business or overnight at the residence of the owner or an employee of the business. Such vehicles will have a current license plate.
  - (19) Signs on-premise not to exceed sixteen (16) square feet in area advertising for sale locally grown agricultural produce and home-processed foods.
  - (20) Signs or plates on structures or premises, not to exceed two (2) square feet, giving the name or address of the occupant.
  - (21) Signs placed upon the exterior of the structure indicating the location of restrooms, entrances or exits.
  - (22) Signs displayed on gasoline pumps indicating the price per gallon in characters not exceeding six (6) inches in height.
  - (23) Subdivision or planned development on-premise signs, provided it is a ground sign and does not include recreational vehicle parks or mobile home parks.
  - (24) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

**B. Permanent Signs For Which a Zoning Compliance is Required**

- (1) **Table 1** summarizes the types of signs permitted in the zoning districts, provided; (a) the conditions attached thereto are met; (b) a zoning compliance is issued; (c) the sign within or adjacent to a state supported highway (examples: Tega Cay Drive,

Gardendale Road, New Gray Rock Road, Dam Road and federal-aid primary Highway 160) ROW is allowed per S.C. State Code at Title 57, Chapter 25; and (d) the sign is installed in accordance with the structural and safety requirements of the building code and a building permit is obtained, if applicable:

**Standards for Permanent Signs Requiring Zoning Compliance**  
**Table 1**

<b>LOCATION</b>	<b>TYPE</b>	<b>MAXIMUM SIZE</b>	<b>NUMBER</b>
City Entrance	Ground Sign (for the aggregate business complexes occupying the development)	10 feet High 260 square feet	one*
B1, B2, PUD, PDD	Ground Sign (for each Development)	8 feet High 150 square feet	One per Development per frontage on public street*
	Ground Sign (for each Single Tenant/Occupant/Single Parcel)	8 feet High 75 square feet	One per public street frontage of parcel/tract*
	Wall, Awning, or Canopy Sign (for each business)	15% of any one wall surface, not to exceed 200 square feet	One per each Business
PUD, PDD	Ground Sign (for each Development)	8 feet High 150 square feet	One per Development per frontage on public street*
Single Family Residential R-3, 6, 8, 10, 13, 15, 40	Freestanding or Window (Identification)	3 square feet	One per use

\*Double Sided

**(2) Signs using Changeable Electronic Variable Messaging (CEVM).**

- (a) If an existing sign is to be revised to a Changeable Electronic Variable Message Sign (CEVMS) or a new sign using such technology is to be erected, an application shall be submitted noting such change and/or new construction and requesting approval of a sign permit for zoning compliance.
- (b) Audio speakers or any form of pyrotechnics are prohibited in association with a CEVMS.
- (c) The leading edge of the CEVMS must be a minimum of one hundred (100) feet from an abutting residential district boundary.
- (d) The reader board section of such signs are subject to the following conditions:
  - (1) Shall not contain or display flashing, intermittent or moving lights;
  - (2) The electronic/digital area shall not exceed 40% of the allowed/permitted sign face;

- (3) Each message displayed shall remain fixed for a minimum of eight (8) seconds;
  - (4) Illumination for such signs should not exceed 7,500 nits (a unit of visible light intensity equal to 1.44 binary digits of data) during daylight and 500 nits during evening hours ;
  - (5) The sign shall have an automatic dimmer control incorporating a photo cell mechanism to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise;
  - (6) The sign shall have a default mechanism that will either stop the sign in one position, or turn the sign off should a malfunction occur.
- (3) **Permanent Signs within the right-of-way (ROW).** The following permanent signs shall be allowed in the right-of-way provided: (a) a zoning compliance is issued; (b) the sign within a state supported highway (examples: Tega Cay Drive, Gardendale Road, New Gray Rock Road, Dam Road and federal-aid primary Highway 160) is allowed per S.C. State Code at Title 57, Chapter 25, (c) the sign is installed in accordance with the structural and safety requirements of the building code and (d) a building permit is obtained, if applicable:
- (a) 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;
  - (b) Church signs, in accord with state law;
  - (c) Informational signs of a public agency or utility regarding its facilities;
  - (d) Emergency signs; and
  - (e) Directional signs
- (4) **Sponsorship Signs.** City approved Sponsorship Signs are allowed to be placed at each athletic field located within a facility provided that (a) a zoning compliance is issued, (b) the sign is installed in accordance with the structural and safety requirements of the building code, and (c) a building permit is obtained, if applicable. Additionally, for each athletic field, Sponsorship Signs:
- (a) Are intended to remain in place during the entire duration of the event or program that the sponsor has contributed to.
  - (b) Shall be located behind the minimum setback, yard and buffer requirements for the district.

- (c) Shall be placed in such a fashion so that the sponsorship sign face area is inwardly oriented relative to the perimeter of the athletic field within a facility, and located so as to (i) not be clearly visible from those persons not on the facility property and (ii) not be clearly visible from adjacent residential streets.
- (d) Shall not be lighted other than by a light source for the athletic field when the athletic field is in use.
- (e) Shall not exceed thirty-two (32) square feet in area per sign.
- (f) Shall not exceed five (5) feet in height.
- (g) Shall not exceed six hundred (600) square feet in area at any particular athletic field within a facility.
- (h) Shall be a dark earthen color on the side opposite the sign face.

**(G) Temporary Signs**

(1) Reference definitions section 19-16 for **Street** and **Right of Way (ROW)**

(2) **The following conditions shall apply to all temporary signs:**

- (a) Unless otherwise specified, no such sign, with or without a permit, shall be displayed for a period exceeding 30 days nor again be displayed on the same establishment or not more than three times during a calendar year.
- (b) Approved City sign standard template information for Directional Off Premise Yard Sale and Real Estate Signs will be provided by City.
- (c) Sign(s) shall be placed such that it does not impair the view of motorists in regard to traffic safety or otherwise create a hazardous or unsafe condition.

(3) **Temporary Signs Not Requiring a Zoning Compliance.**

The following types of signs are permitted, provided the conditions attached thereto are met:

(a) **Yard/Estate Sale Signs**

1. On premise: One yard/estate sale sign not greater than three (3) square feet in area and not greater than a maximum of three (3) feet in height. The sign shall be located behind the street property line. On premise Yard/Estate Sale signs will not be installed more than three (3) days prior to the yard/estate sale event and must be removed within two (2) hours following the event.
2. Off premise:

- a. Signs shall not be placed:
  - i. Within right of way of state maintained roads (Example: Tega Cay Drive, Hwy 160, Gardendale Road, New Gray Rock Road, Dam Road). Reference State Code Title 57; Chapter 25.
  - ii. Within right of way of City maintained divided lane arterial roads (Example: Stonecrest Boulevard).
  - iii. On private property without owner's permission.
- b. Yard/Estate Sale directional signs – meeting city design template and erected not greater than a maximum of three (3) feet in height - may be placed:
  - i. On City owned property beyond the street property line (outside the ROW) of all streets except federal-aid primary Highway 160.
  - ii. Within the side right of way but not in the median of secondary streets feeding divided lane arterial roads (Example: Windjammer Drive, Shoreline Parkway, Orchid Way, etc.).
- c. Off premise Yard/Estate Sale directional signs may be erected and used only between the hours of 6:00 pm on Friday through two (2) hours past end of sale, but not later than 7:00 am Monday.
- d. The use of off premises Yard Sale/Estate directional signs is not permitted on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Friday and Christmas Day.

(b) **Real Estate Signs**

- 1. On premise: One sign advertising real estate "for sale", "for rent", or "for lease"; not greater than five (5) square feet in area and not greater than a maximum of three (3) feet in height. The sign shall be located behind the street property line on the property so advertised. Golf course and waterfront lots will be permitted two signs, with one sign displayed on the street and one sign displayed facing the golf course and/or waterfront. The sign may be displayed until completion of purpose for which such signs were established.
- 2. Off premise:
  - a. Signs shall not be placed:

- i. Within right of way of state maintained roads (Example: Tega Cay Drive, Hwy 160, Gardendale Road, New Gray Rock Road, Dam Road). Reference State Code Title 57; Chapter 25.
  - ii. Within right of way of City maintained divided lane arterial roads (Example: Stonecrest Boulevard).
  - iii. On private property without owner's permission.
- b. Real estate directional signs – meeting city design template and erected not greater than a maximum of three (3) feet in height - may be placed:
  - i. On City owned property beyond the street property line (outside the ROW) of all streets except federal-aid Highway 160.
  - ii. Within the side right of way but not in the median of secondary streets feeding arterial roads (Example: Windjammer Drive, Shoreline Parkway, Orchid Way, etc.).
- c. Off premise real estate signs may be erected and used only between the hours of 6:00 pm on Friday through 7:00 am Monday.
- d. The use of off premises real estate signs is not permitted on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Friday and Christmas Day.
- e. Sign(s) may be erected and used per above until completion of purpose for which such signs were established.

(c) **Special Event Signs**

- 1. On premise: One city approved sign not greater than thirty-two (32) square feet in area. The sign shall be located behind the street property line. The sign/banner shall be erected no sooner than fourteen (14) days before and removed two (2) days after the event.
- 2. Off premise:
  - a. A main city approved Special Event Sign/Banner may be placed at each entrance to City of Tega Cay along Tega Cay Drive and along Stonecrest Boulevard. However, sign shall not be placed within right of way. Reference State Code Title 57; Chapter 25. For each entrance, there shall be only one main sign.

- b. The total combined area of each main Special Event Sign/Banner shall not exceed thirty-two (32) square feet.
- c. For each special event, two (2) additional smaller - six (6) square feet in area, city approved, professionally designed Special Event Signs may be placed:
  - i. On City owned property and private property (with permission provided) beyond the street property line (outside the ROW) of all streets except federal-aid Highway 160.
  - ii. Within the side right of way but not in the median of secondary streets feeding arterial roads (Example: Windjammer Drive, Shoreline Parkway, Orchid Way, etc.).
- d. Signs/Banners shall not contain any advertising, however, up to ten (10) percent of the sign area may include the name of the major event sponsors or supporters, a description of the products, services or activities provided or engaged in by the sponsors or supporters, and recognized trademarks, logotypes or symbols customarily associated with the sponsors or supporters.
- e. Signs/Banners shall be erected no sooner than fourteen (14) days before the major event and removed within two (2) days after the event.

3. Street Pole Banner:

- a. Such signs shall be no more than two square feet in area.
- b. Signs shall not contain any advertising.
- c. Such signs may only be placed on City-owned or leased street poles with express permission of the City Manager.

(d) **Sandwich Boards ("A" Frame Temporary Signs)**

- 1. One on premise Sandwich Board sign is allowed per business.
- 2. Sandwich Boards are not permitted for Customary Home Occupation businesses.
- 3. Sandwich Boards are not permitted along federal-aid Highway 160. Reference State Code Title 57; Chapter 25.

4. The sign shall be located behind the street property line, shall not be placed on any public sidewalk, and shall not be placed between a sidewalk and the adjacent roadway.
5. The sign can be placed during normal business hours and must be removed at all other times.
6. Each sign face shall not exceed eight (8) square feet.
7. Sandwich board signs or (A-frame signs) shall be maintained in good repair.

(e) **Signs advertising an event such as, community club meetings, school booster club affairs, church events, or volunteer organization benefits.**

1. On private property:
  - a. Sign(s) shall be located behind the street property line.
  - b. Sign(s) shall not remain up for longer than 24 hours after event.
  - c. Sign(s) cannot exceed three (3) square feet in area and shall not be erected greater than a maximum of three (3) feet in height.
2. Off premise:
  - a. Sign(s) shall not be placed within right of way of state maintained roads without an encroachment permit from SC Department of Transportation (Example: Tega Cay Drive, Hwy 160, Gardendale Road, New Gray Rock Road, Dam Road). Reference State Code Title 57; Chapter 25.
  - b. Sign(s) may not be placed within right of way of City maintained divided lane arterial roads (Example: Stonecrest Boulevard).
  - c. On private property without owner's permission.
  - d. Sign(s) cannot exceed three (3) square feet in area and shall not be erected greater than a maximum of three (3) feet in height.

(4) **Temporary Signs for which a Zoning Compliance is Required.**

The following types of signs are permitted, provided (a) a zoning compliance is issued; b) the sign within a state supported highway (examples: Tega Cay Drive, Hwy 160, Gardendale Road, New Gray Rock Road, Dam Road) ROW is allowed per S.C. State Code at Title 57, Chapter 25; and (c) the conditions attached thereto are met:

- (a) **Banners denoting sales events**, if the banners are not erected more than seven (7) days before sale commences and are removed within seven (7) days after the sale has ended.
  
- (b) **Banners denoting Grand Opening Events, provided:**
  - 1. One (1) temporary banner, either wall or ground mounted, may be utilized with a maximum size of thirty-two (32) square feet and a maximum height of six (6) feet if ground mounted.
  - 2. A new business may utilize the temporary banner for a period not to exceed forty-five (45) total days. The banner may be installed thirty (30) days prior to the Grand Opening Event and must be removed within fifteen (15) days after the event.
  
- (c) **Banners used as temporary signs in lieu of permanent signage, provided:**
  - 1. The permanent signs have been properly permitted and the banner is used to temporarily cover existing signage in the event of a business name or logo change.
  - 2. The banner meets the sign area requirements of the permanent sign.
  - 3. The banner is securely fastened to the wall or permanent sign structure to draw the banner material taut and prevent flapping.
  - 4. The banner must be replaced within sixty (60) days by installation of the permanent signage.
  
- (c) **Construction Signs**
  - 1. Signs located on single-family lots or duplex lots shall not exceed six (6) square feet in area. Rider signs not exceeding two (2) square feet in area shall be permitted in addition to the six (6) square feet;
  - 2. Signs for all other uses shall not exceed one square foot for every five (5) linear feet of frontage of property under construction, up to a maximum of sixty-four (64) square feet in sign area;
  - 3. Signs are confined to the site of construction;
  - 4. Only one sign per street front of the property under construction shall be erected;
  - 5. Signs shall not be illuminated;

6. Signs shall be removed within seven (7) days after the completion of the project;
  7. The sign may be displayed until completion of purpose for which such signs were established.
- (d) **Pennants, flags, balloons and fluttering devices** and similar exhibits to announce grand openings, mark special occasions and special promotions, provided:
1. The exhibit(s) cannot be installed more than 7 days before the event in question and must be removed within seven (7) days after the event.
  2. The specific exhibit(s) will not be re-permitted within twelve (12) months of the time it or a similar display is removed from the premises.
  3. Special promotion exhibits will, in addition to meeting the above, be limited to three (3) at any given time.
- (e) **Searchlights**, provided:
1. The searchlight(s) is not installed prior to the event in question and must be removed within three (3) days of the occasion.
- (f) **Signs, advertising an event, pulled behind an aircraft.**
- (g) **Temporary planned development and subdivision signs**, provided:
1. The signs are limited to a maximum of six (6) square feet;
  2. The signs do not exceed a maximum of three (3) feet in height;
    - a. The signs may be erected and used only between the hours of 6:00 p.m. on Friday through 7:00 a.m. on Monday.
    - b. When a holiday occurs on a Friday or Monday, the use of Temporary Planned Development and Subdivision signs is not permitted. The term "holiday", for purposes of this subsection, will be the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Friday and Christmas Day.
    - c. The signs will be a minimum distance of one thousand (1,000) feet apart along the roadway and will not be located further than two (2) miles from the main entrance to the development.

- d. The signs will be a minimum of ten (10) feet off of the asphalt surface or edge of the roadbed in case of a gravel road and will not create a sight hazard for motorists.
- e. The signs will be a minimum distance of seventy-five (75) feet from any intersection with another road, measured from the edge of the asphalt or traveled portion of the road.
- f. The Sign Company or developer utilizing the sign(s) will place the name, address and phone number of the Sign Company and/or developer in small letters at the bottom of the sign.
- g. The developer or sign company will post a fee per sign for each development being advertised within the City of Tega Cay. The amount of the fee charged shall be as set forth in the City's miscellaneous fees and charges schedule.

**(H) Remedies and Penalties for Violations**

**A. Removal of signs**

- 1. The Zoning Administrator shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, or materially, electrically or structurally defective sign, or a sign for which no permit has been issued. The Zoning Administrator may impound the sign and send notice stating that the sign has been impounded, the reason for the impoundment, and the process for claiming the sign. Signs impounded from the public right-of-way shall not require notice. Temporary signs that are in violation of this Ordinance may be impounded without notice.
- 2. An impounded sign shall be held for ten (10) calendar days, during which time the sign owner may recover the sign. If the sign is not claimed within the ten-(10) day period, the Zoning Administrator may dispose of the sign without compensation to the sign owner.

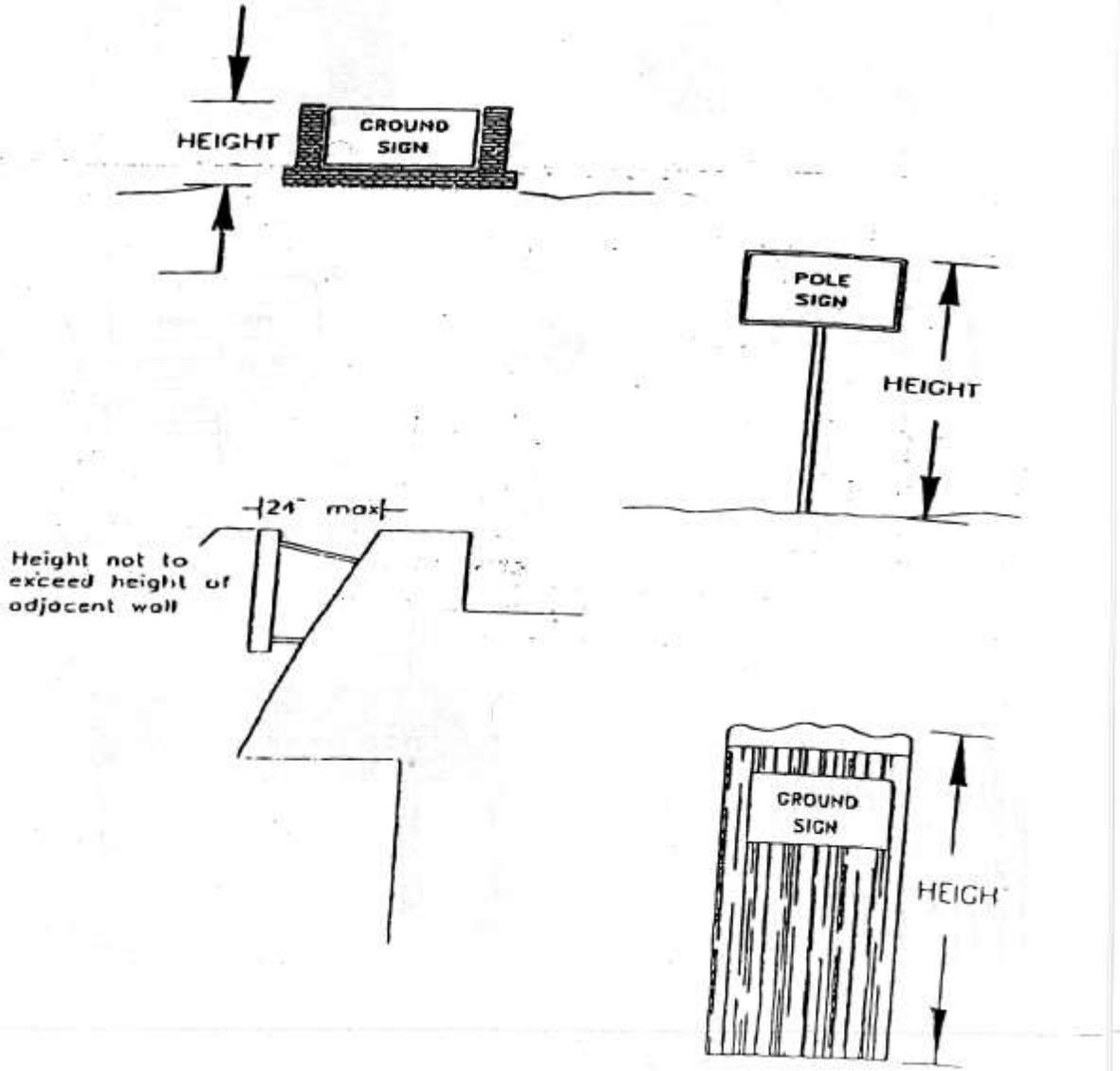
**B. Notice of Violation**

- 1. Following the identification of a violation of this ordinance the Zoning Administrator may prepare a notice which shall describe the sign and specify the violation involved and which shall state that, if the sign is not removed or the violation is not corrected within ten (10) days the sign shall be removed by the City with the cost born by the owner of the property. All violation notices shall be mailed by certified mail to the owner of the property on which the sign is located as shown on the last tax records. The time period provided in this section shall be deemed to commence on the date of the receipt of the certified mail.

2. In the event that a sign owner is deemed to be a repeat and habitual offender, the Zoning Administrator may immediately, upon Notice of Violation, issue a citation and cause such owner to lose the right for permitted use of such signage for a period of twelve (12) months.
- C. Abandoned Signs
1. Any sign that is located on property which becomes vacant and is unoccupied for a period of three months or more, or any sign which advertises an event, or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.
- D. Non-Conforming Signs
1. In cases where signs existing as a non-conforming use on property meet or exceed the total allowable sign area, no additional signs shall be permitted for an establishment. If the size or configuration of a parcel or building is changed, signs on the resulting properties shall be required to conform to the sign regulations applicable to the newly created parcel or parcels at the time such changes become effective.

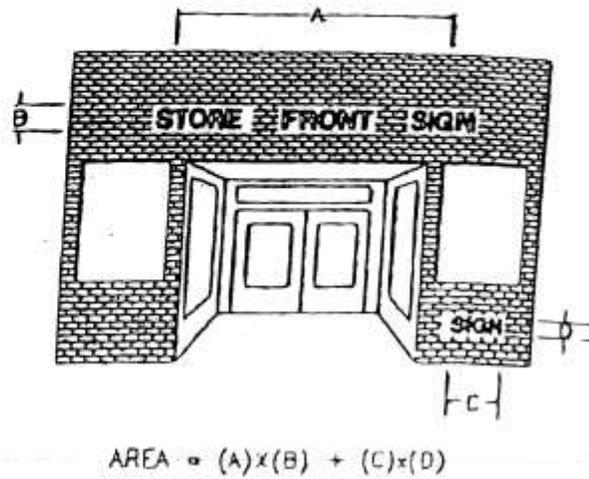
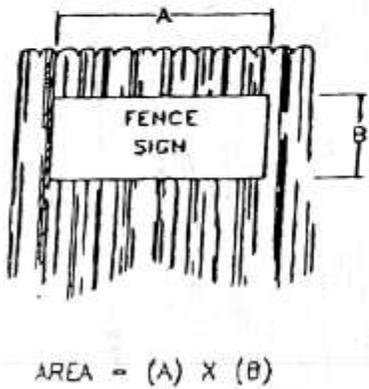
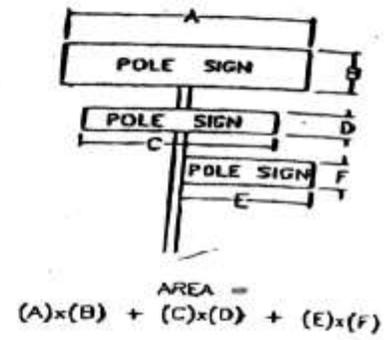
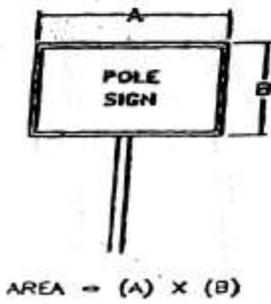
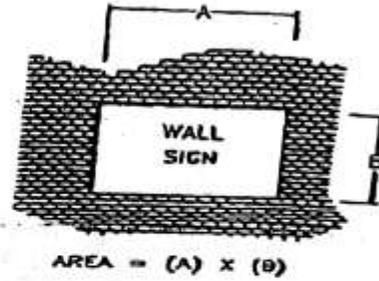
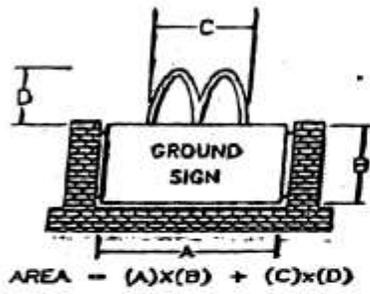
**APPENDIX I**

**SIGN HEIGHT**



# SIGN AREA

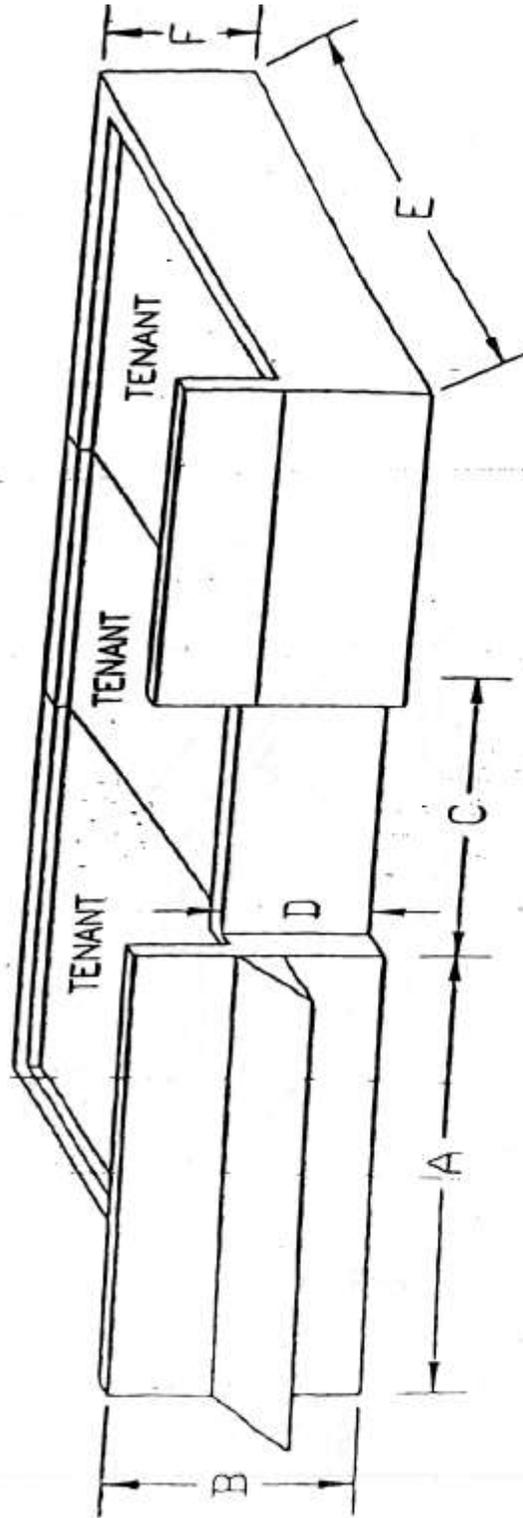
# APPENDIX II



APPENDIX III

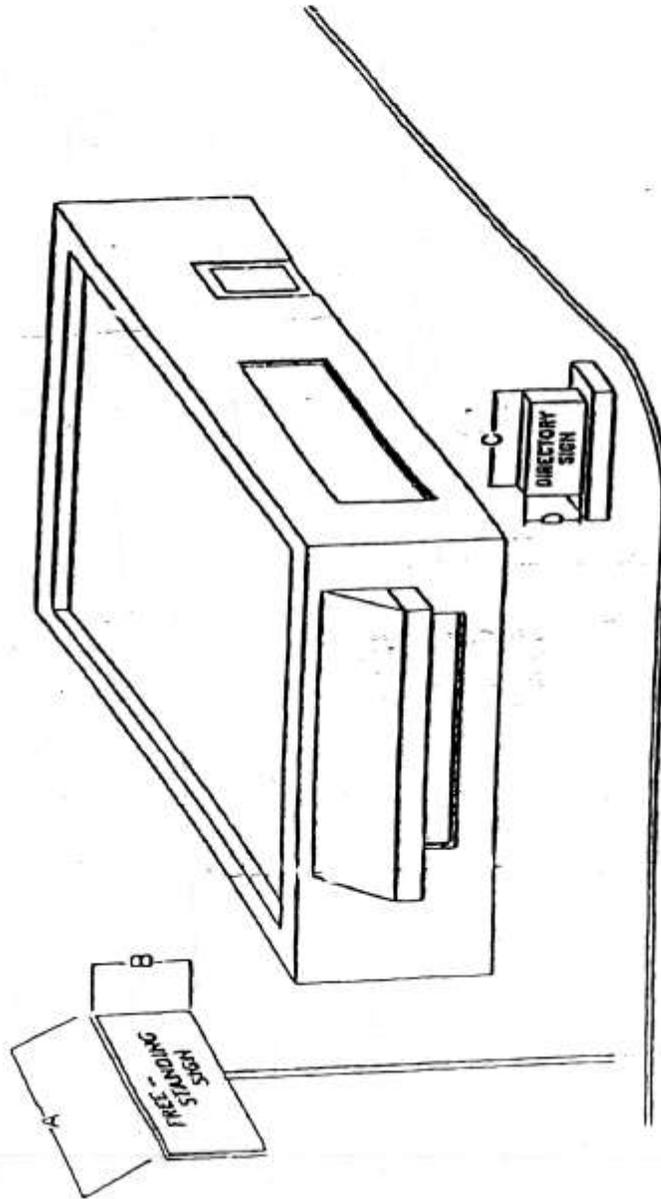
WALL AREA

- WALL AREA (FRONT) = (A) X (B)
- WALL AREA (FRONT) = (C) X (D)
- WALL AREA (SIDE) = (E) X (F)



APPENDIX IV

DIRECTORY SIGN AREA



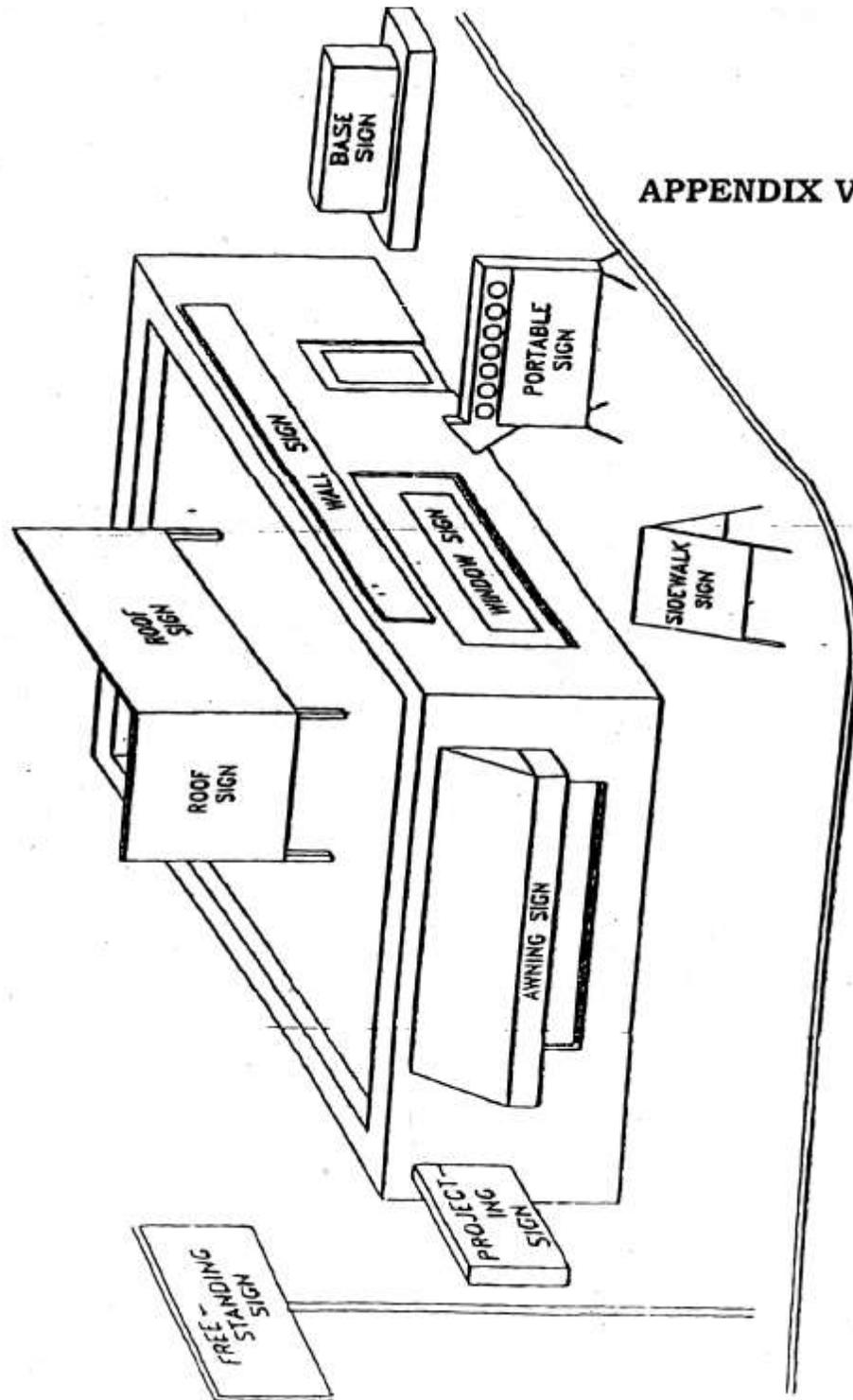
$(A) \times (B) = \text{max sq. ft.}$

$(C) \times (D) = \text{max sq. ft.}$

EXCEPTION: When  $(A) \times (B) < \text{MAX sq. ft.}$

Then  $(A) \times (B) + (C) \times (D) = \text{MAX sq. ft. maximum...}$

SIGN TYPES



APPENDIX V

Sections 19-138 through 19-149 reserved.

**ARTICLE X.  
USE REQUIREMENTS BY DISTRICT**

**SECTION 19-150 - GENERAL**

Within the districts indicated on the zoning map, no structure or land shall be used, and no structure shall be erected or altered which is intended or designed to be used in whole or in part for any use other than those listed as permitted for the district in this Article.

***PART I. ZONING DISTRICTS***

**SECTION 19-151 - RESIDENTIAL DISTRICTS**

Residential districts are designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in non-residential districts. Other objectives of some of these districts are explained in the remainder of this section.

**(B) R-15:** The R-15 district is to accommodate single-family, detached residential uses to medium densities (2-3 gross dwelling units per acre) in areas served by public water and sewer facilities.

**(C) R-13, R-10 and R-8:** The R-13, the R-10, and the R-8 districts are to accommodate single-family, detached residential uses in areas at medium to high densities (3- 5 gross dwelling units per acre) served by public water and sewer facilities.

**(D) R-6:** The R-6 district is to accommodate both single family and multi-family dwelling units at high densities (5-7 gross units dwelling units per acre).

**(E) R-3:** The R-3 district is designed primarily to accommodate higher density (14 gross dwelling units per acre), multi-family development.

**(F) R-PH:** The R-PH district is designed primarily to accommodate patio houses.

**SECTION 19-152 - BUSINESS DISTRICTS**

Business districts serve a variety of functions and permit a wide variety of commercial uses. The purpose of each district is stated below.

**(A) Neighborhood Business District: B-1.** The purpose of this district is to create and protect business centers for the retailing of merchandise such as groceries, drugs, and household items and for the provision of professional services for the convenience of dwellers of nearby residential areas. Standards are so designed that uses within this district may be soundly and permanently developed and maintained in such a way as to not be harmful to adjacent properties.

**(B) General Business District: B-2.** The purpose of this district is to create and protect business areas for the retailing of merchandise and for carrying on professional and business services. This type of district will be located generally adjacent to major thoroughfares.

**(C) Government and Institutional District: GI.** The purpose of this district is established to provide a wide variety of professional and government offices and institutions proximate to residential and more intense business districts so as to satisfy the City's demand for services. These regulations are designed to encourage the formation and continuance of a quiet, compatible, and uncongested environment for government and institutional services intermingled with residential uses. This district is different from the other business districts in that Retail Sales and Services are generally prohibited. Some limited retail uses may be allowed as a conditional or special exception use, subject to specific standards, and provided the primary purpose is to serve the office workers in the district. Multi-family and single-family residential uses, community facilities, and religious institutions are also allowed. The maximum multi-family residential density allowed is ten (10) dwelling units per acre and single family residential is five (5) dwelling units per acre, and the minimum lot area for development for all non-residential uses is one (1) acre. Live/work dwellings and upper story dwellings over a street-level non-residential use may be included at densities of eight (8) units an acre.

**(D) Office and Professional District: OP.** The purpose of this district is to develop and reserve land for professional and office uses together with necessary landscaping and off-street parking facilities in locations served by primary access, yet inappropriate for high-employment centers because of close proximity to residential uses. It is intended that the professional and administrative uses established in this district shall be designed and landscaped so as to be in harmony with such adjacent residential uses. The minimum lot area for this district shall be 7,000 square feet and the maximum lot coverage of principal and accessory structures shall not exceed 40% of any one lot.

**(E) Entertainment District: ED.** The purpose of this is to promote economic development opportunities by providing locations for entertainment uses and activities that are of a larger scale or intensity than would be found in other commercial areas. This district shall incorporate a high concentration of public gathering spaces conducive to live performances, entertainment and other hospitality uses.

## **SECTION 19-153 - DEVELOPMENT DISTRICTS**

### **(1) PLANNED UNIT DEVELOPMENT DISTRICTS: PUD**

**(A) Definition.** A "planned unit development" is a tract of land exceeding five acres in size zoned residential or business, under a single, corporation, firm, partnership, or association ownership, and planned and developed as an integral unit. It is established in a single development operation or a definitely programmed series of development operations according to an approved outline development plan and a preliminary site plan.

**(B) Intent.** The intent of this district is to allow developers design flexibility in return for site plans utilizing innovative design concepts and increased amenities which will contribute to the quality of life of the community. These amenities, although generally recreational in nature, would include, but not be limited to, swimming pools, tennis courts, clubhouses, and basketball/handball courts.

**(C) Pre-Application Conference.** Before submitting an application for PUD zoning, pre-application consultation between the applicant and the Zoning Administrator is encouraged to obtain information and guidance prior to entering binding commitments or incurring substantial expense in the preparation of plans, surveys, impact assessments and other data.

**(D) Application.** All applications for PUD district zoning shall be filed with the Planning Commission. The applicant shall submit 20 copies of the proposed site plan, including a digital copy, which shall conform to requirements in (E) below. The applicant shall also furnish a landscape plan, impact assessment report, maintenance guarantee and other such information as the Planning Commission may reasonably require.

**(E) Proposed Site Plan.** A proposed site plan is a conceptual plan for a PUD which designates the general location of all structures and features therein. The Proposed Site Plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. It shall be drawn to scale and shall include:

- (1) The location of existing property lines, watercourses, bodies of water, wooded areas and existing roads within or adjoining the property.
- (2) The approximate boundaries of each section, land use or density, the approximate location of proposed streets and rights-of-way, walks, parking areas, recreation areas and common open space area, tree covers and planting, and buildings or other structures.
- (3) A table setting forth the dimensions of all building sites, streets, utility easements, and parking and loading spaces to be dedicated to the public. All other areas shall be shown and designated as common areas.

**(F) Landscape Plan.** The required landscape plan for all proposed PUDs shall include but not be limited to showing all existing and proposed plant material, indicating the size and type of each.

**(G) Impact Assessment Report.** The required Impact Assessment Report shall outline significant environmental, transportation, aesthetic and fiscal impacts of the proposed PUD as well as proposed measures to mitigate or minimize any negative impacts noted in the report.

**(H) Maintenance Guarantee.** The required maintenance guarantee shall be a statement satisfactory to the City on the guarantees and assurances to be provided for the maintenance of common areas, recreation areas, sidewalks and other privately owned but common facilities.

**Alternate (H) Covenants and Restrictions.** The required Covenants and Restrictions shall set forth the covenants and restrictions that will govern the ownership, management and

maintenance of the common areas. If Covenants and Restrictions exist, Alternate (H) is applicable.

**(I) Procedural requirements.** Any order authorizing the establishment of a planned unit development district shall be treated as an amendment of the ordinance and shall be enacted pursuant to the procedures and rules outlined in Article XV (Amendments) of this ordinance.

**(J) Surety.** The applicant or developer shall be required to furnish a surety bond, letter of credit, cash escrow or other form of guarantee against completion of all public improvements and streets shown on the final plans.

**(K) Construction.** Upon approval of the City Council pursuant to (I) above, the Planned Unit Development District is deemed established and construction may begin.

**(L) Phased Completion.**

- (1) If a PUD district is constructed in phases or stages in accordance with this section, then, subject to subsection (C), the provisions shall apply to each phase.
- (2) As a prerequisite to taking advantage of the provisions of subsection (A), the applicant shall submit plans that clearly show the various phases or stages of the proposed PUD district and the requirements of this section that will be satisfied with respect to each phase or stage.
- (3) If a PUD district that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire PUD district (such as a swimming pool or tennis courts in a residential development) then, as part of his application, the applicant shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire PUD district. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied except in accordance with the schedule approved as part of the permit, provided that:
  - (a) If the improvement is required by this ordinance, then the applicant may utilize the provisions of Section 19-53(B); or
  - (b) If the improvement is an amenity not required by this section or is provided in response to a condition imposed by the Council, then the applicant may utilize the provisions of Section 19-53(C).

**(M) Amendments.** If a substantial change has been requested or made, approval for same must be processed through the provisions of Article XV of this ordinance. A substantial change is defined as one which alters the concept or intent of the PUD including but not limited to increases in density to the extent that the parking requirements for the overall use are altered, changes in the relative proportions of the different types of dwelling units, changes in the mixture of the types of individual principal uses, decrease in open space, substantial changes in

the location of streets, buildings or other structures, deletions in streets, or a violation of any specific condition set forth by the Planning Commission or City Council.

**(N) Subsequent Sale.** If the land upon which the PUD district zoning is subsequently sold, the buyer will be expected to develop the land in accordance with the Proposed Site Plan.

**(O) Final Plans.** Following the approval of the Proposed Site Plan, the applicant shall submit within one year 20 copies, including a digital copy, of the Final Plan. Approved Final Plans shall implement the Proposed Site Plan, Landscape Plan, and proposals in the Impact Assessment Report. The term Final Plan shall mean a final subdivision plat and shall be submitted for review and approval in accordance with terms of Ordinance 50 (Land Development Code) not inconsistent herewith. The Final Plan must conform to the Proposed Site Plan as approved by City Council. After Final Plan approval the applicant shall record the declaration of covenants and restrictions, as approved by City Council in the Office of the Clerk of Court.

## **(2) PLANNED DEVELOPMENT DISTRICTS: PDD**

**(A) Intent.** The purpose of the Planned Development District is to promote the efficient use of land, allow flexible application of development controls, allow various densities and land uses, protect surrounding property and protect the natural features and scenic beauty of the land. This shall be accomplished by permitting a wider range of densities and land uses to be developed in accordance with a Master Plan which organizes various uses and densities in specific areas of the site. A Development Agreement, in accordance with Article XIX of Ordinance #77, may be implemented for a Planned Development District provided the proposed district meets the requirements set forth in the article.

### **(B) Definitions:**

- 1. Planned Development District:** A development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments. A planned development district is established by rezoning the property prior to any development and is characterized by a site Master Plan design for a mixed use development.
- 2. Planned Development District Sketch Plan:** A conceptual or simplified drawing of the Planned Development District which designates the general location of all proposed features, including, but not limited to land use, densities, roads, public uses and parks and open space. The purpose of the sketch plan is to allow the Planning Commission and staff the opportunity to provide early guidance to the developer regarding the proposed development.
- 3. Planned Development District Master Plan:** A map or drawing of the entire property which shows the proposed layout of the development district in sufficient detail to indicate its workability in all aspects. The Master Plan formulates the property into a zoning district which cannot be changed without an amendment to the Official Zoning Map and Ordinance of the City of Tega Cay.

### **(C) Specific Requirements:**

The following specific features and requirements of Planned Developments appear in the 1994 Comprehensive Planning Act.

1. **Text Amendment:** The City of Tega Cay must amend Ordinance #77, which contains the Zoning Ordinance and the Official Zoning Map, when allowing a Planned Development District.
2. **Map:** The Master Plan map for the project being established as a planned development district becomes the zoning district map for this part of the city.
3. **Uses:** The text of the plan describes the specific uses, densities, setbacks and other requirements for the planned development. It becomes the zoning ordinance text describing the permitted uses and other details of the planned development. These provisions tailored to a specific development may vary from other zoning district regulations concerning use, setbacks, and other requirements. This allows flexibility in arranging different uses for the purpose of promoting and protecting the public health, safety and general welfare.
4. **Master Plan Amendment:** Amendments to the original planned development district are zoning ordinance amendments and must follow established procedures for zoning ordinance amendments.
5. **Minor Master Plan Modifications:** The Zoning Administrator shall determine whether a proposed Master Plan modification is major or minor. Minor modifications to the Master Plan, or to the development provisions, may be approved by the Zoning Administrator, without a zoning ordinance amendment. Examples of minor modifications are: driveway re-locations, structure floor plan revisions, facility design, modifications for amenities and other similar revisions. The Zoning Administrator also has the authority to withhold a decision on a minor amendment until the Planning Commission has had an opportunity to comment on the request.
6. **Major Master Plan Modifications:** Major modifications to the Master Plan require a zoning ordinance amendment and are defined as those which alter the concept or intent of the Planned Development District including changes in area use designations; increases in density; decreases in proposed open space; substantial changes in the location of proposed streets, particularly if streets are to be deleted or access points to the development are moved so that traffic flows both inside and outside the development are affected; change in location in any public easement; change in the proportion of housing types by more than 15% of the approved dwelling unit count; a violation of any specific condition set forth by the Planning Commission and the City Council; and, any changes in the final governing agreements, provisions and covenants.

**(D) Uses and Structures:**

**Permitted Principal Uses and Structures:** The following are the uses permitted in this district:

- 1) Single family residential detached.
- 2) Single family attached (townhouse).
- 3) Multi-family residential (conversion/accessory; duplex, triplex, quadriplex; apartments; condominiums).
- 4) Homes for special services, treatments, supervision (handicapped or infirm).
- 5) Customary Home Occupations.
- 6) Temporary emergency, construction or repair residences.
- 7) Institutional care or confinement (hospital, clinic, medical treatment facility, nursing care, intermediate care, handicapped care, adult day care, assisted living).
- 8) Educational, cultural, social and religious institutions (schools, colleges, places of worship, libraries, museums, art galleries, clubs and lodges).
- 9) Public and semi-public (post office, parks and open space, municipal facilities, utilities, emergency services).
- 10) Recreation, amusement, entertainment, both indoor and outdoor (bowling alley, movie theater, exercise facilities, skating rinks, swimming pools, athletic fields and tennis courts and golf courses).
- 11) Sales or rental of goods, merchandise, equipment, including retail sales.
- 12) Office, clerical, research services, financial institutions, and others not primarily related to goods and merchandise.
- 13) Light manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembly or storage of goods, merchandise or equipment.
- 14) Commercial Day Care Centers
- 15) Hotels/Motels
- 16) Restaurants/Eating Establishments

**Permitted Accessory Uses and Structures:** The permitted accessory uses and structures in this district must be on the same premises, and in connection with, permitted principal uses and structures. Dwelling units for occupancy only by owners or employees thereof, and other uses and structures which are customarily accessory and clearly incidental to permitted or permissible uses are permitted.

**Uses Permitted by Special Exception and Conditional Use:** None.

**Prohibited Uses and Structures:** The prohibited uses in this district are child care homes with more than six children, mobile homes, penal and/or correctional facilities, airports, salvage yards and landfills.

## **(E) District Size Requirements**

**Minimum Size:** No planned development district of less than five acres shall be created except where the area is deemed to warrant special consideration to achieve the goals or intent of the Comprehensive Plan. A district size of less than five acres must be approved by the Planning Commission during the Planned Development District Sketch Plan review phase. Planned development districts shall be located on a single parcel of land, or separate but contiguous parcels, which are under one ownership, or to be developed jointly, by two or more property owners.

**Other Requirements:** See the City of Tega Cay Land Development Code, Ordinance #50, for Planned Development District platting procedures, design standards and required improvements.

## **(F) Review Process**

The Planned Development District review process consists of six steps:

1. **Pre-Application Conference:** Before submitting an application for Planned Development District zoning, a pre-application conference between the applicant and the Zoning Administrator is required to obtain information and guidance before entering into binding commitments, or incurring substantial expense, in the preparation of plans, surveys, impact assessments, Development Agreements and other data for the project.
2. **Planned Development District Sketch Plan:** The applicant shall submit 20 copies of the sketch plan for review by the Planning Commission. The sketch plan is a conceptual or simplified drawing of the Planned Development District which designates the general location of all proposed features, including, but not limited to land use, densities, roads, public uses and parks and open space. The Planning Commission shall review and provide comments to the applicant within sixty days from when the sketch plan was submitted.
3. **Planned Development District Master Plan:** The application and required fee for Planned Development District zoning shall be accompanied with 20 copies of the Master Plan, as well as a digital copy of the Master Plan. No public hearing on the application will be scheduled until all of the data listed below is identifiable on the Master Plan. The Master Plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect and/or planner. A scale shall be used so that the entire parcel can be shown on one piece of paper no larger than 30 by 40 inches. At a minimum it shall include:
  - a) An insert map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions or major landmarks.
  - b) A north arrow.
  - c) The location of existing property lines, water courses or lakes, wooded areas and existing roads which are within or adjoin the property.
  - d) The approximate boundaries of each section, land use and density; the approximate location of proposed streets and rights-of-way with an indication of whether public or private; the approximate location of recreation areas and common open space areas; and all areas proposed for dedication for public use within the project. Common open space shall be located so as to enhance the living environment of the proposed development. Generally this shall mean that the

common open space shall be distributed throughout the site and not aggregated in large areas that provide little or no benefit to the individual uses or the development at large. Each section or area of the Master Plan shall be designated as follows:

Area Description	Type of Development
A	Single-family detached dwellings
B	Single-family attached dwellings
C	Multi-family structures less than 3 stories
D	Multi-family structures of 3 or more stories
E	Commercial uses
F	Office uses
G	Manufacturing uses
H	Institutional or public uses
I	Areas of common open space, with recreation areas noted

For the purposes of this Section, the term *common open space* shall refer to any tract of land intended to be used in common primarily by residents of the Planned Development District.

- e) As marginal data, the Master Plan shall contain a table which shows, for each section, or areas of different uses, the following:
  - 1. use;
  - 2. approximate phasing;
  - 3. the maximum density and approximate number of dwelling units for residential areas, square feet of floor space for commercial and industrial areas;
  - 4. approximate acreage of each area;
  - 5. type, size and location of signs;
  - 6. location, type and size of screening and buffering; and,
  - 7. approximate number of off-street parking and loading spaces.
- f) Schematic plans which shall indicate the phasing of the development.
- g) A statement satisfactory to the City of Tega Cay on the guarantees and assurances to be provided for the maintenance of common open space, recreation areas, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.
- h) A statement of planning objectives for the site.
- i) A reduced copy of the Master Plan on a piece of paper no larger than 11 by 17 inches.

4. **Public Hearing:** The procedures for public hearing and consideration by the Planning Commission and the City Council shall be as set forth in Article XV of Ordinance #77 Zoning. The Planning Commission and City Council shall

conduct a joint public hearing to consider the Planned Development District application.

5. **Planning Commission Recommendation:** After the public hearing is closed the Planning Commission shall consider the Planned Development District Master Plan to determine a) the need for the proposed amendment; b) the effect of the amendment on the property and the surrounding properties; and, c) the relationship of the proposed amendment with the Comprehensive Plan, and the general planning programs of the city. Within thirty days, the Planning Commission shall submit its recommendation to City Council.
6. **City Council Action:** The City Council shall consider the Planning Commission recommendation and make a decision on the matter. The City Council may also approve additions, deletions and/or changes to the Planned Development District Master Plan prior to final approval. Upon approval of the Planned Development District Master Plan by the City Council, the Planned Development District is deemed established. The Planned Development District shall be designated on the Zoning Map as (name of development) PDD.

Thereafter, all amendments to the Master Plan shall be in accordance with Article XV of Ordinance #77 Zoning. The Master Plan shall guide the general location of all features shown therein, including land uses, densities, roads, public uses and other features. The development of the property shall be in accordance with the City of Tega Cay Land Development Code, Ordinance #50, which contains platting procedures, design standards and required improvements.

Because a Planned Development District and related plans for an area are recognized as a legislative act under the provisions of this Section, no other development of any other kind shall be constructed on the land affected by the rezoning. In the event the land is sold, the buyer of the land will be expected to develop the land in accordance with an approved Master Plan for the area. If the buyer wishes to construct his project in a different manner, he shall have his plans approved according to the provisions of this Section.

### **(G) Addition of Land to an Existing Planned Development District**

Additional land area may be added to an existing Planned Development District if it is adjacent to (except for public roads), forms a logical addition to, and is under the same ownership or control as the original development. The procedure for an addition shall be the same as if an original application was filed, and the requirements of this Section shall apply, except the minimum acreage requirement.

### **(3) MIXED USE DISTRICT: MXD**

**(A) Definition.** A development consisting of one or more lots developed as a cohesive project and designed with a blend of various compatible uses such as commercial, residential and institutional. The uses may be located in the same building or in separate buildings.

**(B) Intent.** The intent of this district is to encourage and promote well planned, suitable and appropriate mixed use developments with residential, civic uses, and commercial components within identified areas. The focus is to allow a more balanced mix of uses in the siting and design of new developments and redevelopment to anticipate changes in the marketplace and to provide for the diverse needs of the residents of the City. Flexibility will be allowed to accomplish such goals through the utilization of streets as public places that encourage pedestrian and bicycle travel and the encouragement of efficient land use by facilitating compact, high-intensity development, minimizing the amount of land needed for surface parking and, facilitation of development (e.g., land use mix, density, and design) that supports public transit where applicable.

**(C) Pre-Application Conference.** Before submitting an application for MXD zoning, pre-application consultation between the applicant and the Planning and Development Manager is encouraged to obtain information and guidance prior to entering binding commitments or incurring substantial expense in the preparation of plans, surveys, impact assessments and other data.

**(C) Master Development Plan.** A Master Plan for the entire Mixed Use District shall be submitted. The proposed Plan shall be prepared by a licensed engineer, surveyor, architect or planner. It shall be drawn to scale and include the following:

- (1) An insert map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions, or major landmarks;
- (2) A north arrow;
- (3) Topography of the district showing 10 foot contour lines for the site;
- (4) Land uses for the district and proposed density (in a single building of vertical mixed uses the gross area floor ratio must be provided);
- (5) Approximate location of existing buildings, structures and uses on the properties adjacent to the district;
- (6) Natural features of the site including, but not limited to, drainage patterns, riparian areas, water bodies, wetlands, steep slopes or ravines;
- (7) Type, size, and location of any proposed signs;
- (8) Approximate location of proposed streets, driveways, alleys, and rights-of-way with an indication of whether public or private;
- (9) Location of pedestrian access such as sidewalks or trails to key areas of attraction within the district;
- (10) The proposed lot pattern, lot standards, and lot coverage requirements;
- (11) Schematic plans which shall indicate the phasing of the development;
- (12) A landscaping and tree planting plan, including the location of street trees, with a notation indicating the location and retention of existing trees;
- (13) The location, layout, and the surfacing of all vehicle parking and loading areas;
- (14) The location and layout of mass transit stations if applicable;
- (15) A written statement satisfactory to the City of Tega Cay on the guarantees and assurances to be provided for the maintenance of common areas, open space, recreation areas, sidewalks, parking, private streets, driveways or alleys and other privately owned but common facilities serving the district.

**(E) Specific Development Standards and Requirements.** Each MXD must ensure that the following development standards are met.

- (1) Elevations for all buildings and structures, other than single family dwellings, shall be provided and include architectural treatments that create visual interest and community character and promote a sense of pedestrian scale and shall contain the following:
  - (a) Where applicable, cornices (e.g., building tops or first-story cornices) shall be aligned to generally match the height(s) of those on adjacent buildings. Building height limitations shall be governed by the applicable Building Codes.
  - (b) Maximum Building height for Mixed Use Buildings shall be 4 stories/55 feet including roof design and profile. Building height is limited to 65 feet when locating mechanical equipment on the roof. Mechanical area can contain no living space and must be accessible by elevator. In addition, all mechanical equipment must be screened from other rooftop uses. Building height “transitions” or step-downs shall be provided where the MXD district abuts adjacent residential properties where the maximum building height is three stories/45 feet.
  - (c) Mixed use buildings shall have a minimum Ground floor height, floor to ceiling, of 12 feet and Upper story height, floor to ceiling, of 10 feet with a minimum of 9 feet.
  - (d) Any building façade oriented to the public view shall provide ground floor transparent windows to allow visual access into and out of the building;
  - (e) Primary entrances shall open on to a street or interior courtyard.
  - (f) Building frontages along streets shall break any flat, monolithic façade by including architectural features such as, but not limited to, bay windows, recessed entrances, fluted masonry, fenestration, cornices, or other articulation so as to provide visual interest and a pedestrian scale to the first floor.
  - (g) Multi-story buildings shall extend the same architectural features above the ground floor level through variations in design, detail, and proportion, and by avoiding designs featuring a monolithic street façade.
  
- (2) To encourage the use of design to minimize opportunities for crime and to increase public safety the following should be utilized:
  - (a) Building entrances, parking areas, private and public open spaces, and pathways should be accentuated with appropriate features such as landscaping, pavement treatment, art and signs which draw attention to the area. Such features should be placed or designed in such a manner that the view into the area is not obscured.
  - (b) The proposed layout, building, and landscape design should promote natural surveillance. Physical features and activities should be oriented and designed in ways that maximize the ability to see throughout the site.
  - (c) The proposed site layout and building design should encourage activity in public spaces.
  - (d) The development should control access wherever possible by properly siting and designing entrances and exits (i.e., clear view from the store) and through the appropriate use of lighting, signs and/or other features.

- (3) To encourage buildings to be designed to a human scale for pedestrian access, safety and comfort and to promote a design which would provide direct and safe access between the site and adjacent land uses that is convenient and pleasant for the pedestrian the following should be utilized:
  - (a) The site layout should cluster buildings on the site to promote linked trips via interconnected pedestrian promenades (such that a pedestrian need not cross more than 64 lineal feet of parking or driveway area, or one double loaded row of parking (not inclusive of sidewalks, pathways, landscaping, plazas, and other pedestrian facilities), whichever is less, between buildings.
  - (b) The development should provide internal and/or public pedestrian connections that are direct, convenient and pleasant with appropriate amenities.
- (4) Residential uses may be located in a separate building or in mixed configuration with commercial in the same structure. When in a mixed configuration, residential uses should be located on the upper stories; or, on ground floors when they do not use storefront space. In no case shall residential uses be located on the ground floor of a building located on commercial street frontage.
- (5) Live/Work should incorporate the following criteria:
  - (a) May not be converted to purely residential use.
  - (b) May be converted to an all commercial use, with the review and approval of the City.
  - (c) May constitute all or part of the residential percentage of the mixed-use development. A mixed-use development should not consist exclusively of live/work units.
  - (d) Shall be located near the commercial portion of the mixed-use development.
- (6) Units of various sizes (e.g., studios, one and two bedroom units) are encouraged.
- (7) On-site parking areas:
  - (a) Parking areas shall be located where residents and businesses have easy and convenient access. Opportunities for shared parking shall be utilized. However, the project may consider dedicating a certain portion of the parking for each use.
  - (b) Surface parking should be oriented behind buildings when possible.
  - (c) Surface Parking shall not be located on street corners.
  - (d) Surface parking shall not exceed 110% of the minimum parking requirement for the subject land use(s) as identified in the Section 19-301 of the Zoning Code. Exemptions to the standard can be approved through site/design review for developments that provide parking structures, shared parking, valet parking spaces, market rate parking, or similarly managed parking facilities;
  - (e) Parking Structures with frontages on commercial corridors must allocate space for commercial use on the first floor.
  - (f) Parking Structures located adjacent to a residential use shall have a side and rear setback of 20 feet and be landscaped and screened. Should the Parking Structure be located on a corner adjacent to residential uses, the first floor commercial use must wrap the corner and the landscaped setback may be reduced to 10 feet.

- (g) The Parking Structure must be screened or wrapped with the Mixed Use Structure with a minimum of 25 feet of either hard or softscape design or an approved mixture of both.
- (8) The area covered by impervious surfaces (i.e., area covered by buildings and pavement) shall be minimized to the greatest extent practicable; best practices for surface water management shall be required.
- (9) Building setbacks shall be as follows:
  - (a) Front setback along a primary or major street shall utilize a Build-to Zone of 0 feet minimum and 10 feet maximum.
  - (b) Front setback along a secondary or minor street shall utilize a Build-to Zone of 0 feet minimum to 10 feet maximum.
  - (c) Side setback along a primary or major street shall utilize a Build-to Zone of 0 feet minimum and 10 feet maximum.
  - (d) Side setback along a secondary or interior street shall utilize a Build-to Zone of 0 feet minimum and 10 feet maximum.
  - (e) Rear setback shall utilize a Build-to Zone of 0 feet minimum and 10 feet maximum to other properties within the MXD.
  - (f) Side and Rear setbacks abutting residential districts shall be 20 feet.
- (10) Side and Rear setbacks abutting other commercial properties shall be 10 feet. The maximum Floor Area Ratio (FAR) shall be [2.0] for mixed-use buildings and [1.25] for all other buildings.

**(F) Permitted Uses.** The following are the principal uses permitted in this district:

- (1) Single Family Residential detached and attached.
- (2) Live/Work Space located above the ground floor of commercial buildings.
- (3) Multi-Family Residential (for-lease apartments, condominiums).
- (4) Commercial recreation establishments, including movie theaters, pool and video game rooms, bowling and skating rinks.
- (5) Primary retail establishments such as department stores, general mercantile stores, clothing, variety, and similar low bulk items.
- (6) Secondary retail establishments such as those selling principally one-stop items, usually high-bulk, including furniture, appliance, home furnishings, floor coverings, business machines, heating and air conditioning sales and service, bicycle sales and services, and similar establishments.
- (7) Social retail uses such as coffee shops, brew pubs, bookstores, art galleries, bakeries, and florists.
- (8) Convenience retail establishments such as small scale grocery and beverage stores.
- (9) Restaurants, including those with or without on premise alcohol sales.
- (10) Personal service establishments such as barber and beauty shops; laundromats; laundry pick-up; tailor; dressmaker; shoe shops; photo studio
- (11) Business Services (printing, copying, parcel services).
- (12) Medical offices, clinics, and pharmacies.
- (13) Educational institutions, primary through graduate, public and private.
- (14) Commercial adult and child care facilities as a Conditional Use.

- (15) Churches and places of worship or religious institutions.
- (16) Financial institutions, banks, credit unions, CDA & Accounting and Brokerage.
- (17) Professional Office such as legal services, architectural and engineering services.
- (18) Fresh Farm/Open Air Markets.
- (19) Public and private transportation service and facilities, including bus terminals, bus stops and taxi stands.
- (20) Animal Services, including kennels, veterinary clinics and grooming facilities.
- (21) Hotels and Bed and Breakfast Establishments.
- (22) Assisted Living facilities as a Special Use.
- (23) Instructional studios, art, music, dance and drama studios.

**(G) Approval Process**

- (1) **Public Hearing:** The procedures for public hearing and consideration by the Planning Commission and the City Council shall be as set forth in Article XV of Ordinance #77 Zoning. The Planning Commission and City Council shall conduct a joint public hearing to consider the Mixed Use District application.
- (2) **Planning Commission Recommendation:** After the public hearing is closed the Planning Commission shall consider the Mixed Use District Master Plan to determine a) the need for the proposed amendment; b) the effect of the amendment on the property and the surrounding properties; and, c) the relationship of the proposed amendment with the Comprehensive Plan, and the general planning programs of the city. Within thirty days, the Planning Commission shall submit its recommendation to City Council.
- (3) **City Council Action:** The City Council shall consider the Planning Commission recommendation and make a decision on the matter. The City Council may also approve additions, deletions and/or changes to the Mixed Use District Master Plan prior to final approval. Upon approval of the Mixed Use District Master Plan by the City Council, the Mixed Use District is deemed established. The Mixed Use District shall be designated on the Zoning Map as MXD.

**SECTION 19-154 - REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS**

**(A) Common areas.** All planned unit developments shall contain commonly owned land equal in area to at least ten percent of the entire development. Each non-contiguous unit of common area shall be greater than .5 acres in size and shall be held in non-profit corporate ownership by the owners of lots within the development. In consideration of the purpose served by a planned unit development, the title to such common areas or property shall be preserved to the perpetual benefit of the private properties in the development and shall be restricted against private ownership for any other purpose. If the corporation desires, improvements may be made within the common areas provided that maximum coverage of such improvements shall not exceed 25 percent of the entire common property.

**(B) Land Use.** Land uses not permitted in the district in which the lot is located may be authorized provided the City Council determines such uses are desirable or convenient for the users of the lot as developed or the immediate neighborhood and will not materially alter the existing neighborhood character. However, any such authorized use shall not occupy more than ten percent of the total building floor area of the PUD district.

**(C) Setback Requirements and Height Limitations.** The setback requirements pertaining to the district in which the lot is located as set forth in 19-183 through 19-186 may be altered up to 15 percent. The height limitation as set forth in 19-187(B) shall not be altered.

**(D) Residential Size.** The minimum square footage requirements for structures pertaining to the district in which the structure is located as set forth in 19-181 may be altered up to 15 percent.

**(E) Density.** Individual lot size may be varied, but the overall density of a planned unit development shall not exceed the density permitted by the applicable zoning requirements in the existing zoning district or districts.

**(F) Public access, easements, and private party walls.** Building lots may abut or be provided with frontage on common areas, properly restricted through a property owners association to assure adequate access if, in the opinion of the City, a public street is within an acceptable distance and would allow adequate community services. Easements over the common area for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of common areas, as well as for parking, shall be granted to each owner of a residential site. All common walls between individual residences shall be party walls and provisions for the maintenance thereof and restoration in the event of destruction or damage shall be established.

**(G) Utilities and improvements required.** All planned developments shall include public water and sewer utilities, paved streets and parking areas with curb and gutter, underground electric and telephone service, landscaping and any other improvements considered necessary by the Planning Commission.

#### **SECTION 19-155 - PATIO HOUSE DISTRICT**

**(A) Definition.** A patio house is a single family detached unit whose dwelling is separated from the adjacent wall by a wall located on the side lot line, thus creating a private yard or patio area between two side walls.

**(B) Intent.** The intent of this district is to allow developers design flexibility in return for site plans utilizing single family detached dwellings and private yards on lots designated primarily to accommodate multi-family dwelling units.

#### **SECTION 19-156 - REQUIREMENTS FOR PATIO HOUSES**

Subject to the provisions of Ordinance 50 and other provisions of this ordinance not excepted below, every lot in a Patio House District is subject to the following provisions:

(1) The maximum on-lot impervious surfaces ratio shall be:

		<b>Number of bedrooms</b>		
		1	2	3
One Story	42%	48%	50%	
Two Story	30%	32%	33%	

(2) The maximum floor area ratio of structure to lot shall be:

	<b>Number of bedrooms</b>		
	1	2	3
One Story	.39	.37	.33
Two Story	.47	.38	.40

(3) The minimum square footage of patio area shall be:

One bedroom	700
Two bedroom	750
Three bedroom	800

(4) The minimum patio area width shall be 25 feet.

(5) All living spaces, such as, living rooms, dens and bedrooms shall face the patio area/yard.

(6) Each patio house shall be located, designed and constructed such that the homeowner's privacy is enhanced.

(7) Patio/side and rear privacy walls may be seven feet high.

(8) As an appurtenance to each patio house and lot, there shall be a maintenance and repair easement opposite the boundary line along which the patio wall is constructed extending ten feet from such boundary line over the adjoining lot.

(9) As a further appurtenance to each patio house and lot, there shall be an easement upon the adjoining lot for encroachment of the patio wall due to settling or shifting.

(10) The provisions of Section 19-183 (B), (C) and (D) shall not apply to lots and dwellings in a Patio House District.

#### **SECTION 19-157 - FLOODPLAIN DISTRICTS AND FLOODWAY DISTRICTS**

The floodplain and floodway districts are hereby established as "overlay" districts, meaning that these districts are overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in the applicable overlay district. The floodplain and floodway districts are further subject to local regulations established by ordinance.

#### **SECTION 158 - PARK DISTRICT**

The Park District is hereby established as a zoning district. The general purpose of the park (P) zoning district is to provide recreation and open space functions for the long-term benefit and

enjoyment of city residents and adjacent neighborhoods. This district is applied to both publicly owned and private facilities that are open for public use.

#### **SECTION 159 - GOLF COURSE DISTRICT**

The Golf Course District is hereby established as a zoning district. This district is applied to both publicly owned and private facilities that are open for public use.

### ***PART II. ZONING MAP***

#### **SECTION 19-160 - OFFICIAL ZONING MAP**

(A) There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the City's planning jurisdiction. The official zoning map shall be adopted by City Council and shall bear the seal of the City under the words, "The official Zoning Map of the City of Tega Cay as adopted on (date of adoption)." This map shall be drawn on acetate or other durable material from which prints can be made.

(B) The Official Zoning Map shall be kept in the office of the Zoning Administrator and shall be the final authority as to the current zoning status of lands and structures in the City. A copy of the map shall be posted in a public area in the City Hall.

(C) Should the Official Zoning Map be lost, destroyed, or damaged, the Zoning Administrator may have a replacement map drawn in conformance with the requirements of (A) above. No further council authorization or action is required so long as no district boundaries are changed in this process.

#### **SECTION 19-161 - AMENDMENTS TO OFFICIAL ZONING MAP**

(A) Amendments to the Official Zoning Map shall be in accordance with the procedures set forth in Article XV (Amendments).

(B) If the Official Zoning Map is amended, the Zoning Administrator shall promptly update the Official Zoning Map. Upon entering any such amendment on the map, the Zoning Administrator shall enter the date of the amendment on the map below or beside the seal of the City.

(C) No unauthorized person may alter or modify the Official Zoning Map.

(D) The planning department shall keep copies of superseded prints of the zoning map for historical reference.

#### **SECTION 19-162 - USE CATEGORIES**

The use groups established herein, and as indicated in the chart of Principal Permitted Uses, Section 19-163, in the column designated "Use Group", are as follows:

**(A) By-Right (BR) Group:** This group permits uses in the districts marked with an "x", subject to other applicable regulations of the ordinance.

**(B) Conditional Use (C) Group:** This group permits uses in the districts marked with an "x", subject to the requirements of the respective subsections indicated in the chart, and other applicable regulations of this ordinance.

**(C) Special Use Permit (SP) Group:** This group permits uses in the districts marked with an "x", subject to the requirements of the respective subsections indicated in the chart, and other applicable regulations of this ordinance.

**SECTION 19-163 - PRINCIPAL PERMITTED USES**

The following charts indicate the principal permitted uses in all districts and the use groups in which the uses are designated:

- BR: By Right**
- C: Conditional Use Permit**
- SP: Special Use Permit**

ORDINANCE SUBSECTION		Use Group	RESIDENTIAL							BUSINESS				
	<i>Principal Permitted Uses</i>		R-15	R-13	R-10	R-8	R-6	R-PH	R-3	B-1	B-2	OP	GI	ED
	<b>A. AUTOMOTIVE</b>													
19.204.1	Car Washes	C									X			
19.204.2	Parking Areas & Structures, Commercial	C								X	X	X	X	X
19.206.1	Parking Areas in Residential Districts	SP	X	X	X	X	X	X	X					
19.206.2	Service Stations	SP									X			
	Rentals, Cars & Trucks	BR									X			
	<b>B. COMMUNICATION, TRANSPORTATION &amp; UTILITIES</b>													
19.206.3	Emergency Helipad	SP								X	X			
19.206.4	Emergency Power Generating Or Transmission Facilities	SP	X	X	X	X	X	X	X	X	X			
19.700	Communications Tower	BR	X	X	X	X	X	X	X	X	X	X	X	
19.206.6	Private Radio and TV Antennae and Satellite Reception Equipment	SP	X	X	X	X	X	X	X	X	X			
19.206.4	Sewage Treatment													

ORDINANCE SUBSECTION		Use Group	RESIDENTIAL							BUSINESS				
	<i>Principal Permitted Uses</i>		R-15	R-13	R-10	R-8	R-6	R-PH	R-3	B-1	B-2	OP	GI	ED
	Plants, Water Towers, Tanks, Pumping Stations and Treatment Facilities	SP	X	X	X	X	X	X	X	X	X	X	X	X
19.206.4	Telephone Exchange	SP								X	X			
	<b>C. CULTURAL &amp; EDUCATIONAL</b>													
	Arenas (enclosed)	BR								X	X		X	X
	Art Galleries & Museums	BR								X	X			X
	Auditoriums	BR								X	X		X	X
	Libraries, Non-Commercial	BR								X	X		X	
	Schools, Colleges and Universities	BR								X	X		X	
	Stadiums & Arenas (enclosed) related to Schools, Colleges and Universities	BR								X	X		X	
	Instructional Studios,	BR								X	X	X	X	X
	<b>D. ENTERTAINMENT</b>													
	Movie Theaters	BR												X
	Performing Arts Centers/Theaters	BR												X
	Sports Facilities	BR												X
19.206.10	Conference Centers	SP												X
	<b>E. GOVERNMENTAL</b>													
	City Hall	BR								X	X		X	
	Fire and Police	BR	X	X	X	X	X	X	X	X	X	X	X	X
	Garages, Service Buildings & Operational Centers	BR								X	X		X	
	Justice and Law Center	BR								X	X		X	
	Post Office	BR								X	X	X	X	
	<b>F. INSTITUTIONAL</b>													
	Cemeteries	BR								X				
	Charitable & Welfare Organizations	BR								X	X		X	

ORDINANCE SUBSECTION		Use Group	RESIDENTIAL							BUSINESS				
	<i>Principal Permitted Uses</i>		R-15	R-13	R-10	R-8	R-6	R-PH	R-3	B-1	B-2	OP	GI	ED
19.206.7	Churches, Synagogues and Other Places of Worship	SP								X	X		X	
19.204.3	Commercial Day Care Centers (including Adult Daycare Facilities), Nurseries and Kindergartens	C								X	X	X	X	
19.204.4	Funeral Homes	C									X			
19.204.5	Health Centers	C									X			
19.206.8	Nursing Homes, Assisted Living Facilities, Rest Homes & Other Homes for the Aged	SP									X			
	<b>G. OFFICES</b>													
	Accountants	BR								X	X	X		
	Advertising Media	BR									X	X		
	Architects	BR								X	X	X		
	Attorneys and similar Legal Services	BR								X	X	X		
	Banks and similar Financial Uses	BR									X	X		
	Chiropractors	BR								X	X	X		
	Consulting Firms	BR								X	X	X		
	Contractor Offices with Accessory Storage	BR									X			
	Data Processing and related services	BR								X	X	X		
	Engineer and Surveyor Services	BR								X	X	X		
	Medical, Dental and Optometrist Clinics	BR									X	X		
	Radio and Television Stations	BR									X			
	Real Estate Agency/Broker	BR								X	X	X		
	<b>H. RECREATIONAL</b>													
19.204.6	Community Recreational Centers	C	X	X	X	X	X	X	X	X		X	X	X
	Country Clubs	BR								X				

ORDINANCE SUBSECTION		Use Group	RESIDENTIAL							BUSINESS				
	<i>Principal Permitted Uses</i>		R-15	R-13	R-10	R-8	R-6	R-PH	R-3	B-1	B-2	OP	GI	ED
	Fraternal, Social & Recreational Organizations	BR								X	X			
	Golf Courses	BR	X	X	X	X	X	X	X	X	X	X	X	X
	Golf Driving Ranges	BR	X	X						X	X			
	Parks and Playgrounds	BR	X	X	X	X	X	X	X	X	X	X	X	X
	Recreation Commercial	BR								X	X			X
	Athletic Facilities	BR	X	X	X	X	X	X	X	X	X	X	X	X
	<b>I. RESIDENTIAL</b>													
	Dwellings, One Family	BR	X	X	X	X	X	X	X				X	
	Dwellings, Two Family	BR					X		X					
	Dwellings, Multi-Family	BR					X		X		X		X	X
	Hotels and Motels	BR								X	X			
	Patio House	BR						X						
19.204.9	Bed and Breakfast Inn	C	X	X	X	X	X			X			X	
	<b>J. RETAIL SALES AND SERVICE</b> (up to 10,000 square feet gross floor area)													
	Business Services	BR								X	X			
	Convenience Retail (without gasoline sales)	BR								X	X	X		
19.206.2	Convenience Retail (with gasoline sales)	SP									X	X		
	Eating Establishments (Full Service w/o Alcohol Sales)	BR								X	X	X	X	X
	Eating Establishments (Full Service w/Alcohol Sales)	BR								X	X	X		X
	Eating Establishments (Fast Food)	BR								X	X	X	X	X
	Lounges, Bars, Brew Pubs, Night Clubs	BR								X	X			X
19.204.10	Mini-Warehouse/	C												

ORDINANCE SUBSECTION		Use Group	RESIDENTIAL							BUSINESS				
	<i>Principal Permitted Uses</i>		R-15	R-13	R-10	R-8	R-6	R-PH	R-3	B-1	B-2	OP	GI	ED
	Storage Facilities									X	X			
	Retail Sales	BR								X	X			
	Retail Service	BR								X	X			
19.206.9	Shopping Centers and Large Commercial Developments (All Developments in excess of 10,000 sq. ft. gross enclosed floor area and/or involving [3] or more acres of land)	SP									X			
19.206.11	Adult Establishments	SP									X			
	Body Piercing Establishments	SP									X			
	Sexually Oriented Businesses	SP									X			
	Tattoo Parlors	SP									X			
	<b>K.MISCELLANEOUS</b>													
	Laboratories, Medical and Dental	BR									X			
19.204.8	Landfill, Construction	C	X	X	X	X	X	X	X	X	X			
	Nurseries, Retail	BR									X			
19.204.7	Outpatient Animal Clinics	C									X			
	Marina	BR								X	X			

**SECTION 19-164 - REQUIREMENT OF SPECIAL USE PERMIT FOR USES OTHERWISE PERMISSIBLE BY RIGHT WITH A ZONING PERMIT**

Notwithstanding the Table of Principal Permitted Uses a special-use permit may be required if the Zoning Administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Zoning Administrator shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially

unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

### **SECTION 19-165 - PERMISSIBLE USES AND SPECIFIC EXCLUSIONS**

(A) The presumption established by this ordinance is that all legitimate uses of land not otherwise prohibited are permissible within at least one zoning district in the City's planning jurisdiction, therefore, those uses that are listed in Section 19-163 shall be interpreted by the Zoning Administrator to include other uses that have similar impacts to the listed uses.

(B) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

- (1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible, explosive or toxic materials. However, if authorized by city permit, fuels, oils, and chemicals may be stored and sold in B-1 and B-2 districts. Residents may also store limited quantities of fuel, oil, and chemicals for personal use.
- (2) Stockyards, slaughterhouses, rendering plants.
- (3) Use of a travel trailer or mobile home as a temporary or permanent residence.
- (4) Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted. Situations that do not comply with this provision on the effective date of this ordinance are required to conform within 30 days.
- (4) Maintaining or operating a bee apiary within the corporate limits of the City.

(C) Within any residential or office-institutional district, no stripped, partly wrecked or junk motor vehicle, or part thereof, shall be permitted to be kept out of doors on any street or lot. Each vehicle on the lot or street must display a current license plate or tag and have current registration with the Department of Motor Vehicles. Individuals actively restoring not more than one antique automobile are exempted.

### **SECTION 19-166 - CUSTOMARY HOME OCCUPATIONS**

A customary home occupation business may be established in a dwelling unit, in any zoning district, as an accessory use to the principal residential use, if the intended home occupation business meets the definition of a customary home occupation and complies with the requirements outlined below. The business owner must complete and sign a "Home Occupation Application." The completed application shall constitute zoning approval.

- a. Defined. A customary home occupation shall be defined as any use customarily conducted within a dwelling by the resident of record, which does not constitute a nuisance or adversely affect the use and development of adjoining properties in

the neighborhood. These occupations shall include, in general, but not be limited to, personal services such as furnished by an artist, musician, seamstress or instructor, and home offices for professional services and internet sales. Also, a customary home occupation does not include such occupations as motor vehicle repairs, bicycle repairs, motorcycle/scooter repairs, golf cart repairs, boat repairs, beauty parlors, tea rooms, tourist homes, bed and breakfasts, rooming or boarding houses, animal kennels or hospitals, physicians, dentists or other offices for diagnosis, prevention, alleviation, or cure of disease or disability, retail businesses, or occupations which have vehicles, other than passenger vehicles as described below, parked or stored at the dwelling.

- b. Requirements for a customary home occupation use which satisfies the preceding definition:
1. The home occupation shall be clearly incidental to the principal residential use of the property and shall not change the essential residential character of the property. Only one such occupation shall be carried on per dwelling unit.
  2. Use of the dwelling for this purpose shall be limited to twenty-five percent (25%) of one floor of the existing principal building.
  3. No accessory building or outside storage shall be used in connection with the home occupation.
  4. No electrical, mechanical, or chemical equipment that is not normally a part of domestic or household equipment shall be permitted. There shall be created no dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; heat, cold or dampness; electromagnetic or other disturbance; glare; liquid or solid refuse or other waste; or other objectionable substance, condition or element.
  5. There shall be no exterior display, no exterior storage of materials, no exterior sign, except as permitted by the applicable district regulations, and no other exterior indication of the home occupation or internal or external alterations inconsistent with the residential use of character of the dwelling.
  6. Such occupation shall be carried on by a resident, with no employed assistants or associates, except for members of his family living on the premises.
  7. Display of products shall not be visible from the street and only articles made on the premises may be sold on the premises.

8. Instruction in music, dancing, art and similar instruction shall be limited to two students at a time.
9. Resident-owned passenger vehicles only shall be permitted in connection with the conduct of the home occupation. Passenger vehicles include motorcycles, automobiles, pickup trucks and vans.
10. No traffic shall be generated by such home occupation in greater volume than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by the provisions of Article XII, sections 19-317 of this ordinance.
11. In-home child day care is allowed predicated upon:
  - a. The use of the residence is not limited to the twenty-five percent (25%) of the principal building requirements but shall be limited by the number of children as defined in section 19-16 (24)(b).
  - b. For in-home daycare, the owner of the residence cannot care for more than six (6) children whom are neither related by blood or marriage to, nor the legal wards or foster children of the resident home owner.
12. Nothing in this section shall allow zoning approval for a customary home occupation, which creates or causes to be created noises, noxious odors, or conditions injurious to the health, safety, morals, or welfare of the community. The Board of Zoning Appeals shall review all appeals to decisions of the Zoning Administrator. Such zoning approval shall be revoked upon a finding that any customary home occupation established under this section fails at any time to meet the requirements prescribed herein.

In granting the zoning approval for a customary home occupation, the Zoning Administrator may impose such reasonable and additional stipulations, conditions or safeguards, as deemed necessary to fulfill the purposes and intent of this section.

**Expiration.** The Zoning Permit for a customary home occupation shall expire under the following conditions:

1. Whenever the applicant ceases to occupy the premises for which the home occupation was issued. No subsequent occupant of such premises shall engage in any home occupation until a new permit has been issued through proper application.
2. Whenever the applicant fails to exercise the use permitted for any period for any period of twelve (12) consecutive months.

3. Whenever in the judgment of the Zoning Administrator, the customary home occupation exceeds the limitations of this section or the restrictions stated on the zoning approval, a notice which revokes the customary home occupation zoning approval shall be mailed by certified mail to the licensee stating the date the permit is to be voided. The licensee may request a hearing before the Board of Zoning Appeals for a reinstatement of the approval.

### **SECTION 19-167 - ACCESSORY USES**

(A) The Table of Permissible Uses (Section 19-163) classifies different principal uses according to their different impacts. Whenever an activity is conducted in conjunction with another principal use and the former use (i) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (ii) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a special use permit.

(B) For purposes of interpreting subsection (A):

- (1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use.
- (2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(C) Without limiting the generality of subsections (A) and (B), the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:

- (1) Hobbies or recreational activities of a non-commercial nature.
- (2) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period.

(D) Without limiting the generality of subsections (A) and (B), the following activities shall not be regarded as necessary to a residential principal use and are prohibited in residential districts:

- (1) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
- (2) Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building or structure and the street on

any lot used for purposes that fall within the following principal use classifications, Section 19-163, A. Automotive.

(E) Without limiting the generality of subsections (A) and (B), the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to commercial principal uses:

(1) Outdoor display of merchandise provided:

(a) Display must be located directly in front of the connected commercial business;

(b) The display may be located on the sidewalk and can extend from the face of the commercial building toward the curb, however, a minimum of four feet (4') must be maintained at all times for clear pedestrian passage;

(c) The display may not infringe upon an abutting storefront;

(d) No display may be permitted when winds make it unsafe to do so, or for the duration of a declared severe storm watch or warning, or a declared emergency.

(2) Temporary outdoor tents connected with a special event such as customer appreciation or business anniversary days, provided:

(a) The use of such tents is limited to twice within a twelve (12) month period by one (1) commercial entity.

(b) The tents may be erected twenty-four (24) hours before the event and must be removed within twenty-four (24) hours after the event.

(c) Tents may be located only in the common parking areas immediately adjacent to the sponsoring commercial entity.

(3) Mobile Food Vending Service provided:

(a) A valid mobile vending permit issued by the Planning Department is required prior to setting up or selling merchandise. Permit certificates shall be attached to the mobile vending unit where they are readily visible, and shall include the current name, mailing address and valid phone number of the mobile food vending unit owner;

(b) Permitted merchandise shall be limited to edibles, hot and cold beverages and items related to such merchandise;

(c) Permission to operate must be obtained from the property representative and submitted with the permit application;

(d) The maximum duration of a mobile food vending service permit is for fifteen (15) days at one location, renewable up to two (2) additional times, for a total period of forty-five (45) days per calendar year at that one location;

- (e) The hours of operation shall be between 8 am and 9 pm and no overnight parking of vendor service vehicles will be permitted;
- (f) Vendors shall meet all applicable DHEC regulations for mobile food units and possess a valid DHEC permit where applicable;
- (g) Any mobile food vendor or vending unit that has been issued a notice of health violation by any department of the State of South Carolina, which remains uncorrected upon a subsequent inspection, shall have its mobile food vendor permit revoked;
- (h) All vendors must obtain an appropriate, current City business license;
- (i) A minimum of two (2) parking spaces must be provided and maintained in addition to the minimum parking required for the principal business; Parking spaces may be shared with other uses on the site; All parked vehicles must be located a least ten (10) feet away from the food vendor service vehicle/trailer;
- (j) There shall be a minimum 400-foot separation from any other mobile food vendor and a minimum 400-foot separation from any residential use or residential zoning district.
- (k) The mobile vendor shall only use single-service plates and utensils. Garbage and recycling receptacles must be provided by the vendor and made available for patron use and be removed from the site daily by the vendor;
- (l) Signage shall be permitted on the vehicle only to identify the name of the product or the name of the vendor, and the posting of prices. A separate menu board is allowed, not exceeding 12 square feet in area and 40 inches height. This sign must be located on the same property as and within close proximity to the mobile vending unit, and should not be placed on the sidewalk or in the public right-of-way;
- (m) Exemptions: The provisions of this section shall not apply to special events, festivals, community projects or public events which occur on a periodic basis and which are specifically approved by City Management.

#### **SECTION 19-168 - PERMISSIBLE USES NOT REQUIRING PERMITS**

Notwithstanding any other provisions of this ordinance, no zoning, special use, or conditional use permit is necessary for the following uses:

- (1) Streets.
- (2) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.
- (3) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or city) of the right-of-way.

#### **SECTION 19-169 - SUBSTANTIAL CHANGE IN USE**

(A) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

- (1) The change involves a change from one principal use category to another.
- (2) If there is only one business or enterprise conducted on the lot and that business or enterprise moves out, and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store that constitutes a change in use even though both tenants fall within principal use classification. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot has not changed.

(B) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.

(C) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

**Sections 19-170 through 19-179 reserved.**

#### **SECTION 19-180 - MINIMUM LOT AREA**

Subject to the provisions of Sections 19-188 and 19-154(E), all lots in the following zones shall have at least the amount of square footage indicated in the following table:

<b>District</b>	<b>Minimum Square Footage</b>
R-3	3,000
R-6	6,000
R-PH	6,000
R-8	8,000
R-10	10,000
R-13	13,000
R-15	15,000
R-40	40,000
B-1 Commercial	No Minimum
B-2	No Minimum
B-3	No Minimum

**SECTION 19-181 - RESIDENTIAL DENSITY, SIZE, AND SPECIAL REQUIREMENTS**

(A) Subject to the provisions of Section 19-188 (Cluster Subdivisions), every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on an entire tract of land, fractions shall be rounded to the nearest whole number.

<b>District</b>	<b>Minimum Lot Square Feet Per Dwelling Unit</b>
R-3	3,000
R-6	6,000
R-PH	6,000
R-8	8,000
R-10	10,000
R-13	13,000
R-15	15,000
R-40	40,000
B-3	6,000

(B) All structures intended for single family residential purposes shall have a minimum of 1,500 square feet of heated finished floor area.

(C) All newly constructed multi-family residential units shall have a minimum of 1,200 square feet of heated finished floor area. However, in a PUD, 10 percent of the units may be less than 1,200 square feet but no less than 1,050 square feet; providing that the average for all PUD units or each phase is not less than 1,200 square feet.

(D) Roofs of wood shingles or other highly flammable materials are prohibited.

**SECTION 19-182 - MINIMUM LOT WIDTHS**

(A) In accordance with Ordinance 50 (Land Development Code) no lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

- (1) Could be used for purposes that are permissible in that zoning district; and
- (2) Could satisfy any applicable setback requirements for that district.

(B) Without limiting the generality of the foregoing standard, the following table indicates minimum lot widths that are required and are deemed presumptively to satisfy the standard set forth in subsection (A). The lot width shall be established as the distance between the side lot lines measured along the front setback line as established by the ordinance or the distance between the side lot lines measured along the setback line on a duly recorded plat. If no front setback line is established, the distance between the side lot lines shall be measured along the street right-of-way. In no case can the frontage along the road right-of-way be less than twenty-five (25) feet.

District	Lot Width (in feet)
R-3	50
R-6	60
R-PH	60
R-8	70
R-10	80
R-13	80
R-15	90
R-40	90
B-1 Commercial	None
B-2	None
B-3	None
Multi-family/patio house	60

(C) Corner lots shall be at least 5 feet wider than the minimum lot width requirement.

(D) Single family residential lots located on a cul-de-sac may have a minimum lot width of 60 feet.

(E) No lot created after the effective date of this ordinance that is less than the required width shall be entitled to a variance from any structure setback requirement.

**SECTION 19-183 - FRONT STRUCTURE SETBACK REQUIREMENTS**

(A) In accordance with Ordinance 50 (Land Development Code) generally no portion of any structure may be located on any lot closer to the street property line than is authorized in the table set forth in this section.

District	Structure Setback (in feet)
R-3	30
R-6	25
R-PH	25
R-8	25
R-10	25

R-13	25
R-15	25
R-40	25
B-1	40
B-2	40
B-3 Commercial	40
Multi-family/patio house	25

(B) Lots abutting a cul-de-sac shall have a minimum setback of 30 feet.

(C) Structure setbacks for corner lots shall be at least 20 feet from a side street except when the side street is a collector or arterial street; then the setback shall be 25 feet.

(D) Structure setbacks for common driveways shall be 25 feet from the front lot line, 15 feet from the side lot line that adjoins the common driveway, and 15 feet from the rear lot line.

(E) All lots abutting Tega Cay Drive and which are shown on the recorded final plat as having a minimum fifty-foot (50-foot) structure setback from the road right-of-way shall not directly connect by privately owned driveway(s) to Tega Cay Drive.

(F) Land which abuts Tega Cay Drive, and which has not been subdivided (“Land”), and lots resulting from land subdivided subsequent to September 18, 2000, shall maintain a naturally vegetated, undisturbed, buffer setback of fifty feet (50), as measured from the Tega Cay Drive right-of-way edge which abuts the affected land or lot. All lots abutting Tega Cay Drive which resulted from subdivision prior to September 18, 2000 shall be exempted from this requirement. For purposes of this subsection (F), “subdivided” and “subdivision” shall have the meaning as provided by Ordinance 50.

**SECTION 19-184 - SIDE YARD AND REAR YARD STRUCTURE SETBACKS**

(A) In accordance with Ordinance 50 (Land Development Code) generally requirements for side rear and yard setbacks shall be as provided in the table of dimensional requirements listed below:

District		Side Yard (in feet)	Rear Yard (in feet)
R-3		6	25
R-6		8	25
R-PH	Patio wall side	2	15
	Other sides	10	
R-8		10	25
R-10		10	25
R-13		10	25
R-15		10	25
R-40		10	25
B-1		10	20

B-2		10	20
B-3	Commercial	10	20
	Multi-family	8	25
	Patio House	2	15

(B) Corner lots shall also meet the requirements contained in Section 19-183 (C).

**SECTION 19-185 - ACCESSORY BUILDING/*STRUCTURE* SETBACK REQUIREMENTS**

(A) Garages are subject to the requirements set forth in Sections 19-183, 19-184, and 19-186.

(B) All accessory buildings or structures in residential districts must comply with the front property line and side lot boundary structure setbacks set forth in Section 19-183, 19-184, and 19-186, but (subject to the remaining provisions of this subsection) shall have a five-foot setback from rear structure setback line.

(C) If any appurtenance of an accessory structure exceeds 12 feet in height, the accessory structure shall be set back from rear lot boundary lines an additional two feet for every foot of height exceeding 12 feet.

(D) Maximum lot coverage of principal and accessory structures shall not exceed 40 percent of the lot.

(E) Screening shall be in accordance with the fencing regulations (Article XIII) provided in this ordinance.

**SECTION 19-186 - SETBACKS FOR LOTS PLATTED PRIOR TO THIS ORDINANCE**

All lots platted prior to the adoption of this ordinance shall be governed by the following setback requirements: See Section 19-9.

- (1) Front structure setback no closer than 25 feet from the right-of-way/property line, whichever is more restrictive.
- (2) Side yard setback no closer than 5 feet from the right-of-way/property line, whichever is more restrictive, and
- (3) Rear yard setback no closer than 15 feet from the right-of-way/property line, whichever is more restrictive.
- (4) Setbacks along common drives and/or minor streets shall be 25 feet from the front right-of-way/property line, whichever is more restrictive, and 15 feet from the side right-of-way/property line that adjoins the common driveway, whichever is more restrictive.

**SECTION 19-187 - STRUCTURE HEIGHT LIMITATIONS**

(A) Subject to the remaining provisions of this section, structure height

limitations in the various zoning districts shall be in conformance to the requirements established in the applicable, adopted City Building Codes.

(B) Dwelling units may not be constructed over another dwelling unit except in a Planned Unit Development District or a Planned Development District. The number of stories must conform to the requirements established in the applicable, adopted City Building Codes-

(C) Fire sprinkler protection must conform to the requirements established in the applicable, adopted City Building Codes.

(D) Antennas are allowed in all zoning districts to the extent authorized in the Table of Principal Permitted Uses, provided that communications towers shall be subject to Section 19-700.

### **SECTION 19-188 - CLUSTER SUBDIVISIONS**

(A) Subject to the provisions of Ordinance 50, in any single-family residential zone a developer may create lots that are smaller than those required by Section 19-180 if such developer complies with the provisions of this section and if the lots so created are not smaller than the minimums set forth in the following table:

<b>District</b>	<b>Minimum Square Feet</b>
R-6	5,000
R-8	7,000
R-10	9,000
R-13	12,000
R-15	14,000
R-40	30,000

(B) The intent of this section is to authorize the developer to decrease lot sizes and leave the land "saved" by so doing as a common area to be maintained in perpetuity by the property owner for the benefit of the residents of the development.

(C) The amount of common area that must be set aside shall be determined by:

- (1) Subtracting from the standard square footage requirement set forth in Section 19-180 the amount of square footage approved for each lot that is smaller than that standard; and
- (2) Adding together the results obtained in (1) to derive the total amount of common area.

(D) The provisions of this section may only be used if the common area set aside in a subdivision comprises at least 10,000 square feet of space beyond the requirements contained in this ordinance or any other City ordinance.

(E) The setback requirements of Sections 19-183 and 19-184 shall apply in cluster subdivisions.

## **SECTION 19-189 - DENSITY OF LOTS WHERE PORTION DEDICATED TO CITY**

Subject to the other provisions of this section, if the owner of any tract, with the concurrence of the City, dedicates to the City a portion of the tract, when the remainder of the tract is developed for residential purposes, the permissible density at which the remaining portion of land may be developed shall be calculated in accordance with the provisions of this section.

(A) If the proposed use of the remainder is a single-family detached residential subdivision developed under Section 19-153 (Planned Unit Development Districts) or Section 19-188 (Cluster Subdivisions), the developer may include the area of land previously dedicated to the City in calculating the area required for dedication.

(B) If the proposed use of the remainder is a two-family or multi-family project, then the permissible density at which the remainder may be developed shall be calculated as if the dedicated portion of the parcel were still part of the proposed development.

(C) If the portion of the tract that remains after dedication is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of any open space or density considerations provided for in subsections (A) and (B).

**Sections 19-190 through 19-199 reserved.**

## **ARTICLE XI. CONDITIONAL USE AND SPECIAL USE PERMIT REGULATIONS**

### **SECTION 19-200 - PURPOSE**

This article provides regulations and conditions for selected uses which are unusual in their nature or complexity, which require areas of unusual size, or are potentially incompatible with their surroundings unless special protective restrictions are applied, or which depend upon sound site planning and design to prevent them from becoming detrimental to the health, safety, or general welfare of the public or to neighboring land uses.

### **SECTION 19-201 - APPLICATION REQUIREMENTS**

In order to establish any use listed in the Special Use Permit (SP) Group, the following information shall be submitted with the application:

(A) A key map at a scale of not less than one inch equals 400 feet showing the relationship of the subject property to adjoining properties, roads, streams, railroads, and any other land features within 1,000 feet of all boundaries of the property.

(B) A map, drawn to scale, clearly indicating the use of all property within 200 feet of all boundaries of the subject property.

(C) A topographic map of the subject property at four-foot contour intervals showing all features of the terrain, including rock outcrops and trees six inches or more in diameter at a point four feet above ground level.

(D) A site plan to a scale of not less than one inch equals 100 feet, including, but not limited to, the following:

- (1) The proposed use of land and structures, showing the location of all structures by dimension, and all uses, including accessory uses.
- (2) The location and design of off-street parking and loading areas, and the access to and from such areas to public streets.
- (3) Location of all existing or proposed site improvements, easements, etc.
- (4) The proposed outdoor lighting, signs, screening and landscaping.

(E) A description of the method of water supply and sewage disposal, with evidence of the approval of such sewage disposal system by DHEC.

(F) All computations necessary to indicate compliance with Sections 19-180 through 19-187.

(G) Additional information shall be provided, when required, for the purposes of assessing the merits of the application. In the event a development is to be constructed in phases, the initial segment or phase to be developed shall be clearly delineated on the site plan, and all pertinent data pertaining to this phase shall be submitted for review.

(H) Strict compliance with the standards for the development of any use in the SP use group may be waived upon written request of the applicant when, in the opinion of the Board of Zoning Appeals, such waiver is not contrary to the public interest and not inconsistent with the intent and purposes of this ordinance.

#### **SECTION 19-202 - EXPIRATION OF APPROVAL**

A site plan approval for any use in the Special Use Permit Group shall expire within one year after the date of such approval.

#### **SECTION 19-203 - CONDITIONAL USE**

All uses listed in the Table of Principal Permitted Uses, 19-163, as being in the Conditional Use Group shall comply with the pertinent regulations listed in the following subsections.

(A) Submittal of information. An application for a conditional use permit shall be accompanied by plans indicating that all requirements outlined in this ordinance will be complied with.

(B) Site Plan Approval. No conditional use permit shall be issued in any area which is part of the site plan except in strict conformity with the approved site plan.

## **SECTION 19-204 - USE REGULATIONS**

The regulations for specific uses in the Conditional (C) Use Group are as follows:

### **SECTION 19-204.1 - CAR WASHES**

(A) Off-street waiting space shall be provided within the site for five times the number of vehicles which can be served simultaneously.

(B) Where such use is located at the intersection of two streets, the location of any driveway shall be no closer than 30 feet from the point of intersection of the two street property lines.

(C) Where such use is adjacent to a residential district or a site used for residential purposes, the driveways for egress and ingress to such use shall be a minimum of 30 feet from such adjacent property line.

(D) The use of any public road, alley or public way for the purpose of parking vehicles, or causing vehicles waiting to be serviced to temporarily stop, shall be prohibited.

### **SECTION 19-204.2 - PARKING AREAS, COMMERCIAL**

(A) Such use shall be so located as not to generate traffic congestion on adjacent streets, and so as not to adversely affect adjacent uses.

(B) Such lots shall not be used for the sale or storage of any motor vehicles.

(C) Where such use is located on a corner lot, no driveway shall be closer than 30 feet from the intersection of both property lines.

(D) Where such use is located adjacent to a residential district, or to a residential use, no driveway shall be located closer than 30 feet from the adjacent lot line.

(E) No driveway shall be located closer than 100 feet from any school, park or playground.

### **SECTION 19-204.3 - COMMERCIAL DAY CARE CENTERS, NURSERIES, AND KINDERGARTENS**

(A) The minimum lot size for a parcel of land containing such use shall be 20,000 square feet for the first five children. For each additional child, the lot size shall be increased by 1,500 square feet.

(B) For each child, there shall be provided 100 square feet of outdoor play area. Such area shall not include driveways, parking areas, or any other area that may endanger, hamper, or adversely affect the children in their activities.

(C) Such play areas shall be completely fenced, and shall not include any areas specifically or by inference indicated in the previous paragraph. The fence shall comply with all the applicable requirements of this ordinance.

(D) The facility shall be licensed by the proper authorities, when such license is required.

(E) DHEC shall approve the method of sewage disposal for the proposed use.

(F) No other business shall be conducted on the property.

#### **SECTION 19-204.4 - FUNERAL HOMES**

In addition to the parking requirement of Article XII, off-street area shall be provided, on the site, to accommodate 30 passenger vehicles for the purpose of forming a funeral procession. In the event that on-site area is not available, such off-street area may be provided within 300 feet of the funeral home, as measured to the nearest property lines.

#### **SECTION 19-204.5 - HEALTH CENTERS**

(A) The minimum site size shall be five acres.

(B) No structure may be located closer to the interior lot lines than 100 feet.

(C) The minimum setback from any street shall be 50 feet. In districts requiring a larger setback, such larger setback shall prevail.

(D) The maximum portion of the lot to be covered by all buildings or structures shall be 20 percent.

(E) All open areas shall be adequately landscaped.

(F) Off-street parking and loading areas shall comply with the design standards and all other applicable provisions of this ordinance.

(G) All driveways from public streets shall be located at least 30 feet from any adjacent lot line.

(H) Sources of nuisance factors, such as, but not limited to, laundries, power plants, kitchens, ambulance entrances, loading areas, incinerators, animal laboratories, etc., shall be located a minimum of 200 feet from any adjacent interior lot line.

#### **SECTION 19-204.6 - COMMUNITY RECREATION CENTERS**

(A) Such centers shall be owned and operated on a nonprofit basis by a neighborhood organization, for recreational and social purposes.

(B) The center may consist of, but not be limited to, buildings, swimming pools, courts for various athletic games, and ancillary uses.

(C) All structures, pools, courts and off-street parking areas shall be located a minimum distance of 100 feet from any property line.

(D) Outdoor lighting shall be shielded as to cast no direct light upon adjacent property or public roads. Such lighting shall be extinguished no later than 11:00 p.m.

(E) Any public address system shall not exceed the normal noise level generated by uses permitted on adjacent properties.

(F) Adequate landscaping shall be provided.

#### **SECTION 19-204.7 - OUTPATIENT ANIMAL CLINICS**

Outpatient clinics, which are facilities established to treat small animals which may remain in the facility for the duration of the treatment and consisting of one building only, shall be permitted in a B-2 district with the following requirements:

(A) There shall be no outside facilities;

(B) The building shall be completely enclosed and soundproofed so that the sound emitted through the walls and roof shall not exceed 45 decibels;

(C) At the time of the request for a building permit or certificate of occupancy, certification by a registered architect or an acoustical engineer shall be submitted, indicating that the building will meet the requirement for soundproofing.

#### **SECTION 19-204.8 - LANDFILL, CONSTRUCTION**

(A) No excavation, dumping, processing, weighing or any operation or facility shall be located closer than 50 feet from any street right-of-way or property line.

(B) No activity or facility, as indicated in subsection (A) above shall be located closer than 50 feet from adjacent property in a residential district, or from property used for residential purposes.

(C) The setback indicated in subsections (A) and (B) above may be used for access roads, stockpiling of soils for restoration purposes, or for permitted signs.

(D) The routes for transporting the material to the site shall be indicated on the plans presented for approval.

(E) Environmental restoration plans outlining those actions which will be taken to rehabilitate the site upon closure of the landfilling operation shall be prepared and submitted to the Planning Commission.

(F) Burning shall be expressly prohibited on the site.

#### **SECTION 19-204.9 - BED AND BREAKFAST INN**

(A) Single family homes used as a Bed and Breakfast Inn shall have a minimum heated floor area of 2,000 square feet.

- (B) Single family homes used as a Bed and Breakfast Inn may not subdivide existing rooms into less than two hundred square feet.
- (C) The Bed and Breakfast Inn shall be owner occupied.
- (D) All parking shall be to the rear of the home. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. There shall be one parking space per room of lodging.
- (E) Patron use of the Bed and Breakfast is limited to no more than fifteen days per sixty day period.

#### **SECTION 19-205 - SPECIAL USE PERMITS**

All uses listed in the Table of Principal Permitted Uses, Section 19-163, as being in the SP Use Group, shall comply with the regulations set forth in Section 19-206, as well as all applicable local, county and state requirements.

#### **SECTION 19-206 - USE REGULATIONS**

The regulations for specific uses in the SP Use Group are as follows:

##### **SECTION 19-206.1 - PARKING AREAS IN RESIDENTIAL DISTRICTS**

- (A) Such parking areas shall be considered to satisfy, in whole or in part, the off-street parking requirements for business and institutional uses when such requirements cannot be met in the district in which the use is permitted.
- (B) Such parking areas shall have a common property line, for a minimum distance of 50 feet, with the lot containing the permitted principal use.
- (C) Access by motor vehicles to such parking areas shall be only through the lot containing the principal permitted use.
- (D) The lot containing the parking area shall be screened in accordance with the provisions of this ordinance, when adjacent to a residential district, or to a residential use.
- (E) Outdoor lighting shall be extinguished no later than 11:00 p.m.
- (F) The lot containing the parking area shall be owned by the same person, firm, or corporation that owns the property upon which the principal permitted use is located.

##### **SECTION 19-206.2 - SERVICE STATIONS**

- (A) On corner properties the driveways shall be located no closer than 30 feet from the point of intersection of two street property lines.

(B) Driveways shall be located no closer than 30 feet from adjacent properties in residential districts or from properties used for residential uses.

(C) No gasoline pump shall be located closer than 20 feet from any street property line.

(D) Parking of motor vehicles for a fee or awaiting damage estimates, and storage or display of trailers, campers, boats or similar equipment is expressly prohibited.

(E) Free-standing canopies may be placed over properly located pumps or pump islands provided:

- (1) They are a minimum distance of ten feet from the primary structure;
- (2) They do not overhang the right-of-way of any street; and
- (3) They are not used as a sign structure or as the sign base.

### **SECTION 19-206.3 - EMERGENCY HELIPAD**

As a prerequisite to approval of an application for a special use permit the Board of Zoning Appeals must find that the evidence submitted at the hearing establishes:

(A) That the proposed use will not endanger the public health or safety or substantially reduce the value of adjoining property.

(B) That the proposed use will not constitute a nuisance with respect to noise, dust, fumes, lights, vibration and traffic.

### **SECTION 19-206.4 - PUBLIC OR QUASI-PUBLIC UTILITIES**

(A) Uses such as emergency power generating or transmission facilities, pressure regulator stations, sewage treatment plants, and telephone repeater stations shall comply with the following:

- (1) The minimum lot size shall conform to the respective district requirements.
- (2) The front structure setback shall exceed the front yard structure setback in the respective districts by a minimum of 25 feet.
- (3) The minimum side yard shall be 30 feet.
- (4) The minimum rear yard shall be 50 feet.
- (5) An eight-foot-high fence may be required around the structures.
- (6) The proposed facility shall be screened from public view, as well as from adjacent residential districts or from residential and institutional uses. The screening shall be located on all sides of the structure, but shall not be located within the

required front yard. In the event that the site, in the opinion of the Board of Zoning Appeals, is too large to be screened in its entirety, such screening may be located so as to adequately obstruct the view of the facility.

- (7) The required front yard shall not be fenced, but shall be adequately landscaped.
- (8) No business office, storage of equipment, garage or maintenance building shall be permitted in a residential district.

(B) Uses such as pumping stations, water towers, and tanks when in residential districts shall be encouraged to locate on parcels of land hidden from view behind regular lots and shall comply with the following:

- (1) There shall be no minimum lot size except when required by other regulations.
- (2) The minimum yard requirement from any lot line shall be equivalent to the minimum requirement from the common lot line on the adjacent lot, but in no event shall such minimum distance be less than 30 feet.

(C) Any communications tower shall be subject to Section 19-700.

#### **SECTION 19-206.6 - PRIVATE RADIO AND TELEVISION ANTENNAS AND SATELLITE RECEPTION EQUIPMENT**

(A) Standard television or radio antennas may not extend more than six feet above the roof line of the building on which they are attached.

(B) Stand-alone (ground mounted) television antennas are permitted only in areas not served by cable reception.

(C) Pursuant to the Federal Telecommunications Act of 1996 and Federal Communications Commission regulations implementing the Act, satellite receiving antennas less than one (1) meter in diameter are permitted in any district and such antennas less than two (2) meters in diameter are permitted in non-residential districts.

(D) If satellite reception equipment is mounted on the ground it shall be screened by year-round green plantings and shall not be located in a front yard, but located as unobtrusively as possible. Camouflage painting of the equipment is required.

#### **SECTION 19-206.7 - CHURCHES, SYNAGOGUES, AND OTHER PLACES OF WORSHIP**

(A) The minimum lot area shall be three acres.

(B) The minimum structure setback from any adjoining residential structure shall be 250 feet.

#### **SECTION 19-206.8 - NURSING HOMES, ASSISTED LIVING FACILITIES, REST HOMES, AND HOMES FOR THE AGED**

(A) The minimum site area for a facility having 50 beds or less shall be three acres. For each additional 50 beds or fraction thereof, the minimum acreage requirement shall be increased by one acre.

(B) The minimum structure setback from any street shall be 100 feet. The area between the street property line and the structure setback line shall be landscaped. Off-street parking and loading shall be prohibited in this area.

(C) The minimum side yard shall be 50 feet.

(D) The minimum rear yard shall be 50 feet.

(E) Whenever such use abuts a residential district or land used for residential uses, the minimum side and rear yards shall be 100 feet.

(F) Outdoor recreation areas shall be provided for the use of the residents of the facility, equal in amount to not less than 20 percent of the total site area. No portion of the off-street parking or loading areas or no portion of the front yard area shall qualify as part of the recreation area.

#### **SECTION 19-206.9 - SHOPPING CENTERS AND LARGE COMMERCIAL DEVELOPMENTS**

(A) The purpose of this district is to provide for a coordinated shopping center or large commercial development, either in one building or group of buildings, properly related to common off-street parking and loading areas, malls and plazas, with particular attention being given to safe pedestrian and motor vehicle circulation.

(B) The minimum site for a shopping center or large commercial development shall include adequate land for the accommodation of all buildings, all required yards, off-street parking, off-street loading, landscaping and screening requirements and any other pertinent requirements of this ordinance.

(C) The minimum setback from any street shall be 50 feet.

(D) The minimum side and rear yards shall be 50 feet.

(E) The design of structures and their environs shall be considered in light of the rural atmosphere of the community, and such structures, therefore, must be compatible with their surroundings.

(F) A complete landscaping plan shall be provided and executed, upon approval, and maintained. This includes all open spaces, interior common spaces, and off-street parking areas, both on the perimeter and in the interior of such parking areas.

#### **SECTION 206.10 - CONFERENCE CENTER**

(A) The purpose of this district is to provide for a coordinated conference center, either in one building or group of buildings, properly related to common off-street parking and loading areas,

and small groups of retail shops, with particular attention being given to conference attendees' convenience and comfort as well as safe pedestrian and motor vehicle circulation.

(B) The minimum site for a conference center shall include adequate land for the accommodation of all buildings, all required yards, off-street loading, landscaping and screening requirements and any other pertinent requirements.

(C) The design of structures and their environs shall be considered in light of the rural atmosphere of the community, and such structures, therefore, must be compatible with their surroundings.

(D) A complete landscaping plan shall be provided and executed, upon approval, and maintained. This includes all open spaces, interior common spaces and off street parking areas, both on the perimeter and in the interior of such parking areas.

**SECTION 206.11 - ADULT BOOKSTORES, ADULT CABARET, ADULT ENTERTAINMENT ESTABLISHMENTS, ADULT MOTION PICTURE THEATER, ADULT THEATER, ADULT VIDEO STORES, BODY PIERCING ESTABLISHMENTS, SEXUALLY ORIENTED BUSINESSES, TATTOO PARLORS**

(A) Site Plans must be submitted, reviewed and approved prior to the submittal and acceptance of the Special Use application for such uses.

(B) No more than one such use will be permitted per lot and must be located 1,000 feet from the property line of an existing parcel or lot that has a similar use. Distance is to be measured in a straight line without regard to any buildings, streets, structures or objects, from the perimeter of the parcel or lot where the proposed use is to be located within.

(C) Structures containing such uses shall not be located within 1,000 feet of a religious institution or place of worship, public or private primary school or secondary school or skill development academic institution, a public park or recreational area, or residential area as defined in 19-16 (54). Distance is to be measured in a straight line without regard to any buildings, streets, structures or objects, from the closest exterior wall of the structure where the proposed use is to be located within to the nearest property line of the land uses listed previously.

**Sections 19-207 through 19-299 reserved.**

**ARTICLE XII.  
OFF-STREET PARKING AND LOADING REQUIREMENTS**

**SECTION 19-300 - OFF-STREET PARKING REQUIREMENTS**

**Purpose.** In order to assure a proper and uniform development of public parking areas throughout the City of Tega Cay, to relieve traffic congestion in the streets, and to minimize any detrimental effects of off-street parking areas on adjacent properties, the procedures and standards set forth in Section 19-301 through Section 19-317 will apply.

## SECTION 19-301 - SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

Off-street parking must be provided and maintained as specified in the following schedule. In addition to the requirements in Article XI, conditional use and special use permits. These requirements will apply to all new buildings and uses and to additions to existing buildings and uses in all districts. Except for single family dwellings (Section 19-301.7) approval of a parking plan is required. The requirements set forth in this section are subject to Section 19-453(D).

PRINCIPAL USE	REQUIRED OFF-STREET PARKING
Auditorium, theater, places of public assembly	One (1) space for each four (4) seats based on maximum capacity
Auto service station; full service	One-Half (1/2) space for each gasoline pump; plus one (1) space for each service Bay
Auto service station; self-service	One-Half (1/2) space for each gasoline pump
Auto service station; self-service with convenience store	One-Half (1/2) space for each gasoline pump; plus one (1) space for each five hundred (500) square feet of gross floor area
Adult Care Facilities/Child Care Centers (commercial)	One (1) space for each five (5) children/adults per maximum capacity
Boarding and rooming houses and bed and breakfast establishments	One (1) space for each bedroom or sleeping room
Child Care (In Home)	Two (2) spaces per dwelling unit
Church	One (1) space for each four (4) seats based on maximum capacity (surface may be gravel or similar treatment)
Dwelling Units/or Building - Multi-Family	Two (2) spaces for each one (1) bedroom unit, and two (2) spaces for each two (2) or more bedroom unit (s)
Dwelling, Single family patio houses and two family	Two (2) spaces per dwelling unit
Financial institutions	One (1) space per two hundred and fifty (250) square feet of gross floor area
Funeral home	Five (5) spaces minimum; plus one (1) space for each four (4) seating capacity in the main assembly room
Grocery or supermarket	One (1) space for each one hundred and fifty (150) square feet of gross floor space
Grocery; convenient (7-11 type)	One (1) space for each three hundred (300) square feet of gross floor space

PRINCIPAL USE	REQUIRED OFF-STREET PARKING
Hospital	One (1) space for each patient bed; plus one (1) space for each five hundred (500) square feet of office and administrative area
Hotel, motel or motor court	One and one-tenth (1.1) space per rental unit; plus requirement for any combination use associated with the establishment
Libraries	One (1) space per three hundred (300) square feet of gross floor area
Nursing home, institutional or Senior Living Care or residential facilities	One (1) space for each five (5) residents per maximum capacity plus One (1) space per employee per shift
Office and professional building	One (1) space per three hundred (300) square feet of gross floor area
Office, medical or dental	One (1) space per two hundred (200) square feet plus One (1) space per employee
Public or private club, not dispensing alcoholic beverages	One (1) space for each three hundred (300) square feet of gross floor area
Public utility building	One (1) space per four hundred (400) square feet of gross floor area
Restaurants and other establishments dispensing food, including drive-ins	One (1) space for each eighty (80) square feet of gross floor area
Retail store and personal service shops	One (1) space per two hundred and fifty (250) square feet of gross floor area
Sales and service not listed elsewhere	One (1) space for each three hundred and fifty (350) square feet of gross floor area
Shopping centers	One (1) space for each two hundred and fifty (250) square feet of gross floor area
Taverns, discos, night clubs and/or public or private clubs (dispensing alcoholic beverages)	One (1) space per one hundred (100) square feet of gross floor area
Mini-warehouse/storage facility	Three (3) spaces plus one (1) space per 100 storage units.
<b>Recreation:</b>	
Bowling alleys	Four (4) spaces for each bowling lane
General out-door recreational areas, parks, etc.	One (1) space for each five thousand (5,000) square feet of land area

**SECTION 19-302 – ADDITIONAL PARKING REQUIREMENTS**

(A) The parking space requirements for uses not specifically listed above shall be the same as for a listed use of similar characteristics of parking demand generation.

(B) Except for shopping centers, mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one (1) use having the same parking requirements, the parking spaces required shall equal the sum of 75% of the requirement of the various uses computed separately. Whenever a building or use, constructed or established after the effective date of these guidelines is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(C) All accessible parking and loading must conform to the requirements established in the applicable, adopted City Building Codes.

#### **SECTION 19-303 - PARKING SPACE DEFINED**

A parking space shall be not less than nine (9) feet by nineteen (19) feet, except that a maximum of ten (10) percent of the total number of stalls may be eight and one-half (8.5) feet by nineteen (19) feet. The length may be reduced by two (2) feet when protective devices are provided; however, the overhang shall not extend into the required bufferyards, required landscaped areas, landscaped areas, required accessibility, or other similar area. However, the dimensions of all parallel parking stalls shall be not less than nine (9) feet by twenty-four (24) feet. All parking spaces shall be located so as to insure off-street maneuvering space.

#### **SECTION 19-304 - PARKING SPACES IN DRIVEWAYS**

In the absence of garages or carports, driveways may be considered as providing required off-street parking spaces for single-family and two-family dwellings in residential and office districts. Sufficient spaces must be available on such driveways to meet the requirements of this section.

#### **SECTION 19-305 - LOCATION OF PARKING SPACES**

Parking spaces must be located so that no space is farther than 400 feet from the buildings or uses to which it is assigned. This requirement does not apply to parking spaces for auditoriums, stadiums, assembly halls, gymnasiums, and other places of assembly.

#### **SECTION 19-306 - COMMON PARKING AREAS**

Required parking for residential or commercial structures may be provided through common parking areas. Common parking areas must meet all other standards contained in Section 19-301. Responsibility for maintenance and enforcement of regulations contained in this ordinance rests with the property owners.

#### **SECTION 19-307 - PARKING SPACES ASSIGNED TO ONE USE**

Required parking spaces for any number of separate buildings or uses may be combined in one lot. But the required spaces assigned to one use may not be assigned to another use at the same time. The required parking spaces for places of assembly may be assigned to parking spaces that are otherwise assigned to other uses if the parking spaces are normally used at different times.

#### **SECTION 19-308 - PARKING SPACES MAY NOT BE REDUCED**

Off-street parking spaces may not be reduced below the minimum required for the use or facility to which they are assigned. Off-street parking spaces for building uses which existed at the time of the adoption of this ordinance and which were inadequate to meet the minimum parking spaces required by this ordinance must not be reduced as long as those buildings and uses continue to be in existence.

#### **SECTION 19-309 - ADDITIONS TO BUILDINGS DEFICIENT IN PARKING SPACES**

Additions may not be made to existing buildings and uses that do not meet the minimum requirements for off-street parking spaces unless such additions do not represent an additional parking requirement.

#### **SECTION 19-310 - PARKING PLANS REQUIRED**

(A) Plans for public parking lots, garages and storage areas operated on a commercial basis and/or required for uses indicated in the schedule of off-street parking requirements must be submitted to the Zoning Administrator for review for compliance with the provisions of this ordinance and with other pertinent ordinances.

(B) Parking plans must show the number of spaces and arrangements of parking aisles, location of driveway entrances, provisions for vehicular and pedestrian circulation, locations of sidewalks and curbs on or adjacent to the property, utilities, barriers, locations of shelters, locations of signs, typical cross sections of pavement, storm drainage facilities, and such other information or plans as the circumstances may warrant.

#### **SECTION 19-311 - BARRIER REQUIRED**

Curbs, walls, fences or similar devices must be located along the perimeter of parking lots, garages and storage areas, except at entrances and exits indicated on approved parking plans. These barriers must be designed and located to prevent parked vehicles from extending beyond property lines of parking lots and garages and to protect public right-of-way and adjoining properties from damaging effects from surface drainage from parking lots.

#### **SECTION 19-312 - PARKING AND STORAGE AREAS**

(A) Parking lots, garages and storage areas must be designed and constructed so that all maneuvering to park and unpark can take place entirely within the property lines of the lot.

(B) The use of streets, sidewalks, alleys, or other public rights-of-way for parking or maneuvering to and from off-street parking spaces is prohibited, except where such maneuvering is necessary in the use of driveways for access to and from single-family and two-family dwellings.

(C) Access to parking areas will be limited to driveway entrances and exits specified in the approved parking area plans.

#### **SECTION 19-313 - PARKING LOT AND GARAGE MAINTENANCE**

Ground cover, shrubs and trees must be located and maintained so that they will not interfere with vehicular and pedestrian traffic on the property or with sight clearance at entrances and exits.

#### **SECTION 19-314 - LOCATIONAL PROHIBITIONS**

Parking in the setback is not permitted for any multi-family use or for any use in business districts except for single family or duplex dwellings. Above ground, multi-level parking structures are not permitted in the setback, side yard, or rear yard of any multi-family use or for any use in business districts.

#### **SECTION 19-315 - OFF-STREET LOADING REQUIREMENTS**

**Purpose.** In order to assure a proper and uniform development of off-street loading areas throughout Tega Cay and to relieve traffic congestion in the streets, the off-street loading requirements set forth in Sections 19-316 and 19-317 will apply in all districts. These requirements will apply to new buildings and uses and to additions to existing buildings and uses.

#### **SECTION 19-316 - SPACES APPROPRIATE TO FUNCTION**

Off-street loading spaces must be provided as appropriate to the function and scope of operation of individual or groups of buildings and uses.

#### **SECTION 19-317 - DESIGN OF LOADING SPACES**

Off-street loading spaces must be designed and constructed so that all maneuvering to park and unpark vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces must be designed so as not to interfere with the normal movement of vehicles and pedestrians on public rights-of-way.

**Sections 19-318 through 19-399 reserved.**

### **ARTICLE XIII. FENCING REQUIREMENTS**

#### **SECTION 19-400 - PERMIT REQUIREMENTS**

(A) Any person wishing to erect, alter, or relocate a fence or screen on any lot within the City of Tega Cay must first obtain a fence permit from the Zoning Administrator.

(B) Due to the topography, site, design, safety, or type of housing unit, some residential units may have special fencing requirements. Fencing not meeting the standards outlined in Section 19-401(A) through 19-401(G) must be approved by the Board of Zoning Appeals via a variance request (Section 19-92).

(C) The request for a fence permit must be submitted by the property owner or his agent.

(D) Each application for a fence permit must include a site plan which is drawn to scale and designates the exact location of the proposed fence including its height and width. The site plan shall be drawn according to an accurate survey on a plat of the lot.

### **SECTION 19-401 - FENCES IN RESIDENTIAL AND PARK DISTRICTS**

(A) No fences are permitted in the established front yard.

(B) Except for the provisions of Section 19-155 and 19-156 (Patio Houses) and under normal circumstances, fences or walls shall be limited to a maximum height of five feet (5') in the rear or side yards. The Board of Zoning Appeals may allow fences and walls up to a maximum height of six feet (6'). Height adjustments shall be made every six (6) linear feet for topography.

(C) To eliminate an attractive nuisance, swimming pool fence enclosures must conform to the requirements established in the applicable, adopted City Building Codes.

(D) Except for those fences in a Patio House District, perimeter fences shall be constructed only of treated wood or cedar, wrought iron, vinyl, aluminum, fiberglass or other composite. Clear coat wood preservatives may be applied. Such fences shall be horizontal split rail or vertical picket type with a minimum of three and one quarter inches (3 ¼") between rails or pickets to allow visibility. At the discretion of the lot owner, a wire mesh may be added from the top rail to the ground. The openings in the wire mesh must be 2" x 2" or greater, and it must be made of welded, galvanized or vinyl coated wire 12 gauge or lighter. The top rail shall not be higher than sixty inches (60") above grade. The posts must be spaced at least six feet (6') apart, except at corners or gates or where additional structural support may be needed.

(E) On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision between the height of two and one-half feet (2-1/2') and ten feet (10) measured from the center line of the street or road shall be placed or maintained within the triangular area formed by the intersection of the street or road edge or back of curbing and extending twenty-five (25') feet in distance along the edge of street or road or back of curbing from the corner down both streets. Property owners are required to be in continued compliance after any possible street or road widening.

(F) Chain link, barbed wire, electrified above grade fences and chain link animal enclosures are prohibited in residential and park districts except that chain link fences may be used as safety fences around property used for public and community recreational purposes in residential and park districts. Chain link fences, with or without barbed wire, are allowed in all districts for

security purposes of public utilities or where security enclosures are required by a regulatory agency.

(G) All fences shall be maintained in good repair and shall not obstruct sight and view of pedestrian and vehicular traffic from rights of ways or bicycle and walking trails and so as to not encroach onto neighboring and adjacent properties. Solid fencing consisting of wood or masonry shall be prohibited.

(H) All fences are to be set back a minimum of two feet (2') from the, property line on each side of common driveways.

#### **SECTION 19-402 - REQUIREMENTS IN COMMERCIAL DISTRICTS**

In addition to fencing required by other sections of this ordinance, landowners in commercial districts shall be required to provide screening in compliance with Sections 19-403 through 19-404 below, based on the following findings by the Zoning Administrator:

- (1) Screening between two lots lessens the transmission from one lot to another of noise, dust, and glare.
- (2) Screening can lessen the visual pollution that may otherwise occur within an urbanized area. Even minimal screening can provide an impression of separation of spaces, and more extensive screening can shield entirely one use from the visual assault of an adjacent use.
- (3) Screen can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the screening.
- (4) The provisions of this part are necessary to safeguard the public health, safety and welfare.

#### **SECTION 19-403 - GENERAL SCREENING STANDARD**

Every commercial development and utility installation shall provide sufficient screening so that:

- (1) Neighboring properties are shielded from any adverse external effects of that development;
- (2) The development is shielded from the negative impacts of adjacent uses such as streets, parking, and outside storage.
- (3) Suitable landscaping, screening or fencing shall be required wherever any non-residential parking lot, outdoor storage, merchandising or service area abuts or faces any residential zone. Outdoor storage of any material, stocks, or equipment accessory to a principal use on any lot within any district shall be screened from view from any public right-of-way and from any adjoining zoned district.

(4) In addition, developments in a commercial district must adhere to the Site and Landscape Plan requirements in Ordinance 50 (Subdivision and Land Development Ordinance), Section 1108.

#### **SECTION 19-404 - COMPLIANCE WITH SCREENING STANDARD**

(A) Wherever screening is required, either a durable masonry wall, wooden fence, or natural planted screen, or combination thereof, compatible with the zoned or actual character of the adjoining properties, shall be used to substantially screen uses within the subject property from view of adjacent properties, or public right-of-way. The height of screen walls shall be no less than five feet and no greater than six feet, measured from the ground along the common lot line of adjoining properties, unless otherwise specified within use regulations of the zoning district.

(B) If natural screen planting is to be used, a strip of land at least ten feet in width shall be reserved for this purpose. Planting screens shall consist of evergreen plants at least three feet high when planted and shall be arranged in a minimum of one planted row with distance between plants being no more than five feet. Trees and shrubs shall be of a nature that an average height of six feet could be expected as normal growth within two years from the time of planting. All plant materials shall be maintained in a healthy condition, replaced when necessary, kept free of refuse and debris, and pruned so as to provide maximum opacity from the ground to a height of six feet. Required screening abutting residential zones shall be natural screen planting. However, if intense shade or soil conditions prevent adequate plant growth for screening purposes a wooden or masonry fence may be substituted provided it is compatible with adjacent land use. Such a determination rests in the discretion of the Board of Zoning Appeals.

(C) In cases of unusual circumstances where screening is provided by existing natural or man-made features, and in which installation and maintenance of walls, fences or natural planting would serve no screening purpose, the Zoning Administrator is hereby empowered to waive requirements for screening, provided that the spirit and intent of this ordinance, and any provisions pertaining to screening, are adhered to. The provisions and screening requirements of this ordinance shall be applicable to every lot with respect to a zoning permit for any new structure or use hereafter approved.

**Sections 19-405 through 19-450 reserved.**

### **ARTICLE XIV. TREES AND BUFFERYARDS**

#### **SECTION 19-451 - INTENT OF POLICY ON SHADE TREES**

Because shade trees are not only desirable but essential to the health, safety, and welfare of all persons living or working within the city's planning jurisdiction, present and future, this section is intended to protect existing trees and, under certain circumstances, to require the planting of new trees in certain types of developments.

## **SECTION 19-452 - REQUIRED TREES ALONG DEDICATED STREETS**

Along both sides of all streets requiring an offer of dedication, a developer shall either plant or retain sufficient trees so that, between the paved portion of the street and a line running parallel to and 50 feet from the center line of the street, there is for every 30 feet of street frontage at least an average of one deciduous tree that has or will have, when fully mature, a trunk at least twelve inches in diameter.

## **SECTION 19-453 - RETENTION AND PROTECTION OF LARGE TREES**

(A) Every development shall retain all existing trees four inches in diameter or more unless the retention of such trees would unreasonably burden the development.

(B) Generally no excavation or other subsurface disturbance may be undertaken within the drip line of any tree four inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within 12.5 feet (measured from the center of the trunk) of any tree four inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

(C) The retention or protection of trees four inches in diameter or more as provided in subsections (A) and (B) unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.

(D) If space that would otherwise be devoted to parking cannot be so used because of the requirements of subsections (A) or (B), and, as a result, the parking requirements set forth in Section 19-300 cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of subsections (A) and (B), up to a maximum of 15 percent of the required spaces.

## **SECTION 19-454 - SHADE TREES IN PARKING AREAS**

(A) Vehicle accommodation areas that are required to be paved must be shaded by deciduous trees (either retained or planted by developer) that have or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the minimum standards of Section 19-403.

(B) Generally no paving or curb may be placed within 12.5 feet (measured from the center of the trunk) of any tree retained or planted to comply with subsection (A).

(C) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of 4 feet.

## **SECTION 19-455 – REQUIRED BUFFERYARDS**

(A) Bufferyards shall be required to separate different land uses from each other in order to eliminate or minimize potential nuisances such as dirt, noise, litter, glare of lights, signs, and unsightly building or parking areas, or to provide spacing to reduce adverse impacts.

(B) Required Bufferyards must contain a variety of plant types, species, maturity limits, and growth rates.

(C) A 40-foot bufferyard will be required along state maintained roads (example: Tega Cay Drive, Hwy 160, Gardendale Road, New Gray Rock Road, Dam Road). The bufferyard will consist of six (6) understory trees, six (6) canopy trees, and twenty-four (24) shrubs per 100 linear feet of road frontage. A 20-foot bufferyard will be required along the road right-of-way or rights-of-way for all intersecting streets. The bufferyard will consist of four (4) understory trees, four (4) canopy trees, and 12 shrubs per 100 linear feet of road frontage. One (1) deciduous tree that has, or will have, when fully mature, a trunk of at least twelve inches (12”) will be required for every 30 linear feet of street frontage.

#### **SECTION 19-456 – LOCATION OF BUFFERYARDS**

(A) Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line.

(B) Bufferyards shall not be located on any portion of an existing public or private street or right-of-way except as indicated in Section 19-455 (C).

(C) Where front, side and rear setbacks (required yards) are required by this section, bufferyards may be established within the setback area.

#### **SECTION 19-457 – DETERMINATION OF BUFFERYARD REQUIREMENTS**

(A) To determine the bufferyard required between two (2) adjacent parcels or between a parcel and a street, the following procedure shall be followed:

- (1) Identify the proposed land use;
- (2) Identify the actual or designated use of land adjacent to the proposed use;
- (3) Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to the following Table of Bufferyard Requirements which specify the bufferyard required between adjacent land uses. The letter designation contained in Schedule 3 of the Table refers to the type of bufferyard specified in this section.

### **BUFFERYARD ILLUSTRATIONS**

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10'

BUFFERYARD A

100'

SSSSUSUSUSUSSSS

The following types and numbers of plants and trees are required to be placed within the bufferyard in increments of 100 feet. An acceptable plant and tree species list may be obtained from the City.

- 4 Understory Trees (U)
- 12 Shrubs (S)

BUFFERYARD B

20'

CEUEUC  
SSS

100'

The following types and numbers of plants and trees are required to be placed within the bufferyard in increments of 100 feet. An acceptable plant and tree species list may be obtained from the City.

- 2 Canopy Trees (C)
- 2 Understory Trees (U)
- 3 Shrubs (S)
- 2 Evergreens/Conifers (E)

SCHEDULE 3 – BUFFERYARD REQUIREMENTS

EXISTING	Commercial	Single-Family Residential Detached	Single-Family Residential Attached	Multi-Family Residential	Office and Institutional	Parks, Recreational , Religious and Educational Facilities	Nursing Homes & Assisted Living Facilities	Vacant Land
<i>PROPOSED</i>								
Commercial	*	B	B	A	A	B	B	A
Single-Family Residential Detached	B	*	A	B	B	B	B	A
Single-Family Residential Attached	B	A	*	B	B	B	B	A
Multi-Family Residential	A	B	B	*	A	B	B	A
Office and Institutional	A	B	B	A	*	B	A	A
Parks, Recreational , Religious and Educational Facilities	B	B	B	B	B	*	B	A

Nursing Homes & Assisted Living Facilities	B	B	B	B	A	B	*	A
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\*No Bufferyard Required

**SECTION 19-458 – USE OF BUFFERYARDS**

(A) Required Bufferyards will not be disturbed for any reason except for required signs, driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance and replacement, or maintenance and construction of utility lines.

(B) If utility lines run longitudinally within a bufferyard, the width of the bufferyard shall not be increased by the same amount that is cleared for placement of the utility lines provided that the required plant material is replaced or planted after construction.

(C) Obtain a written agreement from the utility company having control of the easement/right-of-way indicating permission for required plantings to be placed within the easement/right-of-way and submit to the Administrator of this Ordinance or designated alternate. This agreement must specify the agency or person responsible for the maintenance and replacement of any removed, damaged, or diseased vegetation.

**SECTION 19-459 – BUFFERYARD SUBSTITUTIONS**

The following plant substitutions shall satisfy the requirements of this section:

(A) Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.

(B) Structures, where required, may be substituted in lieu of plant material and/or bufferyard depth as specified herein and approved by the Tega Cay Planning Commission.

**SECTION 19-460 – REQUIRED MAINTENANCE OF BUFFERYARD**

The maintenance of required bufferyards shall be the responsibility of the property owner, and all such yards shall be properly maintained so as to assure continued buffering. Dead trees shall be removed and replaced if the resulting bufferyard doesn't meet the minimum buffer requirements. Debris and litter shall be cleaned; and fences shall be maintained at all times.

**Sections 19-461 through 19-499 reserved.**

**ARTICLE XV.  
AMENDMENTS**

**SECTION 19-500 - AMENDMENTS TO TEXT AND MAP**

A zoning amendment may be proposed by the Planning Commission, City Council or any corporation, individual or agency. Any corporation, individual or agency wishing to propose a zoning amendment shall submit an application pursuant to 19-501.

#### **SECTION 19-501 - APPLICATIONS FOR REZONING AND TEXT AMENDMENTS**

(A) The application for a rezoning shall be made in duplicate on a form provided by the City of Tega Cay.

- (1) Each non-contiguous parcel of land for which a rezoning is requested shall be considered as a separate application, and a fee shall accompany each application. There shall be no fee for applications instituted by a governmental agency. For the purposes of this paragraph, land traversed and separated by a road, stream, right-of-way, or any similar natural or man-made configuration, shall be considered as contiguous.
- (2) The filing fee shall be placed in the General Fund of Tega Cay, and shall be returned to the applicant only if a written notice of withdrawal is received by the Zoning Administrator prior to the commencement of a study by the Planning Commission.
- (3) The application shall be accompanied by twenty (20) copies of a map, in digital format, drawn to scale, and indicate the following:
  - (a) If not in a subdivision of record, the subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other features easily identifiable on the ground.
  - (b) If the property is in a subdivision of record, a map of such portion of the subdivision drawn to scale, that would relate the subject property to the closest street intersection, and in addition, the name of the subdivision and the plat book and page number on which the plat is recorded.
  - (c) If in a subdivision, the lot and block number and dimensions of the subject property. If not in a subdivision, a map which shows the dimension and compass bearing of each property line which encloses the subject property.

(B) The application for a change in the text shall be made in duplicate, on a form provided by the City of Tega Cay and shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefor. The filing fee and the disposition of such fee shall be in the same amount as stated in subsection (A) (1), and administered in the same manner as in subsection (A) (2).

#### **SECTION 19-502 - NOTICE OF HEARING**

Prior to any public hearing, notification of said hearing shall be made in the following manner:

(A) A notice shall be published in a newspaper having general circulation in the area at least 15 days prior to the date established for the public hearing on the amendment. Notices must be mailed to groups which ask to be informed of such meetings.

(B) A notice shall be placed in two conspicuous places within the municipality, not less than 15 days nor more than 25 days before the date established for the hearing.

(C) A notice shall be posted on the subject property within the time limits indicated in (B) above if a rezoning is involved. Such notice shall state the existing zoning classification and the classification requested by the applicant.

#### **SECTION 19-503 - PUBLIC HEARING**

A public hearing shall be held by the Planning Commission and the City Council meeting in joint session to consider every application for rezoning or for a change in the text of this ordinance.

(A) After the meeting has been called to order by the Chairman of the Planning Commission, the Zoning Administrator shall read the rezoning petition.

(B) The applicant, or his representative, shall present his case, and may be questioned by any Planning Commission or City Council member. Persons in favor of the petition for rezoning shall also be heard.

(C) Persons not favoring the petition for rezoning shall be heard and when necessary questioned.

(D) The City Council or the Planning Commission may place reasonable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.

(E) The hearing board may reconvene the hearing to receive additional evidence and arguments. Notice of the date, time and place of the reconvening may be given at the original hearing, otherwise the notice requirements of Section 19-502 must be complied with. The hearing board may also permit the submission of additional documentary evidence or written argument after the close of the hearing period that all interested parties are provided with a copy, or in lieu thereof (at the hearing board's discretion) said evidence or arguments be made available for public inspection and copying, and any interested party is given a reasonable time (to be set by the hearing board) to submit documentary evidence or written argument in response thereto.

#### **SECTION 19-504 - RECOMMENDATION**

(A) After the public hearing has been declared closed, the Planning Commission shall consider the matter to determine:

- (1) The need for the proposed amendment.

- (2) If the proposed amendment pertains to a change in the district classification of property the effect of the change on the property and the surrounding properties.
- (3) The relationship of the proposed amendment with and effect upon the Comprehensive Plan and general planning programs of the City.

(B) Within 30 days from the hearing or the date it last received evidence or argument pertaining thereto, whichever occurs last, the Planning Commission shall submit its recommendation to Council. The recommendation shall be advisory only and shall not be binding on City Council. Failure to submit a recommendation within 30 days shall be deemed as approval by the Planning Commission of the application.

#### **SECTION 19-505 - CITY COUNCIL ACTION**

The City Council, at their next regular meeting after receiving the recommendation, shall consider the Planning Commission recommendation and make a prompt decision on the matter.

#### **SECTION 19-506 - RECONSIDERATION**

A denied application for a rezoning shall not be reconsidered by City Council for a period of two years from the date of denial of the application. However, a proposal for rezoning a tract or portion thereof which was previously denied may be reconsidered by City Council within two years upon recommendation of the Planning Commission if:

- (1) Sufficient evidence is presented to justify a finding that there has been a substantial change in character of the area; or
- (2) Evidence or factors are brought to the Commission's attention which were not previously considered by City Council or it, and thusly may have caused the City Council to reach an unfair or improper decision; or
- (3) The nature of the new proposal is substantially different from the original request.

**Sections 19-507 through 19-599 reserved.**

### **ARTICLE XVI. SWIMMING POOLS/SPAS/HOT TUBS REQUIREMENTS**

#### **SECTION 19-600 - SWIMMING POOLS**

The following regulations shall govern the design, construction, alteration, and placement of swimming pools in residential districts.

Swimming pools shall be constructed to conform to the requirements established in the applicable, adopted City Building Codes.

## **SECTION 19-601 - PERMIT REQUIRED**

No clearing of land or installation shall be commenced until a permit shall first have been obtained. All applications for permits must be filed with the Zoning Administrator and must follow the processing procedure established. The application is complete when all the required accompanying data is submitted and all fees paid.

## **SECTION 19-602 - PERMIT DOCUMENTATION**

The accompanying data shall consist of:

(A) Submit plat plan drawn to a scale of no less than 30 feet to 1 inch, showing all improvements, proposed pool location, property lines, easements, right-of-way records, and overhead utilities adjacent to pool or over the property.

(B) Existing structures, fencing, retaining walls, and other relevant characteristics adjacent to pool area.

(C) Proposed pool shape, dimensioned and located to show setbacks, side yards, and clearance from existing structures adjacent to pool area.

(D) Proposed mechanical equipment pad, dimensions and location as to setbacks and side yards.

(E) All deck equipment items, if included.

(F) Proposed deck work configuration, showing its anticipated drainage.

(G) Anticipated overall drainage of the pool site and provisions for accidental discharge of pool water.

(H) If lot gradient is in excess of 15 percent, the Zoning Administrator may require a topographic survey of the proposed site.

(I) Show safety fencing, height and location.

(J) Show screening, height and location.

## **SECTION 19-603 - MINIMUM STANDARDS**

Minimal standards for swimming pools are:

(A) Overhead conductor clearances must conform to the requirements established in the applicable, adopted City Building Codes.

(B) Berms or other provisions to protect down slope property owners from any sudden discharge of water from the pool shall be done.

(C) Safety fencing must conform to the requirements established in Section 19-401 and must have a minimum height of four (4) feet. The complete swimming pool fence enclosure shall be installed before the pool is filled with water.

(D) Pools must meet all setback requirements.

#### **SECTION 19-604 - SETBACK REQUIREMENTS**

Setback requirements in residential districts must comply with the requirements of that district as stated in 19-183, 19-184, and 19-196. However, in all districts only a five-foot setback is required from the rear lot line. The only exception is in the case of when the applicant is a lot fronting the street and another lot is directly behind this lot, the rear setback shall be ten feet.

For the purpose of determining setback requirements and other pertinent information, the pool shall be considered as including any related decking, retaining walls, walkways, pads or other structures housing equipment necessary for the operation of the pool.

**Sections 19-604 through 699 reserved.**

### **ARTICLE XVII. COMMUNICATIONS TOWERS**

#### **SECTION 19-700 - PREAMBLE**

The expansion of wireless communications technology has produced an increased need for antennae and the communications towers to support them. The purpose of the Federal Telecommunications Act of 1996 is "To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."

The City Council finds that rapid development of this technology is in the public interest. The Council desires to enact zoning regulations and other changes in public policy which will allow such services to be rendered in conformity with both the Federal Telecommunications Act of 1996, and the goals of the local comprehensive plan, i.e. to serve and protect the public health, safety, convenience, order, appearance, prosperity, and general welfare pursuant to the South Carolina Code of Laws (1976) as amended.

The Council further finds that deployment of new wireless technologies requires a careful balancing of the public and private costs and benefits. It understands that this ordinance must be flexible and responsive to changes in the industry, which may require future revisions. This Ordinance is intended to provide some "safe harbor" locations for communications towers, while encouraging sharing of towers and sites, and at the same time, it must provide for the reasonable expansion of such services to benefit the community.

#### **SECTION 19-701 - 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 construction and use of the towers.

## **SECTION 19-702 - STANDARDS FOR APPROVAL OF COMMUNICATIONS TOWERS**

(A) A communications tower shall be permitted by the Zoning Administrator upon determination that all of the applicable conditions in this section are met.

(B) Height limitations:

- 1) Height limitations for ground-mounted free-standing or guyed towers, or the overall height of a tower mounted on an existing structure:
  - (a) On property zoned either B-1 or B-2, whose principal use is a cellulose and construction debris landfill - 150 feet.
  - (b) In the areas on the waterfront containing the marinas, zoned B-1, and City-owned property contiguous thereto - 150 feet.
  - (c) Residential district - 60 feet. In a residential district, communications towers shall only be permitted on parcels with existing legal nonresidential uses, not to exceed 60 feet in height. Examples of such uses are schools, churches, utility sites, and any City-owned property.
  - (d) Planned development districts - as determined in the development plan.
  - (e) 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 (B) (1) above.

(C) If applicant proposes to establish a new tower within 1,200 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 Zoning Administrator shall afford the owner(s) of such existing tower(s) an opportunity for comment before making a decision.

(D) The location for a new tower to be established at a site on which the communications provider has no existing facilities shall not be placed in a residential district until the applicant has demonstrated that higher priority locations, listed below, are unsuitable for operation of the facility under FCC regulations or applicant's requirements (including valid timing, leasing or technical requirements) or are not available at fair market value.

- 1) Publicly owned property, e.g., property owned by the City or County, a school or special purpose district, State or Federal governments, which the owner has determined 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.

(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 technically or mechanically interfere with the existing users of said tower. This requirement may be amended or revised by the Planning Commission.

(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 grey, 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 Code Enforcement Officer. 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. No equipment using a communications tower subject to this Ordinance shall interfere with operation of aeronautical radios operated by or for the Rock Hill-York County Airport, Douglas International Airport, or any radio equipment operated at a fixed site by the City.

(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 setback requirements or 25% of the tower height, whichever is greater. A tower must be a minimum distance equal to one-half the height of the tower from property

designated historic or architecturally significant. 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.

(K) No tower may be established that will have an adverse effect on airspace associated with the Rock Hill - York County Airport, based on the Airport Height and Hazard Protection Code (Rock Hill City Code Chapter 4; York County Zoning Code Article VII), Douglas International Airport at Charlotte, North Carolina, and FAA rules.

(L) 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.

(M) Communications towers and associated buildings shall be secured from unauthorized access.

#### **SECTION 19-703 - APPLICATION REQUIRED**

Any person desiring to obtain a zoning permit for construction of a communications tower shall file an application and fee with the Zoning Administrator. 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) 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.

(C) A site plan drawn to scale 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 structural integrity. To ensure a tower's structural integrity, an operational certificate prepared by a professional engineer from the owner or operator of a new tower shall be submitted to the City within 45 days of the initial operation.

(D) An erosion and sedimentation plan as required by Ordinances 96 and 97, however, the Zoning Administrator may amend the tree cutting requirements if a landscaping plan is submitted and approved by the City Horticulturist. An approved plan shall provide for landscaping and screening materials to be installed including "a row of shade trees a minimum of 8 feet tall and a maximum of 10 feet apart planted, continuously maintained and replacement plantings done during the use of the tower, around the perimeter of the fence; and a continuous hedge at least 30 inches high at planting capable of growing to at least 36 inches in height within 18 months planted in front of the tree line referenced above. Plan must be aesthetically and

architecturally compatible with the environment. If antenna is to be attached to another structure it must be painted to match the structure.

(E) A map showing all of applicant's antenna sites that serve the City/County.

(F) A list of other users of the proposed tower.

(G) The general capacity of the tower and the information necessary to answer that ANSI standards are met.

(H) Copies of any easements.

(I) Written authorization from the owner of the site, if the applicant is not the owner and proof of authorization to utilize site.

(J) A visual study depicting "where within a three-mile radius any portion of the proposed tower could be seen.

(K) Show the need for the tower and show that all alternatives to the construction of a new tower have been exhausted.

(L) Provide affidavit stating that space on the proposed tower will be made available to future users.

(M) Competitors must cooperate and negotiate fairly with each other regarding co-location leases.

(N) 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.

(O) A checklist covering applicable conditions in Section 19-702 above, including documentation of 19-702 (D-1-3).

(P) All information required for any other applicable code and any additional information required by the Zoning Administrator for determination that all applicable zoning regulations are met, including compliance with the appropriate sections of Article IV.

#### **SECTION 19-704 - 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 or other structure by a communications provider not previously using such tower or structure.
- 2) Transfer of ownership of an existing antenna to a provider not already using the communications tower or structure.

- 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 19-702 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) What changes will be made to the tower or other structure to accommodate the additional antenna(s).

#### **SECTION 19-705 - PLAN REVIEW PROCESS**

The Zoning Administrator shall determine whether an application for a new communications tower requires recommendation by the Planning Commission. The Planning Commission may recommend a communications tower to be established or enlarged within the following parameters. Except as described in this section conditions imposed on towers by Section 19-702 shall not be reduced. The Zoning Administrator shall make the final decision on the permit.

(A) Communications towers taller than the heights permitted in Section 19-702 (B) may be allowed. If requesting additional height beyond that permitted in the district, applicant shall demonstrate that such additional height is necessary.

(B) Co-location requirements of Section 19-702(C) may be waived.

(C) The site selection requirements in Section 19-702(D) may be waived.

(D) The amount of excess capacity of a new communications tower required by Section 19-702(E) may be waived.

(E) Lighting of a communications tower for safety purposes may be allowed according to Section 19-702(H).

(F) The Planning Commission may consider the visual impact of a communications tower on those properties which are officially designated as scenic, historic, or architecturally significant in making its recommendations.

(G) After a complete application is received, the request must be reviewed and acted on within a reasonable period of time. A reasonable time is considered to be no longer than forty-five (45) days unless the matter is appealed to the Board of Zoning Appeals.

(H) Any application that is denied by the Zoning Administrator must be in writing stating clearly the reasons for the denial and the appeal process that is available.

### **SECTION 19-706 - APPEALS**

An applicant may appeal to the Board of Zoning Appeals as follows:

(A) If the Zoning Administrator denies the application.

(B) For a variance from any zoning district regulation or from the requirements in Section 19-702, except requirements subject to Plan Review under Section 19-705 prior to final recommendations by the Planning Commission.

(C) For a tower of whatever height and setback is necessary to accommodate the needs of a business which existed on the same site on the effective date of this Ordinance, provided that there is no feasible alternative to locating or expanding a communications tower on the site of the business.

(D) Following opportunity for public input and findings of fact based on the following criteria, the Board of Zoning Appeals may grant a variance. In making its decision, the Board of Zoning Appeals shall follow the requirements of Section 704 of the Telecommunications Act of 1996 which requires "substantial evidence contained in a written record."

- 1) Applicant has satisfied all requirements and conditions of Section 19-702 except requirements for which a variance is sought.
- 2) Setback requirements and such additional conditions are established by the Board of Zoning Appeals as it deems necessary to protect health, safety, and adjacent property.

### **SECTION 19-707 - APPLICABILITY**

(A) A tower shall not be allowed unless it is used to support operating antennae or is itself an antenna. If technology and business conditions change and any tower is not used for a period of more than 90 days, then upon notice in writing given to the owner or his agent by the Zoning Administrator, said tower shall be removed if use is not resumed within 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 owner shall provide to the City a copy of the notice to the FCC of intent to cease operations. If the operation is discontinued the site shall be returned to a level in keeping with the surrounding area. All costs associated with demolition, removal, and re-landscaping shall be borne by the provider. The Board of Zoning Appeals 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 Section 19-703(A),(B),(C),(I) and (N) of this ordinance. License fees required by Section 19-702(F) shall be prorated until the next regular renewal date of such licenses.

(C) The existing tower owner shall comply with Section 19-702(G), (H), (I), (K), (L) and (M). Towers which do not meet the other 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.

(D) Owners of existing towers which do not meet the requirements of this ordinance who do not register their towers according to Section 19-707(B) shall cause such towers to conform to this Ordinance within three (3) years of the effective date hereof.

(E) During the operational life of any tower, the antenna facility, landscaping, and any other structures shall be maintained in good repair. The permit holder shall annually certify to the City as to the structural condition, describing any anticipated maintenance needs, including frequency of service, equipment needs, and safety impact of such maintenance.

**Article XVIII, Sections 19-800 - 899 reserved.**

## **ARTICLE XIX. LAND DEVELOPMENT AGREEMENTS**

### **SECTION 19-900 - FINDINGS OF THE CITY COUNCIL**

The City Council of Tega Cay finds that the lack of certainty in the approval of development within Tega Cay can result in a waste of economic and land resources of the community of Tega Cay. Assurance to a developer considering the prospect of a developer project within Tega Cay that upon receipt of its development permits it may proceed in accordance with existing ordinances and policies of the City, subject to the conditions of a development agreement, strengthens the public planning process of the City, encourages sound capital improvement planning and financing by the City, assists in assuring that there are adequate capital facilities for the development in Tega Cay, encourages private participation in the planning process by the City, reduces the economic costs of development in Tega Cay, allows for the orderly planning of public facilities and services in Tega Cay, and allows for the equitable allocation of the costs of public services in Tega Cay.

Public benefits to be derived from development agreements may include, but are not limited to, affordable housing in Tega Cay, design standards, and on and off-site infrastructure and other improvements. The public benefits may be negotiated by the City in return for the vesting of development rights for a specific period. Development agreements between the City and developers will encourage the vesting of property rights of developers by protecting such rights from the effect of subsequently enacted ordinances by the City or from the effects of changing policies and procedures of the City and other applicable local government agencies which may conflict with any term or provision of the development agreement or in any way hinder, restrict, or prevent the development of the project. Development agreements between the City and developers will provide a reasonable certainty as to the requirements of the City that must be met in protecting vested property rights of the developer, while maintaining the authority and duty of the City to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of Tega Cay.

This Ordinance is intended to address all of the above-enumerated concerns and also, in accordance with S.C. Code § 6-31-30, to establish procedures and requirements for the City to consider and enter into development agreements with developers.

## **SECTION 19-901 - DEFINITIONS**

- (1) **Administrator(s).** That person or those persons charged by the City Council with overseeing the implementation and interpretation of land development regulations pertaining to the development of property within Tega Cay, including, but not limited to, the Zoning Administrator and any other person acting under contract with the City performing associated work including planning consultancy (referred to in this Ordinance as the “Contract Planner”).
- (2) **City.** The City of Tega Cay, a South Carolina municipality.
- (3) **Developer.** A person, including a governmental agency, corporation, or agent, who intends to undertake any development and who has a legal or equitable interest in the property to be developed.
- (4) **Development.** The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels. “Development” as designated in a law or development permit includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, “development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities are not development. Reference to particular operations is not intended to limit the generality of this term.
- (5) **Development Permit.** Includes a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance or any other official action of local government having the effect of permitting the development of property.
- (6) **Governing Body.** The City Council of Tega Cay.
- (7) **Highland.** Land above the contour elevation line as determined by the applicable governmental agency, including but not limited to HUD, to lie above the 100-year flood plain.
- (8) **Land Development Regulations.** Ordinances and regulations enacted by the governing body for the regulation of any aspect of development and includes a local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulation controlling the development of property.
- (9) **Laws.** All ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies and rules adopted by the governing body or its committees, boards or commissions, affecting the development of property and includes laws governing

permitted use of property, governing density, and governing design, improvement and construction standards and specifications.

- (10) **Property.** All real property subject to land use regulation by the governing body and includes any improvements or structures customarily regarded as part of real property.
- (11) **Person.** An individual, corporation, business or land trust, estate, partnership, association, two or more persons having a joint or common interest, state agency or any legal entity.
- (12) **Planning Commission.** The Planning Commission of the City of Tega Cay, South Carolina.
- (13) **Public Facilities.** Major capital improvements including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, any government type facilities including parks and recreational, and common or green areas.
- (14) **Tega Cay.** That area lying within the bounds of the incorporated city limits of the City of Tega Cay, South Carolina.
- (15) **Zoning Administrator.** The person(s) referenced in the other ordinances of the City charged with the responsibilities and duties of administering and overseeing the implementation and interpretation of land development regulations pertaining to the development of property within Tega Cay.

**Sections 19-902 through 19-919 reserved.**

#### **SECTION 19-920 - SIZE OF TRACTS ELIGIBLE FOR LAND DEVELOPMENT AGREEMENTS; TERM OF AGREEMENTS.**

In accordance with S.C. Code § 6-31-40, the City may enter into a development agreement with a developer in certain circumstances where the size of the subject tract of land contains twenty-five acres or more of highland. Development agreements between the City and a developer involving property containing no more than two hundred fifty acres of highland shall be for a term not to exceed five years. Development agreements between the City and a developer involving property containing one hundred thousand acres or less of highland but more than five hundred fifty acres of Highland shall be for a term not to exceed ten years. Development agreements between the City and a developer involving property containing two thousand acres or less of highland but more than one thousand acres of highland shall be for a term not to exceed twenty years.

**Sections 19-921 through 19-929 reserved.**

#### **SECTION 19-930 - PRE-APPLICATION CONFERENCE; APPLICATION FOR DEVELOPMENT AGREEMENT**

Any person seeking a land development agreement with the City shall have a pre-application conference with the Zoning Administrator, or such other person(s) as the City Council may designate. The purpose of the pre-application conference is to give the City preliminary

notification of the objectives of the development and the benefits that will inure to the public derived from such a development agreement. The pre-application conference will be scheduled by the Zoning Administrator with the representatives of the developer within thirty (30) days after receipt of a written request from the developer or its representative for the pre-application conference; provided, however, nothing contained herein will prohibit the postponement of the scheduled pre-application conference beyond the aforesaid thirty-day period for the mutual convenience of the parties.

Simultaneously with the pre-application conference, or within a reasonable time thereafter, a proposed land development agreement shall be submitted by the applicant to the Administrator(s). The Administrator(s) shall review the same and consult with such other City officials or personnel he deems appropriate. Prior to the proposed development agreement being presented to the Planning Commission, as herein provided, said agreement must be approved as to form by the City Attorney. With the application, a fee as the City Council may from time to time establish must also be remitted. The Zoning Administrator shall review land development agreement applications, and if necessary for a more coherent understanding of the proposed development, may request from the developer additional information or documentation.

**Sections 19-931 through 19-939 reserved.**

**SECTION 19-940 - PROVISIONS OF A PROPOSED AGREEMENT (SC CODE 6-31-60)**

- (A) A development agreement must include:
- (1) A legal description of the property, subject to the agreement and the names of its legal and equitable property owners;
  - (2) The duration of the agreement; provided, however, the parties are not precluded from extending the termination date by mutual agreement or from entering into subsequent development agreements;
  - (3) The development uses permitted on the property, including population densities and building intensities and height;
  - (4) a description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development.
  - (5) a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the development agreement.
  - (6) a description of all local development permits, including those issued or to be issued by any governmental agency or body other than the City, approved or needed to be approved, for the development of the property together with a statement indicating that the failure of the development agreement to address a

particular permit condition, term, or restriction does not relieve the developer of the necessity of complying with the laws governing the permitting requirements, conditions, terms, or restrictions;

- (7) A finding that the development permitted or proposed is consistent with the City's, or if the property is without the City at the time of the application, by such other applicable local government's comprehensive plan and land development regulations;
- (8) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the City, or such other applicable local government, for the public health, safety, or welfare of its citizens; and
- (9) A description where appropriate, of any provisions for the preservation and restoration of historic structures.

(B) A development agreement may provide that the entire development or any phase of it be commenced or completed within a specified period of time. The development agreement must provide a development schedule including commencement dates and interim completion dates at no greater than five year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to S.C. Code § Section 6-31-90, but must be judged based upon the totality of the circumstances. The development agreement may include other defined performance standards to be met by the developer. If the developer requests a modification in the dates as set forth in the agreement and is able to demonstrate and establish that there is good cause to modify those dates, those dates must be modified by the local government. A major modification of the agreement may occur only after public notice and a public hearing by the City Council.

(C) If more than one local government is made part to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement.

(D) The development agreement also may cover any other matter not inconsistent with this chapter not prohibited by law.

**Sections 19-941 through 19-949 reserved.**

#### **SECTION 19-950 - PLANNING COMMISSION**

After the review as set forth in subsection 19-930, the proposed agreement shall be forwarded to the Planning Commission. Should any issues pertaining to the agreement be unresolved, such shall be identified by the administrator in his report to the Planning Commission. Nothing herein shall be construed to preclude the Planning Commission from deferring action on a proposed land development agreement for the purpose of receiving clarifying information. The Planning Commission shall then make a recommendation to City Council as to the propriety of the proposed development agreement. Such recommendation may include suggested amendments or modification to the development agreement as submitted to the Planning Commission.

**Sections 19-951 through 19-954 reserved.**

**SECTION 19-955 - PUBLIC HEARINGS PURSUANT TO S.C. CODE § 6-31-50**

Prior to authorizing the execution of a land development agreement, City Council and the Planning Commission shall jointly conduct at least two public hearings giving at least thirty days' notice in a publication of general circulation in Tega Cay that a land development agreement is to be considered. The day, time, and place at which the second public hearing will be held must be announced at the first public hearing. The public notice must specify the location of the property subject to the proposed land development agreement, use(s) proposed for the property and the location where a copy of the proposed land development agreement can be obtained.

In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer. No land development agreement shall be executed until it has been accepted and approved by the governing body and an ordinance authorizing the same has been ratified.

**Sections 19-956 through 19-959 reserved.**

**SECTION 19-960 - EFFECTIVE DATE**

No land development agreement shall be effective until such time as an ordinance authorizing its execution has been ratified by City Council and the same has been executed on behalf of the City by the City Manager.

**Sections 19-961 through 19-964 reserved.**

**SECTION 19-965 - RECORDING**

It shall be the responsibility of the applicant, within fourteen days of the land development agreement having been executed, to record the agreement with the Clerk of Court of York County in the land records of such office.

**Sections 19-966 through 19-969 reserved.**

**SECTION 19-970 - EFFECT OF LAND DEVELOPMENT AGREEMENT**

A land development agreement must specify that laws in force at the time of the execution of the agreement shall apply for the term of the agreement. Subsequently enacted laws shall be applicable to property subject to a land development agreement, unless the agreement specifies otherwise, or unless, after a public hearing, City Council determines that the application of such laws would materially alter or disrupt the development of the property as

contemplated by the agreement, or as otherwise provided by the South Carolina Local Government Development Agreement Act, S.C. Code §§ 6-31-80 (B) (1), (2), (3), (4) and (5).

**Sections 19-971 through 19-974 reserved.**

#### **SECTION 19-975 - PERIODIC REVIEW**

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

If as a result of any periodic review, it appears that a person subject thereto has committed a material breach of the terms or conditions of the agreement, such circumstance shall be reported to City Council. Upon receipt of such report, City Council, or such committee to which the matter may be referred by City Council, if it concurs with the Administrator's report, shall serve written notice to the applicable party, setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination of the breach, and providing the applicable party a reasonable time in which to cure the breach.

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

**Sections 19-976 through 19-979 reserved.**

#### **SECTION 19-980 - AMENDMENTS/BURDEN/BENEFITS**

Any land development agreement may be amended by mutual consent of the parties to the agreement or by their successors in interest. All burdens of the land development agreement are binding upon, and the benefits of the land development agreement shall inure to, all successors in interest to the parties to the land development agreement.

**Sections 19-981 through 19-984 reserved.**

#### **SECTION 19-985 - TECHNICAL CODES**

Notwithstanding anything herein to the contrary, any and all building, housing, electrical, plumbing and gas codes, land disturbance and any other regulations, now in effect, unless modified during the planning process, shall apply to any properties subject to a land development agreement.

**Sections 19-986 through 19-989 reserved.**

## **SECTION 19-990 - ENABLING LEGISLATION**

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

**Sections 19-991 through 19-994 reserved.**

## **SECTION 19-995 -VALIDITY AND DURATION OF AGREEMENT ENTERED INTO PRIOR TO ANNEXATION OF AFFECTED AREA; SUBSEQUENT MODIFICATION OR SUSPENSION BY MUNICIPALITY**

In accordance with S.C. Code § 6-31-110, if a newly annexed area comprises territory that was formerly unincorporated, any development agreement entered into by a local government before the effective date of the annexation remains valid for the duration of the agreement, or eight years from the effective date of the annexation, whichever is earlier. The parties to the development agreement and the City may agree that the development agreement remains valid for more than eight years, provided that the longer period may not exceed fifteen years from the effective date of the annexation.

The parties to the development agreement and the City have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the unincorporated territory of the county. After annexation the City may modify or suspend the provisions of the development agreement if the City determines the failure of the City to do so would place the residents of Tega Cay, or both, in a condition dangerous to their health or safety, or both. This section applies to any development agreement which meets all of the following:

- (1) the application for the development agreement is submitted to the local government operating within the unincorporated territory before the date that the first signature was affixed to the petition for annexation or the adoption of an annexation resolution pursuant to Chapter 1 or 3 of Title 5, South Carolina Code of Laws; and
- (2) The local government operating within the unincorporated territory enters into the development agreement with the developer before the date of annexation, or in the case of an annexation without an election, before the date that the municipality orders the annexation.

## **ARTICLE XX.**

## MARINA OVERLAY DISTRICT

References to all other City ordinances are as such ordinances are amended, from time to time.

### SECTION 19-996 – PURPOSE

The purpose of this district is to provide a balance and variety of compatible uses to increase development potential, allow for flexibility of design in order to promote a higher quality of mixed-use development, protect the natural and scenic beauty of the lake, enhance the general benefit and enjoyment of the public, and provide for boating and marine uses without negatively impacting existing or future land uses. Geographical boundaries of this district are designated on the approved map labeled as Appendix I.

### SECTION 19-997 - DEFINITIONS OF SPECIFIC TERMS AND WORDS

These terms are in addition to the Definitions found in Section 19-16.

1. **Architecture.** The art and science of constructing a building.
2. **Art Gallery.** An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art.
3. **Articulation.** The state of being joined or interrelated; the way in which parts are joined together.
4. **Bakery.** An establishment primarily engaged in the retail sale of baked goods for consumption on or off site. The baked products may be prepared either on or off site.
5. **Base Zoning District.** A standard zoning district classification which is combined with an overlay district for the purposes of development regulation specificity. The base (underlying) district regulations shall apply unless expressly superseded by overlay district provisions.
6. **Bay Window.** A projection from the main wall of a building with windows on all sides and its own foundation and roof.
7. **Bookstores.** An establishment engaged in the sale of books, periodicals or magazines
8. **Building Façade.** The exterior wall of a building parallel to the frontage line or the street that fronts the parcel on which the building is located. Facades may be on the front, side, or rear elevation of the building.
9. **Business Services.** Establishments that engage primarily in rendering services to small businesses and consumers, including printers, equipment rental, mailing, photo finishing, and similar uses.
10. **Civic Facility.** A building or lot designated for occupancy or use by the public that is of recreational, cultural, historic, or educational interest.

11. **Cornice.** A horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.
12. **dbA.** The sound pressure level, in decibels, as measured using the impulse mode and 'A' weighting network on a precision sound level meter.
13. **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures; any change in use in land or increase in the number of dwelling units.
14. **Drug Store.** An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.
15. **Dry Boat Storage.** The land-based storage of boats and related watercraft and the operation thereof. Under this Marina Overlay District Ordinance this use is considered a commercial operation.
16. **Fenestration.** The arrangement of windows in a building façade.
17. **Financial Services.** An establishment that provides retail banking services, mortgage lending, accounting or similar services. These establishments may engage in the onsite circulation of cash money, but shall not include establishments licensed as check-cashing facilities or bail bond brokers.
18. **Floating Zone.** A zone which is described in the zoning ordinance text but is unmapped within the overlay district. A property owner may petition for the zone to be applied to a particular residential parcel meeting the minimum district area requirements for the requested zoning designation.
19. **Florist.** An establishment engaged in the retail sale of flowers or ornamental plants.
20. **Fluted Masonry.** Stone having a regular series of concave grooves.
21. **Fresh Farm Market.** An establishment engaged in the retail sale of fresh fruits and vegetables
22. **Green Building.** A structure that is designed to utilize LEED (Leadership in Energy & Environmental Design) certification standards to improve sustainability and performance throughout the life cycle of the building.
23. **Hotel.** An establishment providing guest rooms for lodging intended primarily for temporary occupancy by persons on an overnight basis, not including bed and breakfast establishments or rooming house.
24. **Landscaping.** The process or product of site development including grading, installation of plant materials, and seeding of turf or ground cover. Landscaping includes any live plant material such as trees, shrubs, ground cover, and grass used in spaces void of any impervious material or building structure and areas left in their natural state.
25. **LEED (Leadership in Energy & Environmental Design).** An internationally recognized green building certification system, providing third-party verification that a building or

development is designed and built using strategies intended to improve performance in metrics such as energy savings, water efficiency, CO<sub>2</sub> emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts.

26. **Mixed-Use Development.** A tract of land or structure developed for two or more uses, including residential and non-residential. Such uses may be vertically integrated within a multi-story building or horizontally integrated within a single story building or on a lot or development site.
27. **Monolithic.** Consisting of a large block of massive, solid, and uniform stone.
28. **Overlay Zoning District.** A zoning district which overlaps one or more general and/or conditional use districts. Overlay districts place a set of requirements or relaxes a set of requirements imposed on property by the underlying general and/or conditional use districts.
29. **Primary Entrance.** The place of ingress and egress to a building, parcel, or development used most frequently by the public.
30. **Professional Office.** An establishment used for the conducting of the affairs of a profession or industry, including lawyers, engineers and architects.
31. **Recessed Entrance.** A point of access into or out of a structure located behind the primary front façade plane.
32. **Traffic Impact Analysis.** A report analyzing anticipated traffic and roadway conditions within and near an applicant's development.
33. **Watercraft.** Water vehicles used for transport such as boats and jet skis.
34. **Water-Dependent Structure.** Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose such as docks, boat slips, boat ramps, or piers.
35. **Yacht Club.** A facility that promotes and supports boating activities and provides social, educational, and recreational enrichment of its members and where members must meet certain prescribed qualifications for membership and pay dues.

#### **SECTION 19-998 - DISTRICT SIZE REQUIREMENTS**

- (A) Mixed-Use Developments are required to be a minimum of five acres except where the area is deemed to warrant special consideration to achieve the goals or intent of the Comprehensive Plan; a development of less than five acres must be approved by the Planning Commission; mixed-use developments must be located on a single parcel of land or separate but contiguous parcels, which are under one ownership, or to be developed jointly by two or more property owners.
- (B) Neighborhood Commercial is limited to a maximum of 10,000 square feet in area per use in an individual building; new commercial development or redevelopment must be contiguous to existing property zoned for commercial use in order to avoid isolated uses.

(C) Single-Family Residential Density will be determined by the underlying Residential Zoning District. Multi-Family Residential Density is limited to a maximum of 20 Dwelling Units (DU)/Acre however;

- (1) Multi-Family Density may be increased by (30) thirty percent if the development utilizes accepted minimum Green Building/LEED (Leadership in Energy & Environmental Design) Standards or provides improved infrastructure to mitigate impact or provides additional open space or provides civic facilities for public use, or an accepted combination of the above.

#### **SECTION 19-999 - PERMITTED USES**

(A) Residential Uses as permitted in the underlying Base Residential Zoning Districts of R-3, R-6, and R-15 are allowed as flexible floating zones anywhere in the geographical area covered by the Overlay.

(B) Upper-story Residential dwelling units are permitted above Non-Residential Uses.

(C) Neighborhood Commercial Uses are limited to;

- (1) Art Galleries
- (2) Bookstores (but not adult bookstores or stores selling X-rated media)
- (3) Fresh Farm Market (no sale of fish)
- (4) Bakeries
- (5) Business Services (printing, copying, parcel services)
- (6) Drug Stores (Walk-in Only)
- (7) Financial Services (Banks, Accountants, Mortgage Brokers)
- (8) Retail Clothing and Accessories
- (9) Bed and Breakfast (requires a Conditional Use Permit as outlined in Ordinance 77, Article XI, Section 19-204.9)
- (10) Florists
- (11) Professional Office such as legal services, architectural and engineering services

(D) Government Offices

- (1) administration
- (2) police substation
- (3) fire and emergency management services
- (4) libraries

(E) Public Spaces

- (1) parks and open space
- (2) public square
- (3) playground

(F) Marina Activities

- (1) minor repair, servicing, and routine maintenance of marine watercraft; major repairs such as construction or rebuilding of watercraft, engine overhaul (unless contained inside a structure), installation of new bottoms or substantial structural additions or alterations are prohibited
- (2) launching ramps and small hoists
- (3) Marinas with 25 or more boat slips may have accessory uses such as;
  - i. sale and rental of watercraft and accessories
  - ii. bait and tackle retail sales
  - iii. snack bars and retail groceries (convenience scale)

## **SECTION 19-1000 - USES SUBJECT TO SPECIAL CONDITIONS**

### **(A) Restaurants**

- (1) on-site parking shall be adequate to reasonably accommodate all traffic to be generated by the development;
- (2) must be situated on uplands;
- (3) outdoor seating is permitted based on availability to accommodate without impediment of pedestrian or vehicular traffic

### **(B) Yacht Clubs**

- (1) Indoor seating capacity is limited to no more than 300 occupants;
- (2) on-site parking shall be adequate to reasonably accommodate all traffic to be generated by the development;
- (3) must be situated on uplands

### **(C) Hotels**

- (1) must have access to a major thoroughfare or through a commercial project which shall be designed to avoid a negative impact on general traffic;
- (2) must be situated on uplands and;
- (3) are limited to no more than 65 transient rooms

### **(D) Dry Boat Storage**

- (1) In the event of adverse weather and/or the need to quickly remove boats from the water, the storage business must have a staging area large enough to accommodate a minimum of 10 watercraft;
- (2) so as not to adversely affect adjacent uses;
- (3) where such use is located adjacent to a residential use, no driveway shall be located closer than 30 feet from the adjacent lot line;
- (4) no watercraft shall be stacked upon the other except under a permanent roof;
- (5) parking facilities shall be provided on the basis of a minimum of one (1) space for each (3) watercraft storage slots

(6) loading and off-loading boats into the lake must utilize private or on-site launch ramps

(E) Water-Dependent Structures such as docks, boat slips, or piers must be submitted to Duke Energy for their authorization under the Duke Energy Shoreline Management Guidelines Private Facilities Program in addition to a permit application with Tega Cay Development Services Department.

(F) Live-Aboard or Overnight Transient Marine Uses

(1) must utilize appropriate sanitary or pump-out facilities

## **SECTION 19-1001 - ARCHITECTURAL STANDARDS**

(A) Mixed-Use Buildings and Commercial Development must demonstrate that it and Commercial Development must demonstrate that it promotes and enhances attractive, stimulating, and visually compatible design by the following;

- (1) Any building façade oriented to the public view shall provide ground floor transparent windows to allow visual access into and out of the building;
- (2) Primary entrances shall open on to a street or interior courtyard.
- (3) Building frontages along streets shall break any flat, monolithic façade by including architectural features such as, but not limited to, bay windows, recessed entrances, fluted masonry, fenestration, cornices, or other articulation so as to provide visual interest and a pedestrian scale to the first floor.
- (4) Multi-story buildings shall extend the same architectural features above the ground floor level through variations in design, detail, and proportion, and by avoiding designs featuring a monolithic street façade.

(B) New Multi-Family Residential Dwellings shall be constructed with exterior building materials and finishes of high quality to convey an impression of permanence and durability. Materials such as, but not limited to, masonry, stucco, stone, terra cotta, tile, cedar shakes and shingles, beveled or ship-lap or other narrow-course horizontal boards or siding, vertical board and batten siding/articulated architectural concrete masonry units are permitted. Materials implying non-permanence such as T-111 siding, plain or plain painted plywood, strandboard sheets, concrete or cinder block, vinyl siding, and smooth surface concrete panels are prohibited unless a variance is approved by the Planning Commission based on the production of superior quality.

## **SECTION 19-1002- GENERAL DEVELOPMENT STANDARDS**

(A) Site Plan Submission and Approval is required for all Uses and Development and Subdivision Proposals and must meet all platting requirements outlined in Ordinance 50, 1103.3-1105.2. Plans must include;

- (1) The location of existing property lines, watercourse, bodies of water, wooded areas and existing roads within or adjoining the property;
- (2) The approximate boundaries of each section, land use or density, the approximate location of proposed streets and rights-of-way, walks, parking areas, recreation areas, common open space, civic or public spaces, tree covers and planting, and buildings or other structures;
- (3) A Landscape Plan showing all existing plant material to remain and all proposed new plant material, indicating the size and type of each;
- (4) A table setting forth the dimensions of all building sites, streets, utility easements, and parking and loading spaces to be dedicated to the public. All other areas shall be shown and designated as common areas.
- (5) Building elevations showing all required architectural standards as applicable.

(B) Pedestrian connectivity is required; sidewalks are required along streets and at a minimum must be provided at the front of all buildings to connect with the public sidewalk.

(C) All Uses and Subdivision and Development Proposals must meet Dimensional Standards for Density/Intensity as outlined in Ordinance 77, Article X, Section 19-180 thru 186; however, the setback requirements may be altered up to 15 percent for all mixed-use developments where such reduction does not negatively impact adjoining properties or general street circulation as determined by the Planning Director and the City Engineer.

(D) A Land Use Buffer Strip of a minimum of 10 feet is required if a pre-existing principal dwelling in a residential district is located adjacent to or across a street from a new commercial use. The Land Use Buffer Strip will remain in its natural state to the extent that the natural vegetation provides equal or better screening to a planted landscape. All trees with a diameter breast height (DBH) of four inches or greater shall be preserved. Minimum Planted Land Use Buffer Landscaping required per 100 linear feet is two (2) Canopy Trees, three (3) Understory Trees (at least 50 percent evergreen) and twenty (20) shrubs.

(E) Any parking associated with use of the launching ramp and other marine activities must be accommodated on-site and all parking surfaces shall be graded and covered with a permanent dust proof surface.

(F) A Traffic Impact Analysis shall be required for all Uses under the following described conditions;

- (1) The proposed development will generate more than 125 cumulative trips per acre per day at full occupancy, according to most current versions of the ITE Trip Generation Informational Report or comparable research data published by a public agency or institution, and which will generate, based on the size of the development, 750 or more average daily trips;
- (2) The proposed development will concentrate 1,500 or more trips per day through a single access point;
- (3) The proposed development will include 30 or more dwelling units taking sole access from an existing or planned local residential or neighborhood street;

(4) Any residential project accessing an arterial street.

## **SECTION 19-1003- MINIMUM PERFORMANCE STANDARDS**

- (A) All Uses and Development and Subdivision Proposals must meet Off-Street Parking and Loading Requirements as outlined in Ordinance 77, Article XII, however;
- (1) Development of internal parking structures is encouraged where topography can be utilized and can result in a more flexible application of parking standards as determined by the Planning Director and City Engineer.
- (B) Building Height Limitations shall be in accordance with adopted City Building Codes, however;
- (1) Multiple story buildings of 70 feet or less are permitted where topography can be utilized to lessen the impact on fire truck ladder limitations; the number of stories must conform to the requirements established in the applicable City Building Codes, including fire suppression and ingress and egress requirements and must meet the approval of the Planning Director and City Building Official.
- (C) Landscaping and Screening must comply with requirements outlined in Ordinance 77, Article XIII, Section 19-402 thru 404 and Article XIV, Section 19-451 thru 454.
- (D) Development of an existing undeveloped site or subsequent subdivisions thereof that any portion of its boundaries is adjacent to Lake Wylie shall have a fifty (50) foot lakeside buffer measured from the high water impoundment area.
- (1) A limited number of trees within the buffer may be removed to provide an access corridor for the purposes of shoreline stabilization and water dependent structures, removing large debris, or installing paths, boardwalks or stairs to access water dependent structures. This corridor shall not exceed 15' in width. Paths and boardwalks shall not exceed 4' in width. Vehicular equipment may be operated in this access corridor, and the natural terrain may be disturbed only to the extent required to safely operate such equipment. The resulting terrain should be immediately stabilized and revegetated with shrubs, low growing trees and other natural ground cover plantings.
  - (2) Underbrush (defined as nuisance shrubs, vines, and similar plant growth beneath the tree canopy, and generally growing less than 6' feet in height) may be removed within the buffer, provided that such work is performed manually and without the use of vehicular or mechanical equipment.
  - (3) Pruning and trimming of trees within the buffer is permitted, provided that pruning shall be limited to tree branches beginning at the ground and extending up the tree trunk no more than one half of the total height of the tree. Trimming or pruning may also be performed on any limbs or branches that are diseased or naturally damaged. All pruning shall conform to ANSI A300 standards.

- (4) The use of powered mowers for the maintenance of vegetative ground covers in permissible.
- (E) Exterior Lighting should be installed so as to minimize impacts on adjacent properties.
- (F) All Uses and Development and Subdivision Proposals shall comply with all Water Quality protection requirements as established by SCDHEC and City of Tega Cay Ordinances.
- (G) Facilities for the collection and removal of solid wastes shall be provided.
- (H) All new Marinas shall provide adequate capacity to handle sewage in accordance with state standards, either by means of on-site pump-out and treatment facilities or connection to a treatment plant. Marinas shall have available the above sewage facilities with the capacity to handle the anticipated volume of wastes. All marinas with fueling facilities shall provide pump-out facilities at each fuel dock.
- (I) All Marinas shall have the capability to respond to contain any Spills of Petroleum or other Hazardous Materials within their boundaries.
- (J) Where a proposed project (including Mixed-Use) includes noise sources that are likely to produce noise levels exceeding 60 db(A), an acoustical analysis shall be required so that noise mitigation may be included in the project design. Nighttime (10 pm- 7 am) exterior noise levels in Mixed Use Projects shall not exceed 50 db(A).
  - (1) Noise levels to be evaluated and measured at the property line of the residential district adjacent to business districts.
  - (2) For the purpose of determining db(A)'s as referred to in this article, the noise shall be measured on the A-weighting scale on a sound meter of standard design and quality having characteristics established by the American National Standards Institute.
  - (3) A post project assessment shall verify effectiveness of proposed mitigation measures.

**SECTION 19-1004- REVIEW AND APPROVAL PROCESS**

For Mixed-Use Development Plans, use the requirements in Section II. For all other Subdivision Plans, use the requirements in Section I.

**I. Subdivision Plat Review and Approval**

- (1) All plats shall conform to the platting requirements in Ordinance 50, Subdivision Land Development Code, except;
  - (1) The Planning Commission shall have the responsibility to approve or disapprove all Final subdivision plats within (60) sixty days of submission of the accepted plat and supporting data. Failure to act within the designated period shall be considered to constitute approval. If the plat is approved, the Planning Commission shall indicate in writing the conditions of the approval,

if any. If the plat is not approved, the Planning Commission shall state this in writing with explanations for the disapproval. The Planning Commission may also defer action for 30 days and shall indicate in writing the conditions to be met by the applicant. Upon mutual consent, the deferment may be extended for an additional 30 days. Failure by the applicant to conform to the written conditions of the deferment within the specified time shall constitute a disapproval of the plat and will result in a written notice of denial to the applicant. Any appeals from the decision of the Planning Commission must be taken to circuit court within (30) thirty days after the actual notice of the decision.

## II. **Site Plan Review and Approval Process for Mixed-Use Development Plans**

(A) The Review and Approval Process for a Mixed-Use Development Plan consists of four steps:

- (1) **Pre-Application Conference:** Before submitting a development site plan, a pre-application conference between the applicant and the Zoning Administrator, Planning Director and City Engineer is required to obtain information and guidance before entering into binding commitments, or incurring substantial expense, in the preparation of plans, surveys, traffic impact assessments, and other data for the project.
- (2) **Sketch Plan:** The applicant shall submit twenty (20) copies of the sketch plan for review by the Planning Commission. The sketch plan is a conceptual or simplified drawing of the development which designates the general information outlined in the General Development Standards 1(a) thru 1(e). The Planning Commission shall review and provide comments to the applicant within sixty days from when the sketch plan was submitted.
- (3) **Master Site Plan:** Twenty (20) copies, as well as a digital copy, of the final Master Plan shall be submitted for review by the Planning Commission. The Master Plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect and/or planner. A scale shall be used so that the entire parcel can be shown on one piece of paper no larger than 30 by 40 inches. No Master Plan will be accepted for final review until all the data listed below is identifiable on the Master Plan.
  - a) An insert map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions, or major landmarks.
  - b) A north arrow.
  - c) The location of existing property lines, water courses or lakes, wooded areas and existing roads which are within or adjoin the property.
  - d) The approximate boundaries of each section, land use and density; the approximate location of proposed streets and rights-of-way with an indication of whether public or private; the approximate location of proposed common open space area; and all areas proposed for dedication for public or civic use within the project.

- e) As marginal data, any Master Plan for Mixed-Use projects shall contain a table which shows, for each section, or areas of different uses, the following:
  - 1. use;
  - 2. approximate phasing;
  - 3. the maximum density and approximate number of dwelling units for residential areas, square feet of floor space for commercial areas;
  - 4. approximate acreage of each area;
  - 5. type, size and location of signs;
  - 6. location, type and size of screening and buffering; and
  - 7. approximate number of off-street parking and loading spaces.
- f) Schematic plans which shall indicate the phasing of the development.
- g) A statement satisfactory to the City of Tega Cay on the guarantees and assurances to be provided for the maintenance of common open space, civic or public spaces, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.
- h) A statement of planning objectives for the site.
- i) A reduced copy of the Master Plan on a piece of paper no larger than 11 by 17 inches.

(4) **Planning Commission Action:** The Planning Commission shall have the responsibility to approve or disapprove all development plans within (60) sixty days of submission of the accepted plan and supporting data. Upon approval of the Master Site Plan, subdivision plats may be submitted. All plats shall conform to the platting requirements in Ordinance 50, Subdivision Land Development Code, except;

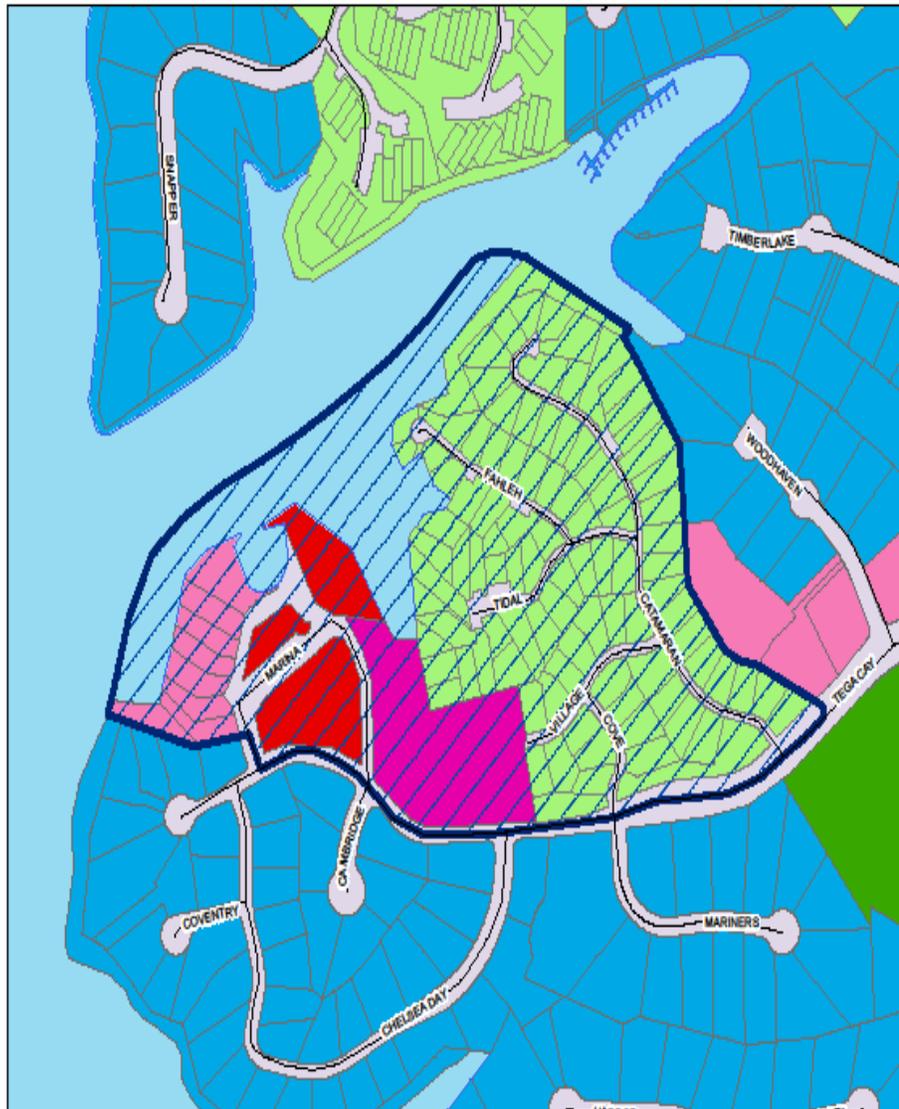
- (1) The Planning Commission shall have the responsibility to approve or disapprove all Final subdivision plats within (60) sixty days of submission of the accepted plat and supporting data. Failure to act within the designated period shall be considered to constitute approval. If the plat is approved, the Planning Commission shall indicate in writing the conditions of the approval, if any. If the plat is not approved, the Planning Commission shall state this in writing with explanations for the disapproval. The Planning Commission may also defer action for 30 days and shall indicate in writing the conditions to be met by the applicant. Upon mutual consent, the deferment may be extended for an additional 30 days. Failure by the applicant to conform to the written conditions of the deferment within the specified time shall constitute a disapproval of the plat and will result in a written notice of denial to the applicant. Any appeals from the decision of the Planning Commission must be taken to circuit court within (30) thirty days after the actual notice of the decision.

**ARTICLE XX APPENDIX I**  
**MARINA OVERLAY DISTRICT ZONING**  
**MAP**

# TEGA CAY, SOUTH CAROLINA

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## ZONING



Tega Cay Zoning Code	
<span style="color: red;">■</span>	B-1
<span style="color: lightgreen;">■</span>	R-3
<span style="color: magenta;">■</span>	R-6
<span style="color: lightblue;">■</span>	R-13
<span style="color: pink;">■</span>	R-15
<span style="color: green;">■</span>	Park
<span style="border: 2px solid blue; padding: 2px;"> </span>	Marina Overlay District



*Enacted this 19<sup>th</sup> day of October, 2015, by a majority vote of the duly elected City Council of the City of Tega Cay, South Carolina.*