

**CHAPTER 5
SUPPLEMENTAL REGULATIONS**

Article I

Communications Tower and Antenna

§ 5-100 Definitions.

- a. "Communications tower" as used in this ordinance shall mean a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free-standing, guyed, or on a building.
- b. "Telecommunications" as defined in the federal Telecommunications Act of 1996, means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- c. "Antenna" means a device, dish or array used to transmit or receive telecommunications signals.
- d. "Height" of communication tower is distance from base of tower to top of structure.

§ 5-101 Communications Tower and Antenna Permitted as Conditional Use.

A communications tower and/or antenna may be permitted by the Zoning Administrator without further review upon determination that all of the applicable conditions in this ordinance are met.

a. Districts in which conditional uses are permitted; height limitations.

DISTRICTS	PERMITTED HEIGHT - FREE-STANDING OR GUYED TOWER
Residential: R-1, R-2, R-3	Free-standing tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires special exception.
Commercial: CC, HC, NC	Free-standing or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.
Industrial: I	Free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.
Planned Development: PD	Tower with height specified in approved plan is permitted under conditions set forth in plan.
PERMITTED HEIGHT ABOVE STRUCTURE	
All districts	Tower and/or antenna mounted on building, water tank or structure other than a free-standing or guyed communications tower must not extend more than 30 feet above the highest part of the structure.
SPECIAL EXCEPTIONS AND VARIANCES	
-H Overlay Districts	A tower may be permitted only by special exception applying basic district standards as a minimum.
All districts except PD - Planned Development	Free-standing or guyed tower and/or antenna exceeding height limitations may be permitted by the Zoning Board of Appeals as a special exception. See requirements for special exceptions in § 5-102.
All districts	Variances from conditions imposed by this section may not be granted by the Zoning Board of Appeals. Variances from other general district regulations may be granted under standards in S.C. Code § 6-29-800.

<p>b. Application requirements:</p> <p>specifications;</p> <p>site plan;</p> <p>tower location map;</p> <p>antenna capacity; wind load;</p> <p>antenna owners;</p> <p>owner authorization;</p> <p>FCC license;</p> <p>visual impact analysis;</p> <p>removal agreement;</p> <p>conditions met;</p> <p>additional information.</p>	<p>The applicant for a conditional use zoning permit for construction of a communications tower or placement of a commercial telecommunication antenna on an existing structure other than a tower previously permitted must file with the Zoning Administrator an application accompanied by a fee of \$200.00 and the following documents, if applicable:</p> <ol style="list-style-type: none"> 1. One copy of typical specifications for proposed structures and antennae, including description of design characteristics and material. 2. A site plan drawn to scale showing property boundaries, tower location, tower height, guyed wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property; (site plan not required if antenna is to be mounted on an approved existing structure); 3. A current map, or update for an existing map on file, showing locations of applicant's antennae, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the Town; 4. A report from a structural engineer registered in South Carolina showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards. 5. Identification of the owners of all antennae and equipment to be located on the site; 6. Written authorization from the site owner for the application; 7. Evidence that a valid FCC license for the proposed activity has been issued; 8. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts; 9. A written agreement to remove the tower and/or antenna within 120 days after cessation of use; 10. Evidence that applicable conditions in subsection c. are met; and 11. Additional information required by the Zoning Administrator for determination that all applicable zoning regulations are met.
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c. Conditions:	Applicant must show that all applicable conditions are met.
location, visual impact	1. The proposed communications tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.
inability to locate on existing structure	2. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirements without unreasonable modifications on any existing structure or tower under the control of applicant.
necessity for location in residential district	3. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a non-residential district for valid technical reasons.
public property or other private property not suitable	4. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.
design for multiple use	5. Applicant must show that a new tower is designed to accommodate additional antennae equal in number to applicant's present and future requirements.
safety codes met	6. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.
paint; illumination	7. A communications tower must not be painted or illuminated unless otherwise provided by state or federal regulations.
distance from existing tower	8. A permit for a proposed tower site within 1,000 feet of an existing tower shall not be issued unless the applicant certifies that the existing tower does not meet applicant's structural specifications and applicant's technical design requirements, or that a collocation agreement could not be obtained.

<p>c. Conditions (cont.)</p> <p>indemnity; claim resolution</p> <p>application of zoning regulations</p> <p>minimum setbacks</p> <p>MASC technical assistance required</p>	<p>9. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Zoning Administrator a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the municipal attorney.</p> <p>10. Land development regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setback and height conditions in this section apply.</p> <p>11. A tower must be a minimum distance equal to one-half the height of the tower from property designated historic or architecturally significant, and must be set back from all lot lines distances equal to the district setback requirement or 25% of the tower height, whichever is greater.</p> <p>12. Prior to issuing a permit, the Zoning Administrator shall make use of technical services of the Municipal Association of South Carolina to determine that the standards in subsections c.2, c.3, c.4, c.5, c.7, and c.8 of § 5-101 of this ordinance are met.</p>
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<p>d. Appeal to Board</p> <p>time limit for action by zoning administrator on complete application</p> <p>variance</p> <p>special exception</p>	<p>Applicant may appeal to the Zoning Board of Appeals as follows:</p> <ol style="list-style-type: none"> 1. Failure of the Zoning Administrator to act on an application which is determined to be complete under this section within 45 days, unless extended by agreement, may be considered by applicant to be a denial of a permit which is subject to appeal to the Zoning Board of Appeals. 2. Applicant may appeal to the Board for a variance from general zoning district regulations and setback requirements in this section, but not from any other conditions in this section. Towers exceeding height limitations may be permitted only by special exception pursuant to § 5-102. 3. Applicant may apply directly to the Board for a permit for any tower as a special exception pursuant to § 5-102.
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§ 5-102

Special Exceptions.

A tower, pole, or antenna may be permitted by special exception granted by the Zoning Board of Appeals after public hearing and findings of fact based on the following criteria:

<p>Special exception criteria:</p> <p>application; conditions</p> <p>height limitations</p> <p>necessity for additional height</p> <p>setback requirements; additional conditions</p> <p>MASC technical assistance required on special exception or appeal from action on conditional use</p> <p>denial on substantial evidence</p> <p>variance prohibited</p>	<p>The Zoning Board of Appeals must find and conclude:</p> <ol style="list-style-type: none"> 1. All application requirements and conditions imposed by § 5-101 of this ordinance for conditional uses are met except height limitations and setbacks. 2. If additional tower height is requested, total tower height will not exceed 150% of the maximum height permitted in the district as a conditional use. 3. Applicant has demonstrated that additional height above that permitted by conditional use regulations is necessary for service to occupants of an area within the municipality. 4. Setback requirements and such additional conditions are established by the Board as it deems necessary to remove danger to health and safety, and to protect adjacent property. 5. Prior to approving a permit by special exception or on appeal from action of the Zoning Administrator on an application for a conditional use, the Board shall make use of technical services of the Municipal Association of South Carolina to determine that the standards in subsections c.2, c.3, c.4, c.5, c.7, and c.8 of § 5-101 of this ordinance are met. 6. The Telecommunications Act of 1996 requires that a denial of a permit be supported by substantial evidence. 7. The Board may not grant a variance from the standards imposed for a communications tower or antenna in connection with granting a special exception, except as permitted by § 5-101d.
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**Article II
Flood Plain Regulations**

§ 5-200 Federal Emergency Management Agency Standards Applicable.

Compliance with applicable Federal Emergency Management Agency standards pursuant to the Town Code shall be a prerequisite to issuance of a zoning permit.

Article III Landscaping

§ 5-300 Purposes for Required Landscaping.

Landscaped open areas are required by this ordinance to provide buffer areas or screening between adjacent land uses to reduce the impact of incompatible activities; to improve, protect, preserve and promote the aesthetic character, natural beauty, and value of land; and to promote and protect public interests in recreation, safety, health, reduction of pollution, and tree protection. The standards in this division shall apply to all zoning districts.

§ 5-301 Buffer Areas.

Landscaped buffer areas along the perimeter of lots, but not in a street right-of-way, which areas may be used for passive recreation only, shall be maintained by property owners as follows:

TYPE	LAND USE	WHERE REQUIRED	BUFFER SIZE AND PLANTS REQUIRED
A	Multi-family complex, manufactured home park, non-residential use not adjacent to residential district, and all surface parking lots	Along street rights-of-way, except drive-ways & visibility angles.	<u>Minimum buffer width: five (5) feet.</u> <u>Plants required per 100 feet of street frontage: 12 ornamental shrubs, 2 ever-green understory trees, and grass or other ground cover. Shrubs may be clustered.</u>
B	Multi-family complex, manufactured home park, commercial or institutional use adjacent to single-family residential use not separated by street or alley.	Along adjacent residential property lines.	<u>Minimum buffer width: ten (10) feet.</u> <u>Plants required per 100 linear feet: 2 deciduous canopy trees 40 to 60 feet on center, and 8 evergreen plants 10 feet on center.</u>
C	Industrial, warehouse, outdoor sales or storage use adjacent to residential district not separated by street at least 18 feet wide.	Along adjacent residential district lines.	<u>Minimum buffer width: fifteen (15) feet.</u> <u>Plants required per 100 linear feet: 2 deciduous canopy trees 40 to 60 feet on center, and 17 evergreen plants or understory trees in double staggered rows 10 feet on center.</u>

Plant Standards:	<p><u>Minimum installation height:</u> Evergreen understory trees and shrubs - 6 feet; deciduous canopy trees - 8 feet.</p> <p><u>Minimum mature size:</u> Evergreens - 10 feet; deciduous trees - 25 feet.</p>
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Substitutions:	<p><u>Existing plants:</u> Existing plants meeting minimum standards may be retained to meet buffer requirements.</p> <p><u>Evergreens:</u> Evergreen plants may be substituted for deciduous plants.</p> <p><u>Fence or wall:</u> Where existing lot use, size, shape, configuration, topography or unusual circumstances prevent reasonable compliance with buffer landscaping requirements, the Zoning Administrator may approve substitution of an opaque fence or wall at least six feet in height, but not exceeding ten feet in height, for a Type B or Type C buffer. Fences and walls shall be neat in appearance and have a finished surface facing adjacent property.</p>
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§ 5-302 Open Space Landscaping Requirements.

The following open space landscaping requirements shall apply to land uses in all zoning districts.

LAND USE	OPEN SPACE REQUIRED	LANDSCAPING
Single-family and two-family residential, except clustered	District yard requirements.	None required.
Clustered residential	15% of land area.	Grass, shrubs and trees selected by owner.
Manufactured home park	2,500 square feet for each acre or major fraction of an acre in the park.	Greenbelt along all interior lot lines.
Multi-family residential, commercial and industrial, except surface parking lots	District yard requirements. Required buffer areas, woodlands and wetlands may be used to satisfy requirements.	Grass, shrubs and trees selected by owner.
Surface parking lots	100 square feet of planted area for each 20 parking spaces. Required buffer areas may be used to satisfy requirements.	One evergreen or deciduous tree for each 20 parking spaces. Grass and shrubs selected by owner.

**Article IV
Parking**

§ 5-401 Off-street Parking.

a. Off-street parking spaces required by district regulations shall be located on the same lot as the principal use, or on a lot within 400 feet of the main entrance to the principal use which under the same ownership as the principal use or has been legally restricted for parking in connection with the principal use, and shall have required buffer and landscaped areas.

b. Required off-street parking for a commercial or industrial use may extend up to 120 feet into a residential zoning district provided: (1) the parking area adjoins the property on which the principal commercial or industrial use is located; (2) the parking area access is to the same street as the principal use; and (3) the parking area has a Type B buffer area along residential lot lines and required landscaping.

c. Combined parking areas serving two or more principal uses shall contain spaces equal in number to the total of spaces required for all principal uses served.

§ 5-402 Parking Space Requirements.

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

Parking space dimensions:	<u>Angle parking</u> : 9 feet by 19 feet; provided, 10% may be 8.5 feet by 18 feet; <u>Parallel parking</u> : 9 feet by 24 feet; <u>Handicapped</u> : 12 feet by 20 feet, or 8 feet by 20 feet, with 8 foot isle.
Minimum isle widths:	<u>90 degree parking</u> - 25 feet; <u>60 degree parking</u> -18 feet; <u>45 degree parking</u> - 13 feet; <u>parallel parking</u> - 10 feet. Minor street rights-of-way may be considered as isles for adjacent off-street parking.
Paving and marking requirements:	A parking area, including driveways, containing 10 or more parking spaces shall be surfaced with an all weather impervious material, and spaces shall be marked with painted lines.
Lighting requirements:	A parking area open for night use shall have a minimum of one 9000 lumen overhead light for each 25 parking spaces, or major portion thereof.

Parking spaces for handicapped persons:	One parking space for handicapped persons shall be provided for each 25 parking spaces, or fraction thereof, except for dwellings of less than 20 units, meeting federal and State requirements, with access to ramps, walkways, and entrances without moving behind parked vehicles.
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§ 5-403 Off-street Loading and Unloading Spaces.

Except in the CC Core Commercial District, each lot used for commercial or industrial purposes, or multifamily residences with more than 10 units, shall provide off-street space for loading and unloading as follows.

Access:	Each space shall have access from an alley or public street.																							
Dimensions:	Each space shall be a minimum of 12 feet by 40 feet, clear of obstructions.																							
Spaces required:	<table border="1"> <thead> <tr> <th data-bbox="508 908 706 938">Use</th> <th data-bbox="711 908 1161 938">Gross Floor Area [square feet]</th> <th data-bbox="1166 908 1360 938">No. of Spaces</th> </tr> </thead> <tbody> <tr> <td data-bbox="508 944 706 974">Retail business</td> <td data-bbox="711 944 1161 974">for each 5,000</td> <td data-bbox="1166 944 1360 974">1</td> </tr> <tr> <td data-bbox="508 1012 852 1108" rowspan="5">Wholesale, industrial, governmental, institutional, educational, medical, assembly -</td> <td data-bbox="850 1076 1161 1106">0 - 25,000</td> <td data-bbox="1166 1076 1360 1106">1</td> </tr> <tr> <td data-bbox="850 1112 1161 1142">25,000 - 40,000</td> <td data-bbox="1166 1112 1360 1142">2</td> </tr> <tr> <td data-bbox="850 1149 1161 1178">40,000 - 100,000</td> <td data-bbox="1166 1149 1360 1178">3</td> </tr> <tr> <td data-bbox="850 1185 1161 1215">100,000 - 160,000</td> <td data-bbox="1166 1185 1360 1215">4</td> </tr> <tr> <td data-bbox="850 1221 1161 1251">160,000 - 240,000</td> <td data-bbox="1166 1221 1360 1251">5</td> </tr> <tr> <td colspan="2" data-bbox="711 1257 1161 1287">each additional 100,000 of fraction</td> <td data-bbox="1166 1257 1360 1287">1</td> </tr> <tr> <td colspan="2" data-bbox="508 1315 1079 1344">Multifamily residence with 10 or more units -</td> <td data-bbox="1166 1315 1360 1344">1</td> </tr> </tbody> </table>	Use	Gross Floor Area [square feet]	No. of Spaces	Retail business	for each 5,000	1	Wholesale, industrial, governmental, institutional, educational, medical, assembly -	0 - 25,000	1	25,000 - 40,000	2	40,000 - 100,000	3	100,000 - 160,000	4	160,000 - 240,000	5	each additional 100,000 of fraction		1	Multifamily residence with 10 or more units -		1
Use	Gross Floor Area [square feet]	No. of Spaces																						
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Multifamily residence with 10 or more units -		1																						

§ 5-404 Parking of Unlicensed Vehicles.

a. In a residential district, any vehicle or trailer subject to State licensing which does not display a current license plate shall be parked or stored within an enclosed building.

Article V Signs

Any sign hereafter erected, altered or maintained in the Town of Elloree shall conform with the regulations of this article.

§ 5-500 General Provisions.

The following regulations shall apply to all permitted signs.

- a. A permit shall be required for the erection, alteration, or reconstruction of any sign unless otherwise noted and shall be issued by the Zoning Administrator in accordance with Chapter 6 of this ordinance.
- b. Signs must be constructed of durable materials, maintained in good condition and not permitted to become dilapidated.
- c. Signs when illuminated by direct lighting shall have such lighting shielded so as not to directly shine on abutting properties or in the line of vision of the public using the streets or sidewalks.
- d. No signs including traffic signs and similar regulatory notices except those of a duly constituted governing body shall be allowed within right-of-way lines.
- e. Signs on walls of a building shall be limited to the use, business or profession conducted on the premises.
- f. No part of any sign attached to a building in any manner shall extend beyond the uppermost point of such building, except that those signs which are an integral part of the architectural design of a building may extend above such point when approved by the Zoning Administrator.

§ 5-501 Prohibited Signs.

The following signs are expressly prohibited:

- a. Any sign which displays intermittent or flashing illumination or lights of changing degrees of intensity, except a sign indicating time and/or temperature with changes alternating on not less than a five-second cycle.
- b. Any sign or device to attract attention, all or any part of which moved by any means such as fluttering or rotating, including but not limited to pennants, flags, propellers or discs, whether or not said device has a written message.

c. Any illuminated tubing or string or lights outlining property lines or open sales areas, roof lines, doors, windows or wall edges of any building, except that perimeter lighting for illuminating open sales areas or parking areas may be used if shielded so that no direct light will shine on abutting properties or in normal line of vision of the public using the streets or sidewalks.

d. Roof signs.

e. Any sign or advertising device attached to or painted on a fence, power or telephone pole, tree, stone or any other natural object.

f. Signs imitating traffic or emergency signals. No private sign shall be permitted which imitates or gives the appearance of an official traffic or emergency sign or signal.

§ 5-502 Signs for which a permit is not required.

A permit is not required for the following types of signs in any zoning district:

a. Signs or plates on residential structures or premises giving the name or address of the occupant.

b. Signs of duly constituted governing bodies, including traffic regulatory devices, legal notices and warnings at railroad crossings.

c. Signs on the interior side of window glass.

d. Temporary unlighted real estate signs not exceeding six (6) square feet in area.

e. Temporary unlighted "work under construction" signs, not exceeding forty (40) square feet in area, displaying the name of the building, the contractors, the architects, the engineers, the owners, the financial, selling and development agencies are permitted upon the premises of any work under construction, alteration, or removal.

f. Temporary subdivision signs, not exceeding twenty (20) square feet in area announcing a land subdivision development, are permitted on the premises of the land subdivision. They shall be set back not less than ten (10) feet from any boundary line of the land subdivision. Such signs shall be limited to one (1) per entrance.

g. Directional or information signs of a public or quasi-public nature calling attention to:

(1) The name or location of a hospital, community center, school, church or the name or place of meeting of an official or civic body.

(2) An event of public interest such as a public or general election; church or public meeting; local and other similar community and political affairs and campaigns. Such signs shall be removed two weeks following the affair or campaign in question.

§ 5-503 Signs permitted in residential districts.

In R-1, R-2 and R-3 districts, the following signs, and no others requiring permits, shall be permitted:

- a. Home occupation and accessory use signs or name plates not exceeding one and one-half (1 ½) square feet in area. Signs for events of public interest such as a public or general election, church or public meeting, local and other similar community and political affairs and campaigns shall not exceed one and one-half (1 ½) square feet in area and shall be removed two weeks following the affair or campaign in question.
- b. One identification sign for a church, club fraternity or other permitted public or semi-public use, not exceeding six (6) square feet in area, but only when located on the premises.
- c. One bulletin board for a church, not exceeding twelve (12) square feet in area, but only when located on the premises.
- d. In the R-3 district, one non-illuminated sign limited in area to fifteen (15) square feet, giving the name and/or address or management of a multi-family project shall be permitted.

§ 5-504 Signs permitted in commercial and industrial districts.

In CC, NC, HC and I districts, the following signs, and no others requiring permits, shall be permitted:

- a. Signs permitted in R-1, R-2 and R-3 districts
- b. Signs mounted flat against or painted on the front surface of a building wall. The total area of all such signs shall not exceed twenty (20) percent of the front surface of the building.
- c. Signs mounted flat against or painted on the rear or side surface of a building. The total area of all such signs shall not exceed fifteen (15) percent of the rear or side surface of the building.
- d. Projecting signs, if there are no detached signs, one for each business on the premises with sign area limited to fifteen (15) square feet.
- e. Detached signs, if there are no projecting signs, limited in area to thirty (30) square feet, one for each business on the premises. In the HC and I districts, such signs may be up to one hundred (100) square feet per business. Detached signs must be located on the premises of said business, meet one-third (1/3) the minimum setback requirements for the district, and not restrict visibility with respect to vehicular or pedestrian traffic.
- f. Marquee signs, one for each business on the premises with sign area limited to fifteen (15) square feet.
- g. Signs in the CC, NC, HC and I districts may be illuminated.

§ 5-504 Removal of signs.

- a. The lawful use of any permanently mounted sign existing at the time of the adoption of this ordinance may be continued as a non-conforming use.
- b. Any sign which has been abandoned for a period of three (3) consecutive months shall be removed and any sign which is in violation of this ordinance at the time of its passage and which is subsequently destroyed or substantially damaged shall be removed or brought into conformity. When there is a change in the name of the business or of the principal product sold by a business after the adoption of this ordinance and there are non-conforming signs on the building or site, such signs shall be removed or brought into conformity. An order under this section shall be issued in writing by the Zoning Administrator to the owner of such sign, or of the building or premises on which such sign is located, to comply within a stated period of time not less than thirty (30) days. Upon failure to comply with such notice, the Zoning Administrator may authorize removal of the sign and any costs of removal may be collected by the Town in accordance with South Carolina law.
- c. Temporary signs shall be removed within two (2) weeks following completion of the event or project for which they were displayed.
- d. Any nonconforming sign which is not permanently mounted shall be removed or brought into conformity no later than the effective date of this ordinance.

Article VI Sexually Oriented Businesses

§ 5-600 Purpose and intent.

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

§ 5-601 Definitions.

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

b. *Adult bookstore or adult video store* means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of

its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas."

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

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

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

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

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

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

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

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

i. **Establishment** means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

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

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

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

m. **Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

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

o. **Sexual encounter center** means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

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

q. **Specified anatomical areas** means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

r. **Specified sexual activities** means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in a. through c. above.

s. *Substantial enlargement* of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on January 1, 1999.

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

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

§ 5-602 Classification.

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers.

§ 5-603 Permit required.

a. A person commits a misdemeanor if he operates a sexually oriented business without a valid permit issued by the Town for the particular type of business.

b. An application for a permit must be made on a form provided by the zoning administrator. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

c. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the health department, fire department, and building official.

d. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a 10 percent or greater interest in the corporation must sign the application for a permit as applicant.

e. The fact that a person possesses other types of state, county, or Town permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit.

§ 5-604 Issuance of permit and fee.

a. The Town zoning administrator shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless he finds one or more of the following to be true:

- (1) An applicant is under 18 years of age.
- (2) An applicant or an applicant's spouse is overdue in his payment to the Town of taxes, fees, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the applicant form.
- (4) An applicant is residing with a Person who has been denied a permit by the Town to operate a sexually oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
- (5) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
- (6) The permit fee required by the ordinance codified in this section has not been paid.

(7) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of the ordinance codified in this section.

(8) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

b. The annual fee for a sexually oriented business permit is \$500.00..

§ 5-605 Inspection.

An application of permittee shall permit representatives of the police department, health department, fire department, zoning department, or other Town departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business, and it is unlawful to refuse to permit such inspection of the premises at any time it is occupied or open for business.

§ 5-606 Expiration of permit.

a. Each permit shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the permit will not be affected except for good cause shown.

b. When the zoning administrator denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to denial, the zoning administrator finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit.

§ 5-607 Suspension of permit.

The zoning administrator may suspend a permit for a period not to exceed 30 days if he determines that a permittee or an employee of a permittee has:

(1) Violated or is not in compliance with any section of this ordinance;

- (2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;
- (3) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter,
- (4) Knowingly permitted gambling by any person on the sexually oriented business premises.

§ 5-608 Revocation of permit.

a. The zoning administrator shall revoke a permit if a cause for suspension in § 5-607 occurs and the permit has been suspended within the preceding 12 months for willful and knowing violation of the ordinance codified in this section.

b. The zoning administrator shall revoke a permit if he determines that:

- (1) A permittee knowingly gave false or misleading material information in the application submitted to the zoning department during the application process;
- (2) A permittee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (3) A permittee or an employee has knowingly allowed prostitution on the premises;
- (4) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
- (5) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted premises;
- (6) A permittee is delinquent in payments to the Town, county, or state for any taxes or fees past due related to the sexually oriented business.

c. When the zoning administrator revokes a permit, the revocation shall continue for one year, and the permittee shall not be issued a sexually oriented permit for one year from the date revocation became effective. If, subsequent to revocation the zoning administrator finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the date the revocation became effective.

§ 5-609 Transfer of permit.

A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

§ 5-610 Location of sexually oriented businesses; nonconforming uses.

a. A sexually oriented business may be located only within a Highway Commercial (HC) district.

b. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business outside of a designated HC district.

c. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 1,000 feet of:

- (1) A church;
- (2) A public or private elementary or secondary school;
- (3) A boundary of any residential district;
- (4) A public park adjacent to any residential district;
- (5) The property line of a lot devoted to residential use;
- (6) A day care facility.

d. A person commits a misdemeanor if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

e. A person commits a misdemeanor if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor areas of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

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

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

h. Any sexually oriented business lawfully operating on January 1, 1998 that is in violation of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually

oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.

i. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, public or private elementary or secondary school, public park, residential district, or a residential lot within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

§ 5-611 Additional regulations for adult motels.

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

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

c. For purposes of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

§ 5-612 Regulations for exhibition of sexually explicit films or videos.

a. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, CD-ROM, DVD, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (1) Upon application for a sexually oriented permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should

be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The zoning administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the zoning administrator or his designee.
- (4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection (5) of this section remains unobstructed by any walls, merchandise, display racks or other materials at all times and in every booth or room in which viewing of videos, as defined in subsection (a) of this section, is taking place the bottom of the door must be at least 18 inches above the floor level, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.
- (7) No viewing room may be occupied by more than one person at any time.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle as measured at the floor level.
- (9) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above, is maintained at all times that any patron is present in the premises.

b. A person having a duty under this section commits a misdemeanor if he knowingly fails to fulfill that duty.

§ 5-613 Exemptions.

It is a defense to prosecution under this article that a person appearing in a state of nudity did so in a modeling class operated:

- (1) By a proprietary school, licensed by the state of South Carolina; a college, junior college, or university supported entirely or partly by taxation;
- (2) 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
- (3) In a structure:
 - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - (c) Where no more than one nude model is on the premises at any one time.