

# **Zoning Ordinance**

(# 06-13)

**City of Marion, South Carolina**

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# **ZONING ORDINANCE CITY OF MARION, SOUTH CAROLINA**

AN ORDINANCE OF THE CITY OF MARION, SOUTH CAROLINA, REGULATING THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND, THE HEIGHT OF BUILDINGS AND OTHER STRUCTURES, THE SIZE OF YARDS, THE DENSITY AND DISTRIBUTION OF POPULATION; CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF; ESTABLISHING DEVELOPMENT STANDARDS; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR THE METHOD OF ADMINISTRATION AND AMENDMENT; AND PROVIDING FOR THE IMPOSITION OF PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE.

## **PREAMBLE**

IN ACCORDANCE WITH AUTHORITY CONFERRED BY THE GENERAL STATUTES OF SOUTH CAROLINA, 1976 CODE OF LAWS, TITLE 6, CHAPTER 29 OF THE COMPREHENSIVE PLANNING ENABLING ACT OF 1994, AS AMENDED, AND FOR THE PURPOSE OF PROMOTING PUBLIC HEALTH, SAFETY, MORALS, CONVENIENCE, ORDER, APPEARANCE, PROSPERITY, AND GENERAL WELFARE OF THE CITIZENS OF MARION; LESSENING CONGESTION IN THE STREETS; SECURING SAFETY FROM FIRE; PROVIDING ADEQUATE LIGHT, AIR, AND OPEN SPACE; PREVENTING THE OVERCROWDING OF LAND; AVOIDING UNDUE CONCENTRATION OF POPULATION; FACILITATING THE CREATION OF A CONVENIENT, ATTRACTIVE AND HARMONIOUS COMMUNITY; PROTECTING AND PRESERVING SCENIC, HISTORIC AND ECOLOGICALLY SENSITIVE AREAS; FACILITATING THE PROVISION OF PUBLIC SERVICES, AFFORDABLE HOUSING, AND DISASTER EVACUATION, IN HARMONY WITH THE ADOPTED COMPREHENSIVE LAND USE PLAN FOR THE CITY OF MARION, SOUTH CAROLINA, THE CITY COUNCIL HEREBY ORDAINS AND ENACTS INTO LAW THE FOLLOWING ARTICLES AND SECTIONS, WHICH SHALL COMPRISE AND BE KNOWN AS THE ZONING ORDINANCE OF THE CITY OF MARION, SOUTH CAROLINA, AND SHALL BE APPLICABLE THROUGHOUT THE LEGALLY RECORDED CORPORATE LIMITS OF THE CITY, AS NOW OR HEREAFTER ESTABLISHED.

## **ARTICLE I**

# **ESTABLISHMENT OF ZONING DISTRICTS, PURPOSE OF DISTRICTS, AND RULES FOR THE INTERPRETATION OF DISTRICT BOUNDARIES**

## **SECTION 100. ESTABLISHMENT OF DISTRICTS**

For the purposes of this Ordinance, the City of Marion is hereby divided into the following zoning districts:

### **PRIMARY DISTRICTS**

R-12	Low Density Residential District
R-9	Medium Density Residential District
R-6	High Density Residential District
GR	General Residential District
RMH	Mobile Home Residential District
OR	Office and Residential District
LC	Limited Commercial District
CC	Core Commercial District
GC	General Commercial District
I-1	Industrial District

### **SPECIAL PURPOSE DISTRICTS**

PDD	Planned Development District
HCP	Historic Conservation and Preservation District
NCP	Nature Conservation and Preservation District

## **SECTION 101. PURPOSE OF DISTRICTS**

Collectively, these districts are intended to advance the purposes of this Ordinance, as stated in the Preamble. Individually, each district is designed and intended to accomplish the following more specific objectives.

### **PRIMARY DISTRICTS**

R-12, R-9, R-6 Residential Districts. These districts are intended to foster, preserve and protect areas of the community in which the principal use of land is for detached, single-family dwellings at varying densities in each district, and related support facilities.

GR, General Residential District. This district is intended to accommodate higher density residential development and a variety of housing types on small lots or in project settings in areas accessible by major streets and in proximity to commercial uses, employment opportunities, and community facilities.

RMH, Mobile Home Residential District. This district is intended to accommodate mobile home development in concert with conventional dwellings in planned parks or courts and in areas suited to "mixed" residential use. It is further intended to foster mobile home development as an affordable alternative to conventional "stick built" housing.

OR, Office and Residential District. This district is intended to accommodate office, institutional and residential uses in areas whose character is in transition. It is designed principally for use along major streets dominated by older houses to help ameliorate the consequences of change impacting these areas.

LC, Limited Commercial District. This district is intended to meet the commercial and service needs generated by nearby residential areas. Goods and services normally available in this district are of the "convenience variety". The size of any such district should relate to surrounding residential markets and the locations should be at or near major intersections.

CC, Core Commercial District. The intent of this district is to promote the concentration and vitality of commercial and business uses in the downtown area. This district is characterized by wall-to-wall development, pedestrian sidewalks, and public parking lots.

GC, General Commercial District. The intent of this district is to provide for the development and maintenance of commercial and business uses strategically located to serve the community and the larger region of which it is a part.

I-1, Industrial District. The intent of this district is to accommodate wholesaling, distribution, storage, processing and manufacturing uses in an



environment suited to such uses and operations while promoting land use compatibility both within and beyond the boundaries of such districts.

Toward these ends, residential development is not permitted, nor is the establishment of this district on other than a major street.

### SPECIAL PURPOSE DISTRICTS

PDD, Planned Development District. The intent of the Planned Development District is to encourage flexibility in the development of land in order to promote its most appropriate use; and to do so in a manner that will enhance the public health, safety, morals, and general welfare of local residents.

Within the PDD, regulations adapted to unified planning and development are intended to accomplish the purposes of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are designed to control unscheduled development on individual lots, to promote economical and efficient land use, provide an improved level of amenities, foster a harmonious variety of uses, encourage creative design, and promote a better environment.

In view of the substantial public advantage of "planned development", it is the intent of these regulations to promote and encourage or require development in this form where appropriate in location, character and timing.

HCP, Historic Conservation and Preservation District. The Historic Conservation and Preservation District is designed and intended to promote the educational, cultural, economic and general welfare of the community by providing a mechanism for the identification, recognition, preservation, maintenance, protection and enhancement of existing historic and architecturally valuable structures, and properties which serve as visible reminders of the social, cultural, economic, political and/or architectural history of the City of Marion, thereby:

- (1) Fostering civic pride;
- (2) Preserving local heritage;
- (3) Fostering public knowledge and appreciation of structures and

areas which provide a unique and valuable perspective on the social, cultural, and economic mores of past generations;

- (4) Fostering architectural creativity by preserving physical examples of outstanding architectural techniques of the past; and
- (5) Encouraging new structures and development that will be harmonious with existing structures, properties and sites included in said districts.

NCP, Nature Conservation and Preservation District. This district is intended to preserve and protect to the extent possible lands that:

- (1) are essentially undevelopable because of the danger they pose from floods or other inundation or from menaces to health, safety or public welfare, and
- (2) contribute to the natural drainage of the community, and
- (3) provide natural habitats, lifecycles, and open areas.

## **SECTION 102. ESTABLISHMENT OF OFFICIAL ZONING MAP(s)**

The boundaries of the use districts established by this Ordinance are shown on the official zoning map(s) which shall be identified by the signature of the Mayor, attested by the City Clerk and maintained in the office of the Building Official, Marion City Hall. The official zoning map(s) and all amendments, certifications, citations and other matters entered on the official zoning map are hereby made a part of this Ordinance and have the same legal effect as if fully set out herein.

## **SECTION 103. AMENDMENTS TO THE OFFICIAL ZONING MAP(s)**

Amendments to the official zoning map(s) shall be adopted by Ordinance as provided for by this Ordinance. Promptly after the adoption of an amendment the Building Official shall alter or cause to be altered the official zoning map(s) to indicate the amendment and the effective date of the ordinance amending the map.

**SECTION 104.      RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES ON  
THE OFFICIAL ZONING MAP(S)**

Where uncertainty exists as to the boundaries of districts shown on the official zoning map(s), the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys, or public utility easements shall be construed to follow such center lines.
- (2) Boundaries indicated as approximately following platted lot or tract lines shall be construed as following such lines, whether public or private.
- (3) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as approximately following the center lines of natural barriers such as streams, shall be construed to follow such center lines.
- (6) Boundaries indicated as parallel to, or extensions of features indicated in Subsections 1 through 5 above shall be so construed. If distances are not specifically indicated on the official zoning map, or in other circumstances not covered by Subsections 1 through 5 above, the boundaries shall be determined by the use of scale of such map.
- (7) Where uncertainties continue to exist after the application of the other rules in this Section, appeal may be taken to the Board of Zoning Appeals.

**SECTION 105.      ZONING ANNEXED PROPERTY**

Whenever any petition for the annexation of any area to the City of Marion pursuant to the provisions of any procedure for annexation now or hereafter authorized under the laws of South Carolina is presented to City Council, the City Council, shall upon acceptance of such petition and the annexation of such area, and upon recommendation by the Planning Commission, by separate ordinance at the same time, zone such annexed area.

## **ARTICLE II**

# **PRIMARY DISTRICT REGULATIONS**

## **SECTION 200. ESTABLISHMENT OF TABLES**

The uses permitted in the several primary districts established by Article I, the off-street parking requirements, and the dimensional requirements of each are set forth herein. These requirements are presented through the use of tables.

Table I sets forth use and off-street parking requirements by district. Table II sets forth lot area, yard, setback, height, density, floor area and impervious surface requirements, by district.

## **SECTION 201. USE OF TABLES**

The North American Industrial Classification System (NAICS), 2002, is the basis for determining the use of property permitted by the various zoning districts. Where uncertainty exists relative to a given use not specifically listed by the tables, the NAICS Manual should be consulted. In general, all uses listed by a given NAICS number and category shall be construed as being permitted in the assigned zoning district, unless separately listed.

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

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

Where the symbol "C" is shown, the use to which it refers is conditionally permitted in the indicated district, subject to the additional requirements imposed by the applicable referenced section in Article VII.

Where no symbol is shown, the use to which it refers is not permitted in the indicated district.

Where a given use or SIC reference is not listed by the table, said use shall not be permitted.

To aid in the use of Table 1, it is arranged by NAICS Sectors, followed by the uses and codes included in the respective sector:

Sector 11:	Agriculture, Forestry, Fishing and Hunting
Sector 21:	Mining
Sector 22:	Utilities
Sector 23:	Construction
Sector 31-33:	Manufacturing
Sector 42:	Wholesale Trade
Sector 44-45:	Retail Trade
Sector 48-49:	Transportation and Warehousing
Sector 51:	Information
Sector 52:	Finance and Insurance
Sector 53:	Real Estate and Rental and Leasing
Sector 54:	Professional, Scientific, and Technical Services
Sector 55:	Management of Companies and Enterprises
Sector 56:	Administrative and Support and Waste Management and Remediation Services
Sector 61:	Educational Services
Sector 62:	Health Care and Social Assistance
Sector 71:	Arts, Entertainment, and Recreation
Sector 72:	Accommodation and Food Services
Sector 81:	Other Services (except Public Administration)
Sector 92:	Public Administration

Uses and NAICS code references are displayed within the appropriate sector in numerical order, beginning with Sector 11 (Agricultural, Forestry, Fishing and Hunting) and running through Sector 92 (Public Administration). Residential uses are listed following Public Administration, without sector references.

**Table 1**  
**Schedule of Permitted and Conditional Uses, and Off-Street Parking Requirements,**  
**By Zoning Districts**

Zone Districts	NAICS	R-12	R-9	R-6	GR	RMH	OR	LC	CC	GC	I-1	Required Off-street Parking Spaces (a)
<b>Sector 11: Agriculture, Forestry, Fishing and Hunting</b>												
Agricultural Production, Crops	111	P	P	P	N	N	N	N	N	P	P	NONE
Agricultural Production, Livestock. animals	112											
Livestock	112111	N	N	N	N	N	N	N	N	N	N	NONE
Hog and Pig farming	1122	N	N	N	N	N	N	N	N	N	N	NONE
Poultry & eggs	1123	N	N	N	N	N	N	N	N	N	N	NONE
Sheep & goat farming	1124	N	N	N	N	N	N	N	N	N	N	NONE
Animal Aquaculture	1125	N	N	N	N	N	N	N	N	P	P	NONE
Other animal production	1129	N	N	N	N	N	N	N	N	N	N	NONE
Horses & other equine (Sec. 722)	11292	C	N	N	C	N	N	N	N	N	N	NONE
Fur-Bearing animal production	11293	N	N	N	N	N	N	N	N	N	N	NONE
Forestry and logging	113	N	N	N	N	N	N	N	N	P	P	NONE
Support activities for agricultural/forestry	115	N	N	N	N	N	N	N	N	P	P	1 per 1,000 GFA
<b>Sector 21: Mining</b>												
Mining	212	N	N	N	N	N	N	N	N	N	P	NONE
<b>Sector 22: Utilities</b>												
<b>Electric, gas, &amp; sanitary services</b>	221											
Electric	2211											
Generation	22111	N	N	N	N	N	N	N	N	P	P	1 per 500 GFA
Transmission	22112	P	P	P	P	P	P	P	P	P	P	1 per 500 GFA
Natural gas distribution	2212	N	N	N	N	N	N	N	N	P	P	1 per 500 GFA
Water supply systems	22131											
Storage/Treatment	22131	P	P	P	P	P	P	P	P	P	P	1 per 500 GFA
Transmission	22131	P	P	P	P	P	P	P	P	P	P	1 per 500 GFA
Sewerage systems	22132											
Collection	22132	P	P	P	P	P	P	P	P	P	P	1 per 500 GFA
Treatment	22132	P	P	P	P	P	P	P	P	P	P	1 per 500 GFA
Steam and Air Conditioning Supply	22133	N	N	N	N	N	N	N	N	P	P	1 per 500 GFA

Zone Districts	NAICS	R-12	R-9	R-6	RG	RMH	OR	LC	CC	GC	I-1	Required Off-street parking
<b>Sector 23: Construction</b>												
Building Construction-general contracts	236	N	N	N	N	N	N	N	N	P	P	1 per 1,000 GFA
Heavy & Civil Engineering Construction	237	N	N	N	N	N	N	N	N	N	P	1per 1,000 GFA
Special Trade Contractors	238	N	N	N	N	N	N	N	N	P	P	1 per 1,000 GFA
<b>Sector 31-33: Manufacturing (Sec. 704)</b>												
Food	311	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Beverage & Tobacco	312	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Textile mills	313	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Textile Product Mills	314	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Apparel	315	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Leather & allied Products	316	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Wood Products	321	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Paper	322	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Printing & related activities	323	N	N	N	N	N	N	C	C	C	C	1 per 1,000 GFA
Petroleum Products	324	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Chemical Products	325	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Plastic & Rubber Products	326	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Nonmetallic Mineral Products	327	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Primary Metal	331	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Fabricated metal Products	332	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Machinery	333	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Computer & Electronic Products	334	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Electrical Equipment, Appliances	335	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Transportation equipment	336	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Furniture & related Products	337	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
Miscellaneous manufacturing	339	N	N	N	N	N	N	N	N	N	C	1 per 1,000 GFA
<b>Sector 42: Wholesale Trade</b>												
Wholesale trade-durable goods	423	N	N	N	N	N	N	N	N	P	P	1 per 5,000 GFA
Wrecking, scrap and salvage (Sec. 710)	42314	N	N	N	N	N	N	N	N	N	C	1 per 5,000 GFA
Wholesale trade-non-durable goods	424	N	N	N	N	N	N	P	N	P	P	1 per 5,000 GFA
Wholesale Electronic markets	425	N	N	N	N	N	N	P	N	P	P	1 per 5,000GFA
<b>Sector 44-45: Retail Trade</b>												
Motor Vehicle Dealers	4411	N	N	N	N	N	N	N	N	P	N	1 per 1,000 GFA
Motorcycle, Boat & Other Vehicle Dealers	4412	N	N	N	N	N	N	N	N	P	N	1 per 1,000 GFA
Automotive parts, accessories and tires	4413	N	N	N	N	N	N	P	P	P	N	1 per 500 GFA



Zone Districts	NAICS	R-12	R-9	R-6	GR	RMH	OR	LC	CC	GC	I-1	Required off-street parking
Furniture & home furnishings	442	N	N	N	N	N	N	P	P	P	N	1 per 1,000 GFA
Electronics & Appliances	443	N	N	N	N	N	N	P	P	P	N	1 per 1,000 GFA
Building materials, garden supplies	444											
Home Centers	44411	N	N	N	N	N	N	N	N	P	P	1 per 350 GFA
Paint & Wallpaper stores	44412	N	N	N	N	N	N	P	P	P	P	1 per 350 GFA
Hardware Stores	44413	N	N	N	N	N	N	P	P	P	P	1 per 350 GFA
Other Building Material Dealers	44419	N	N	N	N	N	N	P	P	P	P	1 per 1,000 GFA
Lawn, garden equipment & supply stores	4442	N	N	N	N	N	N	P	P	P	P	1 per 1,000 GFA
Food & Beverage stores	445	N	N	N	N	N	N	P	P	P	N	1 per 350 GFA
Convenience Stores	4451	N	N	N	N	N	N	P	P	P	N	1 per 350 GFA
Fruit & Vegetable	44523	N	N	N	N	N	N	P	P	P	N	1 per 350 GFA
Liquor	4453	N	N	N	N	N	N	N	P	P	N	1 per 350 GFA
Health & Personal Care	446	N	N	N	N	N	N	P	P	P	N	1 per 350 GFA
Gasoline stations	447	N	N	N	N	N	N	N	N	P	P	1 per 600 GFA
Truck stops	44719	N	N	N	N	N	N	N	N	P	P	1 per 600 GFA
Clothing & Accessory Stores	448	N	N	N	N	N	N	N	P	P	N	1 per 350 GFA
Sporting goods, Hobbies, Books, Music	451	N	N	N	N	N	N	P	P	P	N	1 per 350 GFA
General Merchandise stores	452	N	N	N	N	N	N	N	P	P	N	1 per 350 GFA
Miscellaneous retail	453	N	N	N	N	N	N	P	P	P	N	1 per 350 GFA
Flea Markets	4533	N	N	N	N	N	N	N	N	P	N	1.5 per stall
Manufactured home dealer	45393	N	N	N	N	N	N	N	N	P	N	1 per 1,000 GFA
Fire Works Stand (Sec. 714 )	45399	N	N	N	N	N	N	N	N	C	N	1 per 350 GFA
Non-store retail	454	N	N	N	N	N	N	N	P	P	N	1 per 350 GFA
Fuel Dealers	45431	N	N	N	N	N	N	N	N	P	P	1 per 1,000 GFA
Vendors (Sec. 701 )	4542	N	N	N	N	N	N	N	N	C	C	2 per vendor
<b>Sector 48-49: Transportation and Warehousing</b>												
Air Transportation	481	N	N	N	N	N	N	N	N	P	P	By Individual Review
Rail Transportation	482	N	N	N	N	N	N	N	N	P	P	1 per 500 GFA
Water Transportation	483	N	N	N	N	N	N	N	N	P	P	1 per 500 GFA
Truck Transportation	484	N	N	N	N	N	N	N	N	P	P	1 per 500 GFA
Transit & ground passenger transportation	485	N	N	N	N	N	N	N	P	P	P	1 per 500 GFA
Pipeline Transportation	486	N	N	N	N	N	N	N	N	P	P	1 per 500 GFA
Scenic & Sightseeing Transportation	487	N	N	N	N	N	N	N	P	P	P	1 per 500 GFA
Support Activities for Transportation	488	N	N	N	N	N	N	N	P	P	P	1 per 500 GFA
U. S. Postal Service	491	N	N	N	N	N	P	P	P	P	P	1 per 350 GFA
Warehousing & Storage (Dead storage only)	493	N	N	N	N	N	N	N	N	P	P	1 per 1,000 GFA

Zone Districts	NAICS	R-12	R-9	R-6	GR	RMH	OR	LC	CC	GC	I-1	Required Off-street parking
<b>Sector 51: Information</b>												
Publishing Industries	511	N	N	N	N	N	N	N	P	P	P	1 per 750GFA
Motion pictures & Sound Industries	512	N	N	N	N	N	N	N	P	P	P	1 per 500 GFA
Motion picture theaters	512131	N	N	N	N	N	N	N	P	P	N	1 per 5 seats
Broadcasting & Telecommunications	515-7	N	N	N	N	N	P	P	P	P	P	1 per 500GFA
Communication Towers/Antenna (Sec 717)	5172	N	N	N	N	N	N	N	N	N	C	NONE
Internet & other information providers	518-9	N	N	N	N	N	P	P	P	P	P	1 per 500 GFA
Libraries	51912	N	N	N	N	N	P	P	P	P	N	1 per 400 GFA
<b>Sector 52: Finance &amp; Insurance</b>												
Banks	521	N	N	N	N	N	P	P	P	P	N	1 per 350 GFA
Credit Intermediation	522	N	N	N	N	N	P	P	P	P	N	1 per 350 GFA
ATM Machines	52211	N	N	N	N	N	P	P	P	P	P	2 Spaces
Pawn Shops	522298	N	N	N	N	N	N	N	P	P	N	1 per 350 GFA
Security & financial investments	523	N	N	N	N	N	P	P	P	P	N	1 per 350 GFA
Insurance Carriers & related activities	524	N	N	N	N	N	P	P	P	P	N	1 per 350 GFA
Funds, Trust, & other financial vehicles	525	N	N	N	N	N	P	P	P	P	N	1 per 350 GFA
<b>Sector 53: Real Estate &amp; Rental &amp; Leasing</b>												
Real Estate	531	N	N	N	N	N	P	P	P	P	N	1 per 350 GFA
Mini-Warehouses	53113	N	N	N	P	N	N	N	N	P	P	1 per 6 storage units
Rental & Leasing Services	532	N	N	N	N	N	N	N	P	P	N	1 per 500 GFA
DVD and other visual rental equipment	53223	N	N	N	N	N	N	P	P	P	N	1 per 350 GFA
<b>Sector 54: Professional, Scientific, &amp; Technical Services</b>												
Professional, Scientific, Technical Services	541	N	N	N	N	N	P	P	P	P	P	1per 300 GFA
Display Advertising - Signs	54185	See Article V									NONE	
Veterinary Services	54194	N	N	N	N	N	N	N	N	P	P	1 per 350 GFA
<b>Sector 55: Management of Companies</b>												
Mgmt. Of Companies & Enterprises	551	N	N	N	N	N	P	P	P	P	P	1per 500 GFA
<b>Sector 56: Administrative Support And Waste Management Services</b>												
Administrative & support services	561	N	N	N	N	N	N	N	P	P	P	1 per 750 GFA
Landscape services	56173	N	N	N	N	N	N	N	P	P	P	1per 1,000 GFA
Waste Management services	562											
Waste Collection	5621	N	N	N	N	N	N	N	N	P	P	1 per 1,000 GFA
Hazardous Waste Treatment & disposal	562211	N	N	N	N	N	N	N	N	N	N	NA
Solid Waste Landfill (Sec. 703)	562212	N	N	N	N	N	N	N	N	N	C	1per 1,000 GFA

[illegible]

Zone Districts	NAICS	R-12	R-9	R-6	GR	RMH	OR	LC	CC	GC	I-1	Required Off-Street Parking
<b>Sector 71: Arts, Entertainment, and Recreation</b>												
Performing Arts	7111	P	P	N	N	N	P	P	P	P	N	1 per four seats
Spectator Sports	7112	N	N	N	N	N	N	N	N	P	N	By individual review
Museums & Similar Institutions	712	N	N	N	N	N	P	P	P	P	N	1 per 800 GFA
Zoos & Botanical Gardens	71213	N	N	N	N	N	N	N	N	P	N	By Individual Review
Nature parks, public parks	71219	P	P	P	P	P	P	P	P	P	P	By Individual Review
Amusement & Recreation Industries	713											
Amusement parks, arcades	7131	N	N	N	N	N	N	N	P	P	N	1 per 500 GFA
Golf Courses & Country Clubs	71391	P	P	P	P	P	N	N	N	P	N	5 per hole
Marinas	71393	N	N	N	N	N	N	N	N	P	P	1.5 per slip
Fitness and Recreational Sport Centers	71394	N	N	N	N	N	N	P	P	P	N	1 per 500 GFA
Bowling Centers	71395	N	N	N	N	N	N	N	N	P	N	5 per lane
Amusement not elsewhere classified	713990	N	N	N	N	N	N	N	N	P	N	1 per 500 GFA
<b>Sector 72: Accommodation and Food Services</b>												
Accommodations	721											
Hotels & Motels	72111	N	N	N	N	N	N	N	P	P	N	1.5 per rental unit
Bed & Breakfast Inns (Sec. 702)	721191	N	N	N	C	N	C	N	N	P	N	1.5 per bedA-3om
Camps & RV Parks (Sec. 711 )	72121	N	N	N	N	N	N	N	N	C	N	Not Applicable
Rooming & Boarding Houses, Dormitories, Group Housing (Sec. 715)	72131	N	N	N	N	C	C	N	C	C	N	1 per bedA-3om
Eating Places, excluding drive-ins	7221-2	N	N	N	N	N	N	P	P	P	P	1 per 150 GFA
Eating Places, including drive-ins	7221-2	N	N	N	N	N	N	N	N	P	P	1 per 150 GFA
Specialty food services	7223	N	N	N	N	N	N	P	P	P	N	1 per 350 GFA
Drinking Places	7224	N	N	N	N	N	N	N	P	P	N	1 per 150 GFA
<b>Sector 81: Other Services (except Public Administration)</b>												
Auto Repair & Maintenance	8111											
General Auto Repair (Sec. 709 )	811111	N	N	N	N	N	N	N	C	C	C	3 per service bay
Car Wash	811192	N	N	N	N	N	N	N	N	P	P	None
Other Repair	8112-4	N	N	N	N	N	N	N	N	P	P	1 per 350 GFA
Personal & Laundry services	812											
Personal Care Services -Beauty, Barber, etc	8121	N	N	N	N	N	N	P	P	P	N	2.5 per chair
Body Piercing/Tattoo Parlors	812199	N	N	N	N	N	N	N	N	P	N	1 per 350 GFA
Funeral Homes & Death Care Services	8122	N	N	N	N	N	P	N	P	P	N	1 per 4 chapel seats
Cemeteries	81222	P	P	P	P	P	N	N	N	P	N	None
Crematories	81222	N	N	N	N	N	N	N	N	N	P	1 per 4 chapel seats
Laundry & Dry Cleaning services	8123	N	N	N	N	N	N	N	P	P	P	1 per 500 GFA
Other personal services	81231	N	N	N	N	N	N	P	P	P	N	1 per 250 GFA

Zone Districts	NAICS	R-12	R-9	R-6	GR	RMH	OR	LC	CC	GC	I-1	Required Off-Street Parking
Pet Care (enclosed facility)	81291	N	N	N	N	N	N	P	P	P	P	1 per 1,000 GFA
Pet Care/Pounds (unenclosed facility)	81291	N	N	N	N	N	N	N	N	N	P	1 per 1,000 GFA
Photo finishing	81292	N	N	N	N	N	N	P	P	P	N	1 per 500 GFA
Automotive parking lots & garages	81293	N	N	N	N	N	P	P	P	P	P	Not applicable
Sexually Oriented Business (Sec.706)	81299	N	N	N	N	N	N	N	N	C	N	1 per 250 GFA
All Other Personal Services	81299	N	N	N	N	N	N	N	N	P	N	1 per 350 GFA
Religious, Fraternal, Civic, Professional, Political and Business Organizations	813											
Religious Organizations	8131	P	P	P	P	P	P	P	P(b)	P	P	1 per 4 seats sanctuary
All Other Organizations	8132-9	N	N	N	N	N	P	P	P	P	P	1 per 500 GFA
<b>Sector 92: Public Administration</b>												
Executive, Legislative, & General Govt.	921	N	N	N	N	N	P	P	P	P	P	1 per 350 GFA
Justice, Public Order & Safety	922											
Courts	92211	N	N	N	N	N	N	P	P	P	P	1 per 350 GFA
Police Protection	92212	P	P	P	P	P	P	P	P	P	P	1 per 350 GFA
Correctional Institutions	92214	N	N	N	N	N	N	N	P	P	P	By individual review
Fire Protection	92216	P	P	P	P	P	P	P	P	P	P	4 per bay
Administration of Human Resources	923	N	N	N	N	N	N	N	P	P	N	1 per 350 GFA
Administration Of Environmental & Housing	924-5	N	N	N	N	N	N	N	P	P	N	1 per 350 GFA
Administration of Economic Programs	926	N	N	N	N	N	N	N	P	P	N	1 per 350 GFA
<b>Residential Uses</b>												
<b>Site Built Dwellings</b>	NA											
Single-family detached	NA	P	P	P	P	P	P	N	N	P	N	2 per dwelling
Duplex	NA	N	N	N	P	N	N	N	N	N	N	2 spaces per unit
Multi-family, Apartments	NA	N	N	N	P	N	P	N	N	N	N	1.5 spaces per unit
Upper story Apartments (Sec. 716 )	NA	N	N	N	N	N	N	N	C	N	N	Not Applicable
Townhouses (Sec. 712)	NA	N	N	C	C	N	C	N	N	C	N	2 spaces per unit
Patio Homes (Sec. 713)	NA	N	N	C	C	N	C	N	N	C	N	2 spaces per unit
Triplex & Quadruplex	NA	N	N	N	P	N	P	N	N	P	N	2 spaces per unit
<b>Manufactured Dwellings</b>	NA											
Residential designed (Sec. 707)	NA	N	N	N	C	C	N	N	N	C	N	2 spaces per unit
Standard designed (Sec. 707)	NA	N	N	N	N	C	N	N	N	N	N	2 spaces per unit
Manufactured Home Parks (Sec. 708 )	NA	N	N	N	N	C	N	N	N	N	N	2 spaces per unit
Modular Homes	NA	P	P	P	P	P	P	N	N	P	N	2 spaces per unit
<b>Accessory Uses to Residential Uses</b>												
Bathhouses & Cabanas	NA	P	P	P	P	P	P	N	N	P	N	None

<b>Zone Districts</b>	<b>NAICS</b>	<b>R-12</b>	<b>R-9</b>	<b>R-6</b>	<b>GR</b>	<b>RMH</b>	<b>OR</b>	<b>LC</b>	<b>CC</b>	<b>GC</b>	<b>I-1</b>	<b>Required Off-Street Parking</b>
Domestic animal shelters	NA	P	P	P	P	P	P	N	N	P	N	None
Non-commercial greenhouses	NA	P	P	P	P	P	P	N	N	P	N	None
Storage building/workshop, except shipping containers which are prohibited (Sec. 718)	NA	C	C	C	C	C	C	N	N	P	N	None
Accessory Apartment (Sec.705)	NA	C	C	C	C	C	C	N	N	C	N	
Swimming pool, tennis courts	NA	P	P	P	P	P	P	N	N	P	N	None
Detached garages	NA	P	P	P	P	P	P	N	N	P	N	
Auxiliary shed, workshop	NA	P	P	P	P	P	P	N	N	P	N	None
Home Occupation (Sec. 719)	NA	C	C	C	C	C	C	N	N	P	N	None
Horticulture, gardening	NA	P	P	P	P	P	P	N	N	P	N	None
Family day care home	NA	P	P	P	P	P	P	N	N	P	N	None
Satellite dishes, etc.	NA	P	P	P	P	P	P	N	N	P	N	None
<b>Accessory Uses to Non-Residential Uses</b>												
Buildings, structures	NA	P	P	P	P	P	P	P	P	P	P	None
Open Storage/display area (Sec. 720 )	NA	N	N	N	N	N	N	C	C	C	C	None
Shipping Containers (Sec. 721)	NA	N	N	N	N	N	N	N	N	C	C	None
<b>Temporary Uses</b>												
All Temporary Uses (Sec.714 )	NA	C	C	C	C	C	C	C	C	C	C	See Section

(a) Off-Street parking requirements computed on basis of number of spaces per square feet of Gross Floor Area (GFA)

(b) Religious organizations shall be disallowed in previously occupied commercial or store front buildings.

**TABLE II**

**SCHEDULE OF LOT AREA, YARD, SETBACK, HEIGHT, DENSITY, FLOOR AREA AND IMPERVIOUS SURFACE REQUIREMENTS, BY DISTRICT**

<u>District</u>	<b>Minimum Lot:</b>			<b>Minimum Building Yard Setback (ft.)</b>						<b>Maximum</b>		<b>Maximum</b>	
	<b>Area (s.f.)</b>			<b>FRONT</b>		<b>SIDE</b>		<b>REAR</b>		<b>Impervious</b>	<b>Surface</b>	<b>Floor Area</b>	<b>Ratio: Non-</b>
	<u>Res.</u>	<u>Non-res.</u>	<u>Width(ft.)</u>	<u>Major Street</u>	<u>Minor Street</u>	<u>Res.</u>	<u>Non-res.</u>	<u>Res.</u>	<u>Non-res.</u>	<u>Height (ft.)</u>	<u>Ratio</u>	<u>Density*</u>	<u>Res. Uses</u>
R-12	12,000	24,000	100	35	25	15	50	15	50	35	.35	3.5	.30
R-9	9,000	18,000	80	35	25	12	40	15	40	35	.40	4.5	.35
R-6	6,000	12,000	60	35	25	10	30	15	30	35	.45	7.0	.40
GR	(B)	12,000	60	35	25	10	30	15	30	60	.65	13.0	.40
RMH	(C)	12,000	(D)	35	25	10	30	15	30	35	.45	7.0	.40
O&R	(B)	6,000	60	35	25	5	5	15	15	35	.65	7.0	.55
LC	NA	6,000	60	35	25	NA	5	NA	15	35	.65	7.0	.55
CC	2,500	2,500	25	0	0	0	0	0	0	60	1.00	NA	NA
GC	(B)	6,000	60	35	25	(E)	(E)	15	15	45	.85	13.0	.75
I-1	NA	10,000	60	35	25	NA	10	NA	20	60	.85	NA	NA

(A) through (E) See Notes to Table II.

Refer to Sections 801, 802 and 803 for yard and setback modifications.

\* Measurement in units per gross acre

(s.f.) = square feet

(ft.) = feet

.

NOTES TO TABLE II

The following notes supplement and clarify the requirements of Table II.

- (A) 35 feet, except for hospitals, care centers and dormitories which may exceed such height, subject to approval by the Fire Chief.
- (B) 6,000 square feet minimum lot area for single-family dwellings; 10,000 square feet for two family dwelling; plus 3,000 square feet for each additional unit over two.
- (C) 6,000 square feet minimum lot area for single-family dwelling or mobile home on single lot. Five (5) acres for mobile home park.
- (D) 60 feet minimum lot width for single-family dwelling or mobile home; 60 feet for non-residential use; 200 feet for mobile home park.
- (E) 5 feet on each side shall be required, except that commercial condominium projects shall be allowed to share interior property lines; provided a 5' setback is observed at both ends, and that no project shall exceed 400 feet in length parallel to the street or streets upon which it is contiguous.



## **ARTICLE III**

### **SPECIAL PURPOSE DISTRICT REGULATIONS**

#### **SECTION 300. ESTABLISHMENT AND JURISDICTION**

The requirements of this Article shall apply to the following Special Purpose Districts created by Section 100.

PDD, Planned Development District

HCP, Historic Conservation and Preservation District

NCP, Nature Conservation and Preservation District

#### **SECTION 301. PDD, PLANNED DEVELOPMENT DISTRICT**

##### **Section 301.1 Permitted Uses in PDDs**

Any use or combination of uses meeting the objectives of this section may be established in a PDD upon review and approved amendatory action by the Planning Commission and City Council. Once approved, the proposed use(s) and no others shall be permitted. Said uses shall be identified and listed on the basis of classification, i.e. retail, office, wholesale, residential multi-family, residential single-family detached, manufacturing, etc. The list of approved uses shall be binding on the applicant and any successor in title, so long as the PDD zoning applies to the land, unless otherwise amended by Ordinance.

##### **Section 301.2 Establishment of PDD Districts**

PDDs shall be established on the Official Zoning Map by the same procedure as for amendments generally (Article XI) and in accord with the requirements of this section.

Additionally, each PDD shall be identified by a prefix and number indicating the particular district, as for example "PDD-1", together with whatever other identification appears appropriate.

### **Section 301.3    Site Plan Requirements**

A Site Plan showing the proposed development of the area (zone) shall be prerequisite to approval of a PDD. The Site Plan shall adhere to the requirements of Section 301.4 and 301.5 and shall address or show the following:

- (1) The proposed title of the project, project designer, and the developer.
- (2) The boundaries of the property involved; the general location of all existing easements, property lines, existing streets, buildings; and other existing physical features on the project site.
- (3) The approximate location of existing and proposed sanitary and storm sewers, water mains, street lighting, and other service facilities in or near the project.
- (4) The general location and dimensions of proposed streets, driveways, curb cuts, entrances and exits, parking and loading areas (including numbers of parking spaces).
- (5) The general location of proposed lots, setback lines, easements and a conceptual land use plan.
- (6) The general location and approximate heights of all principal and accessory buildings and dimensions of structures.
- (7) The general location and description of all fences, walls, screens, buffers, plantings and landscaping.
- (8) The general location and number of dwelling units for multi-family projects.
- (9) A Common Signage Plan, as required by Section 502.
- (10) The position of the proposed development in relation to its surroundings.

- (11) A tabulation of (1) the number of acres in the project by use, (2) impervious surface ratios, and (3) floor area ratio for non-residential uses.

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

#### **Section 301.4 Minimum Area Required**

Minimum area requirements for establishing a PDD shall be two acres.

#### **Section 301.5 Development Standards**

##### **Section 301.5.1 Density and Height Requirements**

Dimensional requirements shall be determined by the scale of the project in relation to its surroundings and its impact on existing and proposed support facilities, i.e. transportation, water and sewer systems, recreation facilities, etc.

##### **Section 301.5.2 Overall Site Design**

Overall site design shall be harmonious in terms of landscaping, enclosure of principal and accessory uses, size of structures, street patterns, and use relationships. Variety in building types, heights, facades, setbacks and size of open spaces shall be encouraged.

##### **Section 301.5.3 Parking and Loading**

Off-street parking and loading spaces for each PDD shall comply with the requirements of Article II, Table I, for the various uses proposed for the PDD, and Article IV.

#### **Section 301.5.4 Buffer Areas**

Buffer areas shall be required for peripheral uses only, and shall be provided in accord with the minimum requirements for adjacent uses prescribed by Section 600. Buffer areas are not required for internal use.

#### **Section 301.5.5 Streets and Street Improvements**

Private streets may be permitted in a PDD provided such streets meet the design and construction standards promulgated for public streets in accord with the city's Subdivision Ordinance, further provided that an acceptable maintenance plan be submitted to and approved by the Planning Commission prior to permitting.

#### **Section 301.5.6 Landscaping and Common Open Space**

Landscaping and open space requirements for each PDD shall comply with the provisions of Sections 602 and 603 of this Ordinance.

#### **Section 301.5.7 Signage**

Signage shall be in harmony and scale with and reflective of the proposed PDD, and shall not exceed the regulations of Article V for the I-1 District.

#### **Section 301.6 Financial Guarantees**

Where public improvements and/or "common" amenities or infrastructure are proposed, such improvements shall be installed in accord with a development schedule to be approved as part of the PDD Plan.

Where proposed or required improvements have not been completed by the applicant/developer prior to the scheduled target date and certified by the Building Official, the applicant/developer shall provide financial guarantees to ensure the proper installation of such required improvements by posting with the Building Official a surety bond, certified check, or other instrument readily convertible to cash. The surety must be in an amount equal to at least one hundred twenty-five percent of the cost of the improvements. This surety must be in favor of the city to ensure that in the event of default by the developer,

funds will be available and used to install the required improvements at the expense of the developer. The nature and duration of the guarantees shall be structured to achieve this goal without adding unnecessary costs to the developer.

#### **Section 301.7    Action By Planning Commission and City Council**

Action by the Planning Commission and City Council may be to approve the Plan and application to establish a PDD, to include specific modifications to the Plan, or to deny the application to rezone or establish a PDD. If the Plan and/or rezoning are approved, the applicant shall be allowed to proceed in accord with the approved PDD Plan as supplemented or modified in a particular case, and shall conform to any time or priority limitations established for initiating and/or completing the development in whole, or in specified stages. If the application is denied, the applicant shall be so notified.

#### **Section 301.8    Administrative Action**

After a PDD Plan or District has been approved, building and sign permits shall be issued in accord with the approved Plan as a whole or in stages or portions thereof, as approved. Said permits shall be issued in the same manner as for building and sign permits generally.

#### **Section 301.9    Changes In Approved PDD Plans**

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

Minor changes in approved PDD site plans may be accommodated by the Building Official with review and concurrence by the City Attorney, on application by the applicant, upon making a finding that such changes are:

- (1) In accord with all applicable regulations in effect at the time of the creation of the PDD District; or
- (2) In accord with all applicable regulations currently in effect.

Major changes to an approved PDD shall require consent of the Planning Commission. In reaching a decision as to whether the change is minor or substantial enough to require reference back to the Planning Commission for approval, the Building Official shall use the following criteria:

- (1) Any increase 10 percent or greater in intensity or use shall constitute a modification requiring Planning Commission approval. An increase in intensity of use shall be considered to be an increase in usable floor area; an increase in the number of dwelling or lodging units; or an increase in the amount of outside land area devoted to sales, displays, or demonstrations.
- (2) Any change in parking areas resulting in an increase or reduction of ten percent or more in the number of spaces approved shall constitute a change requiring Planning Commission approval.
- (3) Structural alterations significantly affecting the basic size, form, style and location of a building, shown on the approved Plan, shall be considered a change requiring Planning Commission approval.
- (4) Any reduction in the amount of open space or buffer area resulting in a decrease of more than five percent or any substantial change in the location or characteristics of open space, shall constitute a change requiring Planning Commission approval.
- (5) Any change in use from one use group to another shall constitute a change requiring Planning Commission approval.
- (6) Substantial changes in pedestrian or vehicular access or circulation shall constitute a change requiring Planning Commission approval.

### **Section 301.10 Expiration of Time Limits on PDD Amendments**

If a time limit is set as part of the establishing agreement and action is not taken within the time limit set, the Building Official shall review the circumstances and recommend to the Planning Commission.

- (1) That PDD status or zoning for the entire area be continued with revised time limits; or
- (2) That PDD status or zoning be continued for part of the area, with or without revised time limits, and the remainder be rezoned to an appropriate category.

## **SECTION 302. HCP, HISTORICAL CONSERVATION AND PRESERVATION DISTRICT**

### **Section 302.1 Permitted Uses**

The HCP is an "overlay" district. As such, permitted uses are determined by the "underlying" or primary zoning district. Where this district overlays a Residential Zoning District, for example, only those uses permitted in the Residential Zoning District shall be permitted in the HCP Overlay District, subject to the additional requirements and standards of this Section.

### **Section 302.2 Historic Commission To Govern**

To help accomplish historic conservation and preservation in the historic overlay district created by this Ordinance, an Historic Commission is hereby established. The Commission shall consist of five (5) members appointed by the Mayor and confirmed by City Council.

The following criteria shall be used in the selection of members:

- (1) Residency in the City of Marion or ownership in the Historic District,
- (2) A demonstrated interest in historic conservation and preservation, and
- (3) Professionalism in Historic Preservation, local housing, and architecture to the extent such individuals are available, building construction and design, real estate and/or finance.

Commission members shall be appointed for overlapping three year terms and shall serve until their successors are appointed. Any vacancy in the membership shall be filled for the unexpired term.

### **Section 302.3    Organization and Meetings of the Commission**

The Commission shall elect annually a Chairman and Vice Chairman from among its members. It shall adopt rules of procedure and keep a record of its proceedings in accordance with the State Statutes and these regulations.

Four (4) members of the Commission shall constitute a quorum for the conduct of business. The members shall serve without compensation, except for reimbursement for expenses attendant to the performance of their duties and authorized by the City Administrator. The Commission shall meet upon the call of the Chairman and at such regular intervals as determined by the Commission, but not less than three (3) times a year.

### **Section 302.4    Power and Duties of the Commission**

Where within the designated Historic Conservation and Preservation overlay district, the exterior appearance of any building or structure is involved, the Building Official shall issue no permit for erection, alteration, improvement, demolition or moving of such structure unless and until a project application has been submitted to and approved by the Historic District Commission, and a Certificate of Appropriateness issued.

Any action by applicants following issuance of a permit requiring a Certificate of Appropriateness shall be in accord with the approved certificate.

The Commission shall not issue a Certificate of Appropriateness authorizing issuance of any permit if it finds that the action proposed would adversely affect the character and environment of the effected area. Where certification is denied, the Commission shall record its reasons for denial.

Additionally, the Commission shall have the following powers and duties:

- (1) To conduct an ongoing survey to identify historically and architecturally significant properties, structures and areas that



exemplify the cultural, social, economic, political, or architectural history of the city;

- (2) To keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each designation;
- (3) To determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another;
- (4) To advise and assist owners of landmarks and property or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;
- (5) To call upon available city staff members as well as other experts for technical advice;
- (6) To testify before all boards and commissions, including the Planning Commission and the Board of Zoning Appeals, on any matter affecting historically significant property, structures and areas.

### **Section 302.5    General Review Standards for Appropriateness**

In considering the issue of appropriateness, the Historic District Commission shall be guided by the following general guidelines:

- (1) Every reasonable effort should be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its original intended purpose.

- (2) The distinguishing original qualities or character of a building, structure, or site and its environment should not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
- (3) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected.
- (4) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site should be treated with sensitivity.
- (5) Deteriorated architectural features should be repaired rather than replaced whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (6) The surface cleaning of structures should be under-taken with the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials should not be undertaken.
- (7) Every reasonable effort should be made to protect and preserve archaeological resources affected by, or adjacent to any project.
- (8) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural materials, and such design is compatible with the size,

scale, color, material, and character of the property, neighborhood or environment.

### **Section 302.6    General Design Standards for Appropriateness**

At a minimum, the following general design standards shall be considered by the Historic District Commission when considering an application for appropriateness:

- (1)    Height - The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures.
- (2)    Proportions of Windows and Doors - The proportions and relationships between doors and windows should be compatible with the architectural styles and character of the landmark and with surrounding structures.
- (3)    The relationship of a structure to the open space between it and adjoining structures should be compatible.
- (4)    Roof Shape - The design of the roof should be compatible with the architectural style and character of the landmark and surrounding structures.
- (5)    Landscaping - Landscaping should be compatible with the architectural character and appearance of the landmark and of surrounding structures and landscapes.
- (6)    Scale - The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures.
- (7)    Directional Expression - Facades should blend with other structures with regard to directional expression. Structures should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a

landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.

- (8) Architectural Details - Architectural details including materials, colors, and textures should be treated so as to make a landmark compatible with its original architectural style and character and to preserve and enhance the architectural style or character of a landmark or historic district.

### **Section 302.7    Certain Work Exempt From Commission Review**

Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any building or any structure which does not require a building permit, nor to prevent the demolition of any structure or building characterized by neglect in the maintenance of such building or structure to the extent that it creates hazardous or unsafe conditions.

Such a determination by the Building Official shall be forwarded to the Historic Commission for review and comment before a permit to demolish such building or structure is issued.

The Commission shall have the right to appeal a decision of the Building Official to demolish in accord with Section 302.10.

### **Section 302.8    Development and Dimensional Standards**

Development and dimensional standards of the primary zoning district shall be applicable, but may be waived or modified by the Board of Zoning Appeals upon consultation and recommendation of the Historical District Commission in a particular situation.

### **Section 302.9    Applications and Materials to be Submitted to Commission**

Applications for Certificates of Appropriateness shall be submitted through the office of the Building Official to the Historic District Commission for review and action. The Commission shall act on such application within 30 days of receipt thereof.

By general rule or by specific request in a particular case, the Commission may require submission of any or all of the following information in connection with the application: architectural plans, site plans, landscaping plans, proposed signs and appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view and indications as to construction materials, design of doors and windows, ornamentation, colors and the like, photographs or perspective drawings indicating visual relationships to adjoining structures and spaces, and such other exhibits and reports as are necessary for its determination.

General certification of appropriateness for specific classes of uses may be issued by the Commission if it is found that particular materials, designs, architectural features or styles, or other characteristics are generally acceptable and appropriate within the district, and that continued detailed consideration of individual applications involving such matters would be superfluous. If the Building Official finds, upon examining the application, that all aspects which would otherwise require Commission review are covered by general certification, he/she may proceed without referral to the Commission, identifying the general certification in the record of the application.

### **Section 302.10 Appeal Decision of the Commission**

Any person who may have a substantial interest in any matter brought before the Historic District Commission shall have the right to appeal the decision of the Commission or any official involved in the permitting process to Circuit Court in and for Marion County by filing with the Clerk of Court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the affected party receives actual notice of the decision of the Historic District Commission review.

## **SECTION 303. NCP, NATURE CONSERVATION AND PRESERVATION DISTRICT**

### **Section 303.1 Permitted Uses**

The NCP is an "overlay" district. As such, permitted uses are determined by the "underlying" or primary zoning district. Where this district overlays a

Residential Zoning District, for example, only those uses permitted in the Residential Zoning District shall be permitted in the NCP Overlay District, subject to the review requirements of this Section.

### **Section 303.2    Planning Commission Review Required**

All uses and development proposed for the NCP District shall be submitted to the Planning Commission for review and approval prior to permitting by the Building Official.

In its review the Planning Commission shall consider the potential impact of the proposed use on prevailing natural features, i.e. vegetation, hydrology, ecology, geology, topography, and soils.

To the maximum extent practicable, the Commission shall guide and mitigate proposed development so as to preserve natural features within the district, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.

The following specific areas shall be preserved and protected to the extent consistent with the reasonable utilization of a proposed building site in the district.

- (a) Unique and/or fragile areas, including wetlands as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1972, as determined by the U.S. Corps of Engineers;
- (b) Lands in flood hazard areas, as delineated on Flood Boundary and Floodway Maps for the City of Marion; and
- (c) Habitats of endangered wildlife as identified on federal and state lists.

### **Section 303.3    Appeal Decision of the Commission**

In case of failed mitigation and disapproval by the Planning Commission of any application brought before it, the applicant shall have the right to appeal the decision to the City Council, which shall have the power to overrule such

disapproval and instruct the Building Official to issue said permit, having given due notice of the matter in a newspaper of general circulation in the City of Marion.

## **ARTICLE IV SUPPLEMENTAL OFF-STREET PARKING AND LOADING REGULATIONS**

The provisions of this Article shall supplement the off-street parking requirements contained in Table I of this Ordinance.

### **SECTION 400. OFF-STREET PARKING**

#### **Section 400.1 General Requirements**

- (1) Where application of the requirements of Table I results in a fractional space requirement, the next larger requirement shall apply.
- (2) Wherever a building or use, constructed or established after the effective date of these regulations is changed or enlarged in floor area, number of dwelling units, seating capacity or otherwise to create a need for an increase of ten percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (3) Off-street parking facilities at the effective date of this Ordinance shall not subsequently be reduced to an amount less than that required under this Ordinance for a similar new building or new use. Off-street parking facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance.

#### **Section 400.2 Land To Provide Parking**

The land to provide parking must be contiguous to and under the same ownership as the principal use for which the parking is to be provided.



## **Section 400.3    Design Standards**

Where off-street parking for more than five (5) vehicles is required, the following design and development standards shall apply:

### **(1)    Parking Dimensions**

Parking stalls shall be not less than nine (9) feet by nineteen (19) feet, except that a maximum of ten percent (10%) of the total number of stalls may be 8.5 feet by eighteen (18) feet. However, the dimensions of all parallel parking stalls shall be not less than nine (9) feet by twenty-four (24) feet. Minimum isle width shall be as follows:

90 degree parking	25 feet
60 degree parking	18 feet
45 degree parking	13 feet

### **(2)    Paving**

All off-street parking areas and all ingress and egress drives shall be surfaced with an all-weather impervious surface material, approved by the Building Official.

### **(3)    Drainage**

Parking lots shall be designed so as not to drain into or across public sidewalks, or into adjacent property, except into a natural watercourse or a drainage easement. In developed areas where this condition may be impossible to meet, the Building Official may exempt the developer from this requirement, provided that adequate provision is made for the drainage.

### **(4)    Separation From Walkways and Streets**

Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys, and required yards and buffer areas

by a wall, fence, curbing, or other protective device approved by the Building Official. (See Section 602.6)

(5) Entrances and Exits

Landscaping, curbing or other approved barriers shall be provided along boundaries to control entrance and exit of vehicles or pedestrians. All off-street parking areas shall be designed so that all movement on to a public street is in a forward motion. Entrance and exit driveways to public streets and alleys in the vicinity of street intersections must be located at least forty (40) feet, measured along the curb line, from the intersection of the nearest curb line.

(6) Marking

Parking lots shall be marked by painted lines, shrubs or other means to indicate individual spaces. Signs or markers, as approved by the Building Official, shall be used as necessary to ensure efficient traffic operation of the lot.

(7) Lighting

Adequate lighting shall be provided if off-street parking spaces are to be used at night. Equipment for lighting parking facilities shall be arranged so that light does not interfere with traffic or adjoining residential areas.

(8) Landscaping

Where 20 or more off-street parking spaces are required, said off-street parking area shall be landscaped in accord with the provisions of Section 602.

**Section 400.4    Maintenance**

All off-street parking areas shall be maintained in a clean, orderly, dust-free, and weed-free condition at the expense of the owner or lessee and not used

for the sale, repair, or dismantling or servicing of any vehicles or equipment, except for service and auto repair stations.

#### **Section 400.5    Parking Space For The Physically Handicapped**

When off-street parking is required for any building or use, except for residential dwellings with fewer than 20 units, parking for the handicapped shall be included when calculating the overall parking requirements for such building or use, based on the following formula:

<u>Number of Required Spaces</u>	<u>Number of Spaces Reserved For Handicapped Persons</u>
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
over 500	2% of total required

Parking spaces for the physically handicapped shall measure 12 feet by 20 feet or 8 feet in width, with an adjacent access isle 8 feet in width, and shall be located as close as possible to ramps, walkways, and entrances. Parking spaces should be located so that physically handicapped persons are not compelled to wheel or walk behind parked cars to reach entrances, ramps and walkways.

#### **Section 400.6    Approval of Parking Lot Design and Layout**

Designs and plans for areas to be used for off-street parking shall be subject to approval by the Building Official, who may withhold a permit or Certificate of Occupancy if an off-street parking layout would create avoidable safety or traffic congestion problems, pending acceptable modification of the layout, or appeal to the Board of Zoning Appeals.

## **Section 400.7    Exceptions**

- (1) If a peculiar characteristic of an establishment makes the requirements in this Section clearly unrealistic, the Board of Zoning Appeals may grant the applicant a parking modification.
- (2) In the central fire district, the Building Official may allow a new use to be established in an existing building even if all parking requirements of this Article cannot be met for the new use, provided that as much off-

street parking as can reasonably be provided is provided by the use, and no foreseeable traffic congestion problems will be created.

## **SECTION 401.    OFF-STREET LOADING**

All uses shall provide off-street loading areas sufficient for their requirements.

Such space shall be arranged so that no vehicle being loaded or unloaded in connection with normal operations shall stand in or project into a public street, walk, alley, or private street.

Off-street loading and unloading areas shall in all cases be located on the same lot or parcel of land as the structures they are intended to serve.

## **Section 401.1    Exceptions**

- (1) If a peculiar characteristic of an establishment makes the requirements in this Section clearly unrealistic, the Board of Zoning Appeals may grant the applicant a modification of the loading requirements in regard to that particular establishment.
- (2) In the central fire district, the Building Official may allow a new use to be established in an existing building even if all loading requirements of this Section cannot be met for the new use, provided that as much loading space as can reasonably be provided is provided by the use and traffic or safety hazards will not be created.

## **ARTICLE V SIGN REGULATIONS**

The purpose of this Article is to protect the dual interest of the public and the advertiser. The regulations herein are designed to protect public safety and welfare and to ensure the maintenance of an attractive community environment while satisfying the needs of sign users for adequate identification, communication and advertising.

### **SECTION 500.      APPLICABILITY AND CONFORMANCE**

This Article regulates the number, size, placement and physical characteristics of signs; allows certain signs without permits; prohibits certain signs; and requires permits for certain signs.

From and after the adoption of this Ordinance, no sign may be erected or enlarged in the City of Marion unless it conforms to the requirements of this Article.

### **SECTION 501.      SIGNS ON PRIVATE PROPERTY**

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

Although permitted under the previous paragraph, a sign designated by an "A" in Table III shall be allowed only if in compliance with the conditional requirements of Table IV.

**TABLE III  
REGULATION OF SIGNS BY TYPE, CHARACTERISTICS AND ZONING DISTRICTS**

<b>SIGN TYPE</b>	<b>R-12</b>	<b>R-9</b>	<b>R-6</b>	<b>GR</b>	<b>RMH</b>	<b>INS(3)</b>	<b>O&amp;R</b>	<b>LC</b>	<b>CC</b>	<b>GC</b>	<b>I-1</b>
<b>PERMANENT</b>											
Freestanding											
Principal	N(1)	N(1)	N(1)	N(1)	N(1)	P	P	P	N	P	P
Incidental	N	N	N	A	A	A	A	A	A	A	A
Building											
Canopy	N	N	N	N	N	N	P	P	P	P	P
Identification	A	A	A	A	A	A	A	A	A	A	A
Incidental	N	N	N	A	A	A	A	A	A	A	A
Marquee	N	N	N	N	N	N	N	P	P	P	P
Projecting	N	N	N	N	N	N	N	P	N	P	P
Roof	N	N	N	N	N	N	N	N	N	N	N
Roof, Integral	N	N	N	N	N	N	N	N	N	P	P
Wall	N	N	N	N	N	N	N	P	P	P	P
Window	N	N	N	N	N	N	A	A	A	A	A
<b>TEMPORARY (2)</b>											
A-Frame (sandwich board)	N	N	N	N	N	N	N	A	N	N	N
Banner	N	N	N	N	N	N	N	P	P	P	P
Posters	A	A	A	A	A	A	A	A	A	A	A
Portable	N	N	N	N	N	N	N	N	N	P	P
Political	A	A	A	A	A	A	A	A	A	A	A
Identification	P	P	P	P	P	P	P	P	P	P	P
<b><u>SIGN CHARACTERISTICS</u></b>											
Animated	N	N	N	N	N	N	N	P	P	P	N
Changeable Copy	N	N	N	N	N	A	A	A	A	A	A
Illumination Indirect	A	A	A	A	A	A	A	A	A	A	A
Illumination Internal	A	A	A	A	A	A	A	A	A	A	A
Illumination, Exposed bulbs or neon	N	N	N	N	N	N	N	N	N	N	N

(1) Signs identifying or announcing land subdivisions or residential projects shall be allowed in accord with requirements of Table IV.

(2) See Section 503.

(3) This column does not represent a zoning district. It applies to non-residential uses permitted in residential districts, churches, schools, etc.

**TABLE IV**

**NUMBER, DIMENSION AND LOCATION OF PERMITTED SIGNS, BY ZONING DISTRICT**

	<u>R-12</u>	<u>R-9</u>	<u>R-6</u>	<u>GR</u>	<u>RMH</u>	<u>INS(2)</u>	<u>OR</u>	<u>LC</u>	<u>CC</u>	<u>GC</u>	<u>I-1</u>
<b>FREESTANDING SIGNS</b>											
Number Permitted:(1)											
Per Developed Lot	NA	NA	NA	NA	NA	1	1	1	(4)	NA	NA
Per feet of St. Frontage	NA	NA	NA	NA	NA	NA	NA	NA	NA	1:200	1:300
Maximum Sign Area (sq. ft.)	NA	NA	NA	NA	NA	20	20	32	32	1 sq.ft. per 2 ft. street (3) frontage	1 sq. ft. per 3 ft. street (3) frontage
Minimum Setback from Property Line	NA	NA	NA	NA	NA	5'	5'	5'	0	5'	5'
Maximum Height	NA	NA	NA	NA	NA	12'	12'	12'	24'	24'	24'
<b>BUILDING SIGNS</b>											
Number Permitted	1	1	1	1	1	1	1	NA	NA	NA	NA
Maximum Sign Area (sq. ft)	2	2	2	6	6	10	6	NA	NA	NA	NA
Maximum Wall Area (%)	NA	NA	NA	NA	NA	NA	NA	15%	15%	25%	15%

**TEMPORARY SIGNS**

See Section 504

- (1) Subdivision identification and residential project signs, not to exceed 20 square feet in area are permitted in residential districts, provided they meet the requirements for a Common Signage Plan, in accord with Section 502.
- (2) This column does not represent a zoning district. It applies to institutional and other non-residential uses permitted under the zoning ordinance in residential zoning districts, i.e. churches, schools, parks, etc.
- (3) Not to exceed 300 square feet.
- (4) Free standing signs shall be permitted only where yard depth is at least 20 feet.

## **SECTION 502. COMMON SIGNAGE PLAN REQUIRED**

A Common Signage Plan shall be prerequisite to the issuance of any sign permit involving:

- (1) Two or more contiguous lots or parcels under the same ownership,
- (2) A single lot or parcel with more than one principal use or building (not including accessory uses or buildings) or qualifying on the basis of street frontage for more than one free-standing sign, and
- (3) The identification or announcement of a land subdivision or development project.
- (4) A PDD (Planned Development District) application.

The Plan shall contain all information required for sign permits generally (Section 1001) and shall also specify standards for consistency among all signs on the zone lot affected by the Plan with regard to:

Lettering or graphic style;  
Lighting;  
Location of each sign on the buildings;  
Material; and  
Sign proportions.

The Common Signage Plan, for all zone lots with multiple uses or multiple users, shall limit the number of free-standing signs to a total of one for each street on which the zone lots included in the Plan have frontage and shall provide for shared or common usage of such signs; however the maximum sign area may be increased by 25%.

Once approved by the Building Official, the Common Signage Plan shall become binding on all business and uses occupying the affected zone lots, but may be amended by filing a new or revised Plan that conforms with all requirements of this Ordinance.



If any new or amended Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within three years, all signs not conforming to the proposed amended Plan or to the requirements of this Ordinance in effect on the date of submission.

### **SECTION 503. TEMPORARY SIGNS**

<b>Sign Type</b>	<b>Display Period</b>	<b>Display Intervals</b>	<b>Dimensions</b>	<b>Conditions</b>
A-Frame	Business hours only	off-hours	12 sq. ft.	A
Banners and Pennants	30 days	30 days	None	B
Portable	30 days	30 days	32 Sq. Ft.	C
Posters	7 days	None	6 sq. ft.	D
Identification	90 days, or project completion	None	24 sq. ft.	E
Political	60 days before election	Not Applicable	32 sq. ft.	F
Real Estate	90 days or sale/rent	Not Applicable	12 sq. ft.	B

**Notes to Table**

- A A-Frame signs shall not be located in any street or vehicular traffic way, where located on sidewalks, shall be located in such a manner as not to obstruct pedestrian movement, and where located in the CC district shall be approved for appropriateness by the Marion Historic Commission.
- B Banners, pennants and real estate signs shall be properly secured and maintained at all times, and shall not interfere with pedestrian or vehicular movement.
- C Portable signs shall be limited to one per establishment or lot, whichever is less, shall have no colored or flashing lights, shall not be wired so as to obstruct pedestrian or vehicular traffic or pose any potential for hindrance (e.g. exposed drop cord), shall not exceed 6 feet in height, shall be anchored in accord with city building code, and shall not be converted to a permanent sign.
- D Posters shall not be allowed on any telephone or power poles or any public right-of-way, and shall be placed no closer than five (5) feet from a street or curb.
- E Temporary subdivision and work under construction identification signs shall adhere to the Development Standards of Section 506.
- F Political signs shall be removed within 7 days of an election.

## **SECTION 504.      SIGNS IN THE PUBLIC RIGHT-OF-WAY**

No sign shall be allowed in the public right-of-way, except for the following:

- (1) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
- (2) Bus stop signs erected by a public transit company;
- (3) Informational signs of a public agency or utility;
- (4) Awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions established by this Section;
- (5) Emergency signs; and
- (6) Directional signs of a temporary nature not to exceed 24 hours for such events as yard sales, auctions, public gatherings, etc.

## **Section 505. Prohibited Signs**

All signs not expressly permitted by this ordinance are prohibited. Such signs include, but are not limited to:

1. Signs painted on or attached to trees, fence posts, telephone or other utility poles, stationary vehicles, or natural features.
2. Signs displaying intermittent lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, rescue vehicles or other warning signals, and signs using the words “stop”, “danger”, or any other word, phrase, symbol, or character in a manner that might mislead or confuse motorist.
3. Signs which have been abandoned and no longer correctly direct or exhort any person, advertises a bona fide business, product, or activity conducted or product available.

## **SECTION 506. DEVELOPMENT STANDARDS**

All signs allowed by this Article shall comply with the development standards of this Section.

### **Section 506.1 Visual Area Clearance**

No sign shall be located within a vision clearance area as defined in Section 805.

### **Section 506.2 Vehicle Area Clearance**

When a sign extends over an area where vehicles travel or are parked, the bottom of the sign structure shall be at least 14 feet above the ground. Vehicle areas include driveways, alleys, parking lots, and loading and maneuvering areas.

### **Section 506.3 Pedestrian Area Clearance**

When a sign extends over sidewalks, walkways or other spaces pedestrian areas, the bottom of the sign structure shall be at least 8-1/2 feet above the ground.

### **Section 506.4 Sign Materials**

Signs must be constructed of durable all-weather materials, maintained in good condition and not permitted to fall in disrepair.

### **Section 506.5 Sign Illumination**

Signs when illuminated 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.

No illumination simulating traffic control devices or emergency vehicles shall be used, nor shall lights which are intermittently switched on and off, changed in intensity or color, or otherwise displayed to create the illusion of flashing or movement be permitted.

## **SECTION 507. SIGN MEASUREMENT**

### **Section 507.1 Sign Face Area**

- (1) The area of a sign enclosed in frames or cabinets is determined by measuring the outer dimensions of the frame or cabinet surrounding the sign face. Sign area does not include foundations or supports. Only one side of a double-faced or V-shaped, free-standing sign is counted.
- (2) For signs on a base material and attached without a frame, such as a wood board or plexiglass panel, the dimensions of the base material are to be used in the measurement unless it is clear that part of the base contains no sign related display or decoration.
- (3) For signs constructed of individual pieces attached to a building wall, sign area is determined by a perimeter drawn around all the pieces.
- (4) For sign structures containing multiple modules oriented in the same direction, the modules together are counted as one sign face.
- (5) The maximum surface area visible at one time of a round or three-dimensional sign is counted to determine sign area.
- (6) For signs incorporated into awnings, the entire panel containing the sign is counted as the sign face unless it is clear that part of the panel contains no sign related display or decoration.

### **Section 507.2 Clearances**

Clearances are measured from the grade directly below the sign to the bottom of the sign structure enclosing the sign face.

## **SECTION 508.      REMOVAL OF SIGNS**

- (1) The lawful use of any permanently mounted sign existing at the time of the enactment of this Ordinance may be continued although such use does not conform with the provisions of this Ordinance, except those declared abandoned, which shall be removed within 90 days of the effective date of this Ordinance.
- (2) Any existing sign which is subsequently abandoned shall be removed, and any existing sign exceeding the allowable face area by 25 percent, and which is subsequently destroyed or damaged to the extent of 50 percent or more of its replacement cost, shall be removed or brought into conformity with these regulations.
- (3) Any nonconforming temporary sign which is not permanently mounted shall be removed or brought into conformity no later than 60 days following the effective date of this Ordinance.
- (4) An order under this Section shall be issued in writing to the owner or responsible party of any such sign, or of the building or premises on which such sign is located to comply within five (5) days time. Upon failure to comply with such notice, the Building Official may cause the sign to be removed and any costs of removal incurred in the process may be collected in a manner prescribed by law.

## **ARTICLE VI**

### **COMMUNITY APPEARANCE, BUFFERING, SCREENING LANDSCAPING, OPEN SPACE AND TREE PROTECTION REGULATIONS**

The regulations contained in this Article are intended generally to promote land use compatibility between uncomplimentary and incompatible land uses, create an aesthetically pleasing environment and maximize the retention of trees, a valuable natural resource.

#### **Section 600 Buffer Areas**

##### **Section 600.1 Definition**

A buffer area is a unit of yard, together with plantings, fences, walls, and other screening devices required thereon.

##### **Section 600.2 Purpose**

The purpose of a buffer area is to ameliorate any potential adverse impact between adjacent land uses and streets, and promote land use compatibility.

##### **Section 600.3 Location**

Buffer areas shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. For purposes of complying with this section, they shall not be located on any portion of an existing street or right-of-way; however, they may occupy part or all of any required front, side or rear yard setback. Where specified by this section, buffer areas and/or buffer area structures shall be developed as an integral part of the proposed use.

##### **Section 600.4 Determination of Buffer Area Requirements**

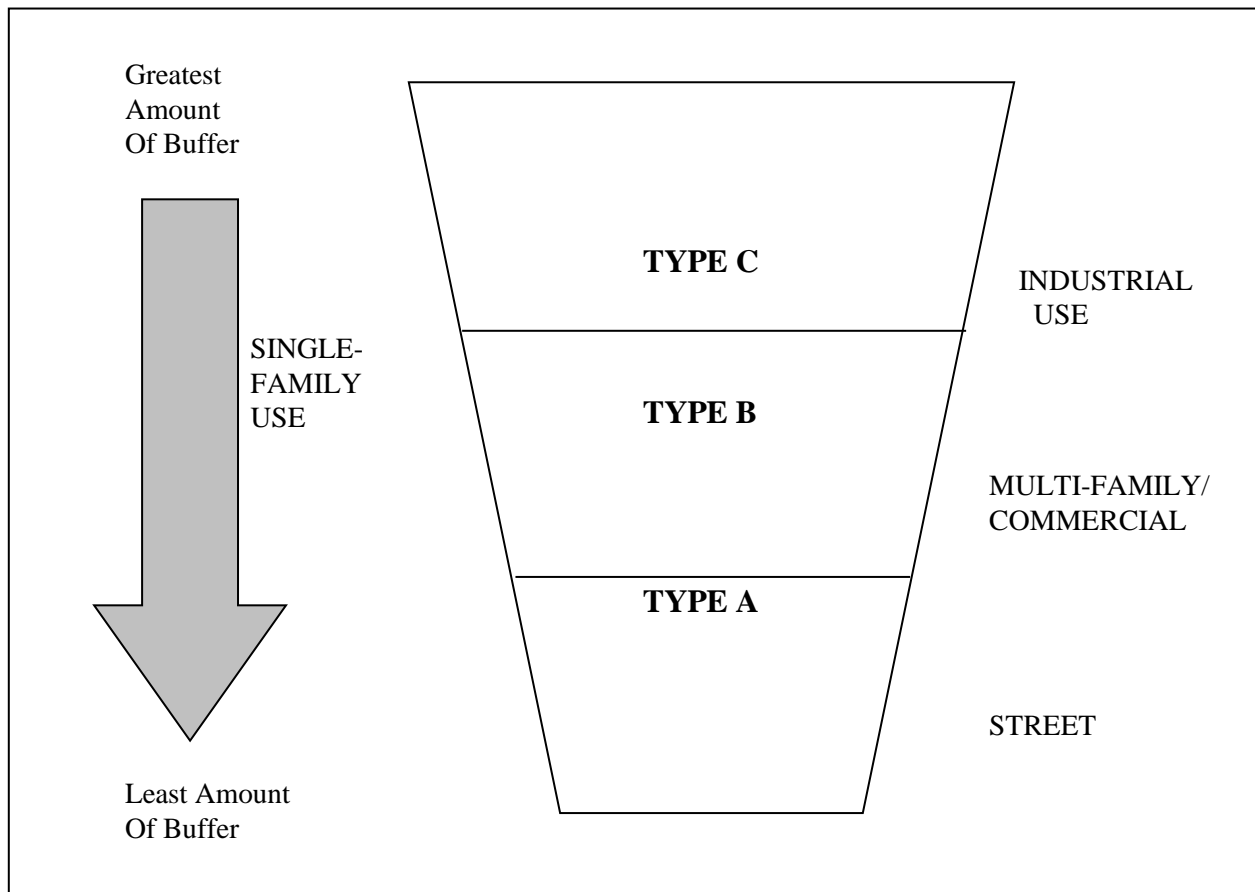
Buffer Areas shall be required under the following circumstances.

- (1) **Type A Buffer Area Required.** Wherever a Multi-family building or non-residential use is proposed, a Type A buffer area shall be provided along the street right-of-way boundary of the proposed use, separating it from the adjoining street, except for driveways

and uses in the CC District.

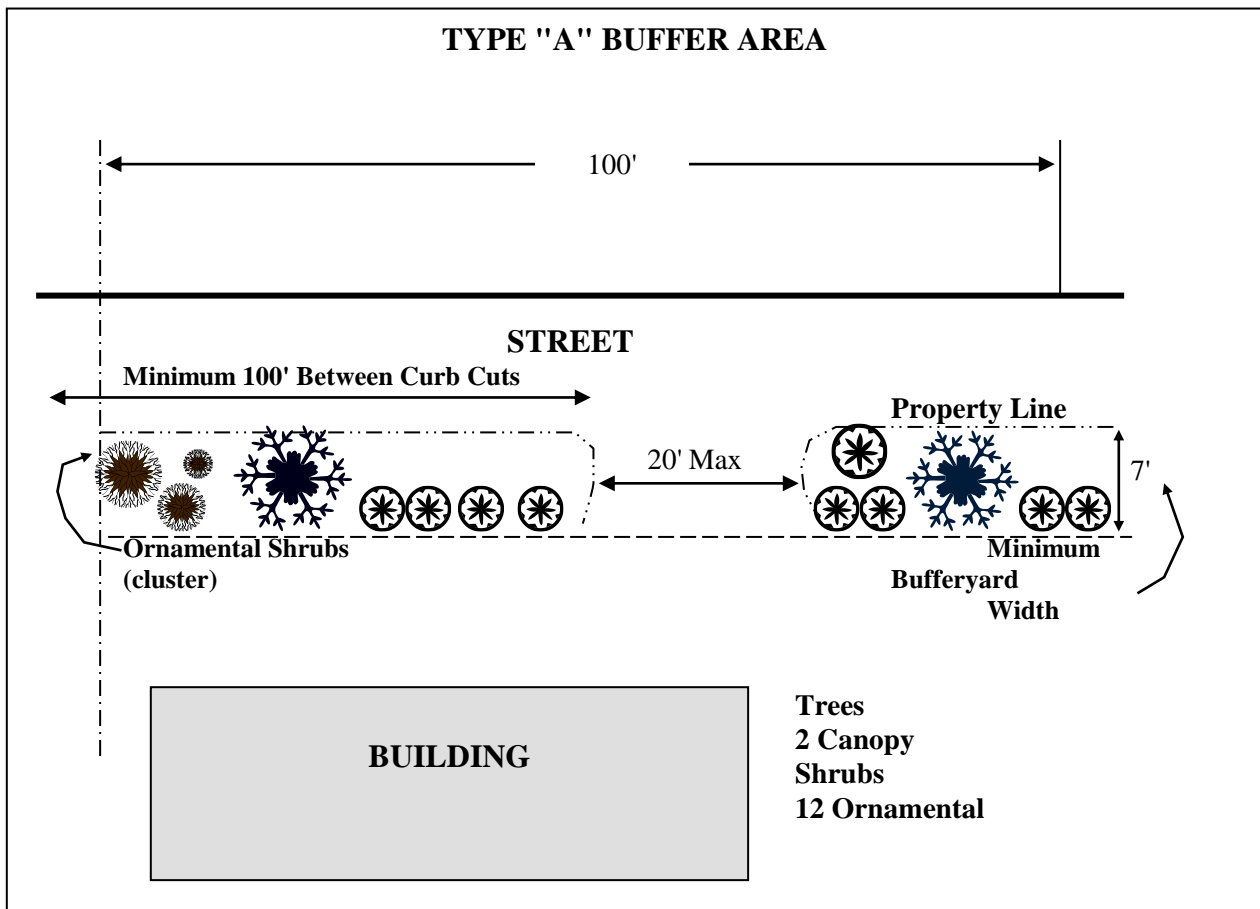
- (2) **Type B Buffer Area Required.** Wherever a Multi-family building, institutional or commercial use is proposed for a site or lot adjoining a single-family residential dwelling in a residentially zoned district, with no intervening street, a Type B Buffer Area shall be provided along the boundary of the adjoining residential property line.
- (3) **Type C Buffer Area Required.** Wherever an industrial, warehouse, or related use is proposed for a site or lot adjoining any residential use in a residentially zoned district with no intervening street, a Type C Buffer Area shall be provided along the boundary of the adjoining residential property line.

## Section 600.5 Design Standards



Three types of buffer areas are required by this Ordinance, Type A, Type B, and Type C. A description of each follows:

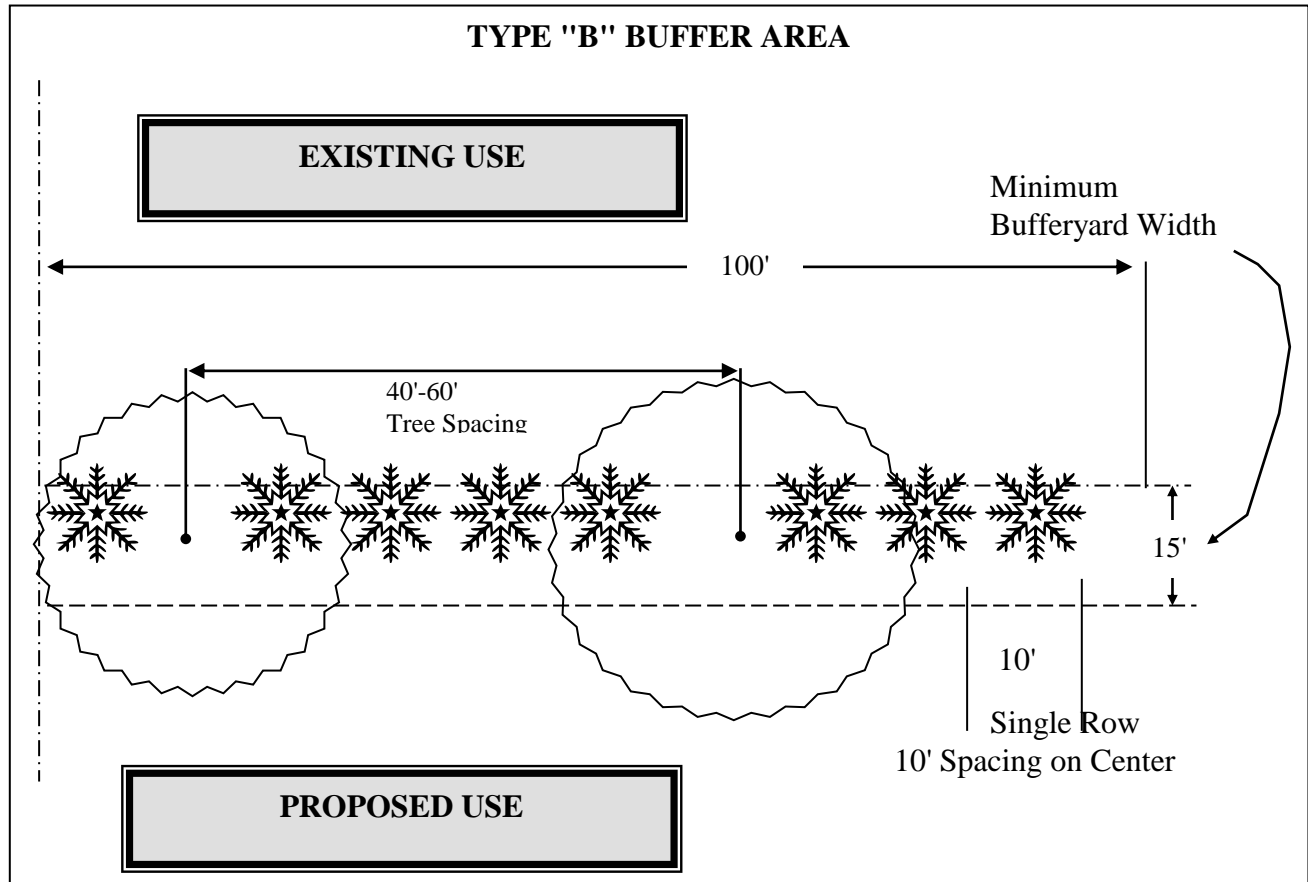
- (1) **Type "A" Buffer Area.** The Type A Buffer Area consists of low density landscaping and minimal acceptable separation between uses. The buffer area shall be not less than seven (7) feet in width. Per 100 lineal feet of frontage, the buffer area shall consist of a combination of not less than 12 ornamental shrubs, two understory trees and landscaped grass areas, or other appropriate ground cover. The shrubs may be clustered to ensure their survival. The following diagram illustrates an example site plan.



- (2) **Type "B" Buffer Area.** The Type B Buffer Area is a medium density screen intended to block visual contact between uses and to create spatial separation. The buffer area shall be a minimum width of 15 feet. Per 100 lineal feet the screen shall consist of a

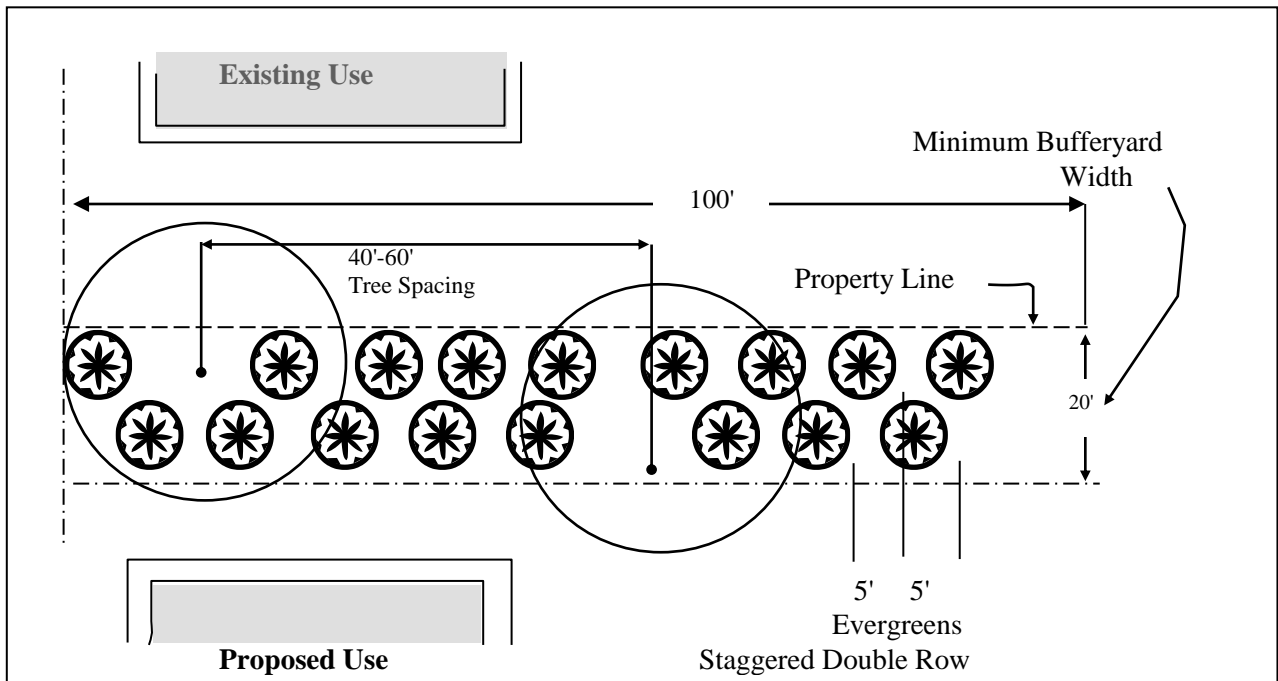


combination of 2 deciduous trees planted 40 to 60 feet on center and 8 evergreen plants 10 feet on center. The following diagram illustrates an example site plan.



- (3) **Type "C" Buffer Area.** The Type C Buffer Area is a high-density screen intended to exclude all visual contact between uses and to create spatial separation. The buffer area shall be a minimum width of 20 feet. Per 100 lineal feet the screen shall consist of a combination of 2 deciduous trees planted 40 to 60 feet on center and 17 evergreen plants or understory trees planted in a double-staggered row 10 feet on center. The following diagram illustrates an example site plan.

## TYPE "C" BUFFER AREA



### Section 600.6 Buffer Area Specifications

- (1) **Minimum Installation Size.** At installation or planting, all evergreen (understory) trees and/or shrubs used to fulfill buffer area requirements shall be not less than 6 feet in height, and all deciduous (canopy) trees shall be not less than 8 feet in height, except for ornamental shrubs for Type A Buffer Areas.
- (2) **Minimum Mature Size.** At maturity, evergreen plant material used for screening shall form a continuous opaque screen averaging 10 feet in height, and deciduous plant material used for screening shall average 25 feet in height.
- (3) **Staggered Planting.** Where required, evergreen and deciduous plant material shall be planted in two rows and in an alternating fashion to form a continuous opaque screen of plant material.

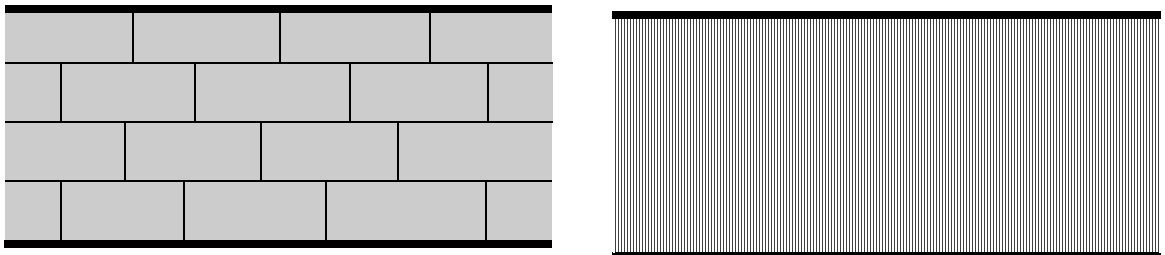
### Section 600.7 Substitutions

The following substitutions shall satisfy the requirements of this section:

- (1) **Existing Plant Materials.** Existing trees of 4 inches DBH (Diameter Breast High) or more in diameter, within the required buffer area may be included in the computation of the required buffer area planting, with approval of the Zoning Administrator.
- (2) **Fence or Wall.** Where, owing to existing land use, lot sizes or configurations, topography, or circumstances peculiar to a given piece of property, the buffer area requirements of this section cannot reasonably be met, the developer(s) may request and the Zoning Administrator may approve the substitution of appropriate screening, in the way of a fence or wall structure along the property line of the proposed use in accord with the provisions of this Section.

An eight-foot fence or wall, as illustrated below, may be substituted for a Type "B" or "C" Buffer Area.

### **Fence and Wall Illustrations**



All fences and walls used as part of the buffer area requirements must have a finished side that is facing adjoining property. The interior side of the fence or wall may be finished, as owner deems appropriate. Chain link fences with or without slats are not an acceptable substitute and not permitted as such.

### **Section 600.8 Responsibility**

It shall be the responsibility of the proposed new use to provide the buffer area where required by this Ordinance, except that no new detached single-family dwelling or duplex shall be required to provide such buffer area.

### **Section 600.9 Required Maintenance**

The maintenance of required buffer areas shall be the responsibility of the property owner. All such areas shall be properly maintained so as to ensure continued buffering. All planted areas shall be provided with an irrigation system or a readily available water supply to ensure continuous healthy growth and development. Dead trees shall be removed; debris and litter shall be cleaned; and berms, fences, and walls shall be maintained at all times. Failure to do so is a violation of this Ordinance, and may be remedied in the manner prescribed for other violations.

## **Section 600.10 Use of Buffer Areas**

A buffer area may be used for passive recreation; however no plant material may be removed. All other uses are prohibited, including off-street parking.

## **SECTION 601 SCREENING**

### **Section 601.1 Definition**

Screening is a type of buffer that is designed to block or obscure a particular element or use from view.

### **Section 601.2 Purpose**

The purpose of screening is to minimize if not eliminate entirely the visual impact of potentially unsightly open storage areas and refuse disposal facilities.

### **Section 601.3 Where Required**

Screening specified by this section shall be required of all open storage areas not devoted to retail sales visible from any public street, including open storage areas for boats, trailers, building materials, appliances, container-sized trash of 4 or more cubic yards, salvage materials and similar unenclosed uses.

### **Section 601.4 Type Screening Required**

Screening shall be accomplished by an opaque divide not less than six (6) feet high. Screening may be accomplished by the use of sight obscuring plant materials (generally evergreens), earth berms, walls, fences, building

parapets, proper siting of disruptive elements, building placement or other design techniques approved by the Building Official.

## **Section 602 Landscaping**

### **Section 602.1 Definition**

Landscaping is a type of open space permanently devoted and maintained for the growing of shrubbery, grass, other plants and decorative features to the land.

### **Section 602.2 Purpose**

The purpose of landscaping is to improve the appearance of vehicular use areas and development abutting public rights-of-way; to protect, preserve, and promote the aesthetic appeal, scenic beauty, character and value of land; and to promote public health and safety through the reduction of noise pollution, storm water run off, air pollution, visual pollution, and artificial light glare.

### **Section 602.3 Where Required**

No proposed commercial, institutional, industrial or other non-residential use, multi-family or off-street parking lot containing 15 or more spaces shall hereafter be established and subsequently used unless landscaping is provided in accord with the provisions of this section. No existing building, structure or vehicular use area shall be expanded or enlarged by 50 percent or more unless the minimum landscaping required by the provisions of this section is provided throughout the building site. Enlargements involving less than 50 percent shall meet the minimum requirements of the enlargement only. Landscaping is not required for existing uses, nor is it required for uses in the CC District.

### **Section 602.4 Landscaping Plan**

A landscaping plan shall be submitted as part of the application for a building permit. The plan shall:

- (1) Designate areas to be reserved for landscaping. The specific design of landscaping shall be sensitive to the physical and design characteristics of the site.

- (2) Indicate the location and dimensions of landscaped areas, plant materials, decorative features, etc.
- (3) Identify all existing trees 10" DBH (Diameter Breast High).

### **Section 602.5 Landscaping Requirements.**

Required landscaping shall be provided as follows:

- (1) **Along the outer perimeter of a lot or parcel**, where required by the buffer area provisions of this Article to buffer and separate incompatible land uses. The amount specified shall be as prescribed by **Section 600.5, Buffer Areas**.
- (2) **Within the interior**, peninsula or island type landscaped areas shall be provided for any open vehicular use area containing 15 or more parking spaces. Landscaped areas shall be located in such a manner as to divide and break up the expanse of paving and at strategic points to guide travel flow and directions. Elsewhere, landscaped areas shall be designed to soften and complement the building site and separate the building from the vehicular surface area, and the vehicle surface area from adjacent property.

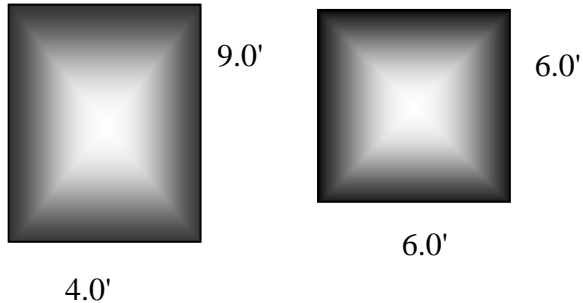
At a minimum, interior lot landscaping shall be provided in the following amounts:

<u>Use</u>	<u>% of Lot</u>
Institutional	18%
Industrial/wholesale/storage	12%
Office	15%
Commercial-retail-service	10%
Multi-family Projects	25%

### **Section 602.6 Landscaped Areas**

- (1) All landscaped areas in or adjacent to parking areas shall be protected from vehicular damage by a raised concrete curb or an equivalent barrier of six inches in height. The barrier need not be continuous.

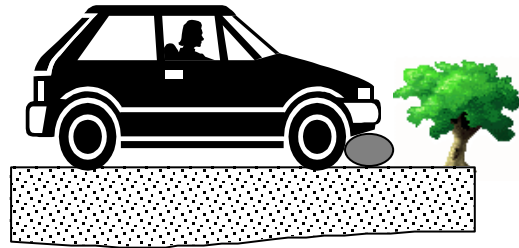
(2) Landscaped areas must be at least 36 square feet in size.



### **Section 602.7 Required Maintenance**

The maintenance of required landscaped areas shall be the responsibility of the property

owner. All such areas shall be properly maintained so as to assure their survival and aesthetic value, and shall be provided with an irrigation system or a readily available water supply. Failure to monitor such areas is a violation of this Ordinance, and may be remedied in the manner prescribed for other violations.



## **Section 603 Tree Protection**

### **Section 603.1 Purpose**

The purpose of this section is to protect and sustain the intrinsic value of trees and their ability to promote the public health, safety and general welfare, to lessen air pollution, to increase air filtration, to reduce noise, heat and glare, to prevent soil erosion, to aid in surface drainage and minimize flooding, and to beautify and enhance the environment.

### **Section 603.2 Protected Trees**

Any tree, except a pine tree, measuring 12" DBH (Diameter Breast High) shall constitute a "significant tree" for purposes of this section and shall be protected to the extent practical and feasible. To this end, no person, firm, organization, society, association or corporation, or any agent or representative thereof shall directly or indirectly destroy or remove any tree in violation of the terms of this section.

### **Section 603.3 Tree Survey**

Prior to grading or clearing a lot or parcel for development and the issuance of a building permit, the developer/owner applicant shall have conducted a tree survey identifying the location of all significant trees. Said trees shall be shown on a survey plat and physically marked with brightly colored tape or other markings.

### **Section 603.4 Site Design**

The design of any land development project or subdivision shall take into consideration the location of all significant trees identified on the tree survey. Lot and site design shall minimize the need to fell such significant trees, of which no more than 25 percent may be removed to accommodate a proposed use or development.

The site design shall be presented on a site plan showing:

- (1) Existing location and size of all significant trees;
- (2) Trees to be removed;
- (3) Trees to be preserved;
- (4) Areas to be cleared; and
- (5) Areas for proposed structures and improvements.

Site plan approval by the Zoning Administrator shall be prerequisite to the issuance of a building permit.

### **Section 603.5 Tree protection and Replacement**

- (1) Prior to Development. Where a building permit has not been issued, the destruction of any significant tree, as defined by this Ordinance, without prior approval of the Zoning Administrator, which approval shall not be unreasonably withheld, shall be prohibited.



- (2) During Development. During development, a minimum protective zone, marked by barriers, shall be established (erected) at the "drip line" and maintained around all trees to be retained as required by this section. There shall be no construction, paving, grading, operation of equipment or vehicles, or storage materials within this protected zone.

## **Section 603.6 Exceptions**

Individually owned lots less than two acres in size.

## **Section 603.7 Significant Trees Removed Without Permits**

Where significant trees have been removed or where removal is necessitated at any time due to acts of negligence, or where sites were cleared of significant trees in violation of this section, replacement trees shall be planted in accordance with a replacement schedule approved by the Zoning Administrator, who shall specify the number, species, DBH, and location of replacement trees, using the following criteria:

- (1) Combined DBH of replacement trees is equal to or greater than the DBH of the tree removed or;
- (2) individual replacement trees are of the largest transplantable DBH available.

## **Section 604 Common Open Space**

### **Section 604.1 Definition**

Common open space is land and/or water bodies used for recreation, amenity or buffer; it shall be freely accessible to all residents and property owners of a development, where required by this Ordinance. Open space shall not be occupied by buildings or structures other than those in conjunction with the use of open space, roads, or parking nor shall it include the yards or lots of residential dwelling units required to meet minimum lot area or parking area requirements.

## **Section 604.2 Purpose**

The purpose of this section is to ensure adequate open space for high density residential development; to integrate recreation, landscaping, greenery, and/or natural areas into such projects; to promote the health and safety of residents of such projects; and to compensate for the loss of open space inherent in single-family residential projects.

## **Section 604.3 Where Required**

The following uses/projects consisting of seven (7) or more units shall provide common open space in the amounts prescribed:

<u>Proposed Uses/Projects</u>	<u>Ratio (% Lot)</u>
Cluster Developments	20%
Townhouse Projects	15%
Manufactured Home Parks	15%
Multi-family Projects	20%

Note: Landscaped buffer areas provided to meet the requirements of Section 600 for multi-family projects and manufactured home parks may be applied toward meeting the above requirements if held in common ownership.

New Sites: No proposed development, building or structure in connection with the above shall hereafter be erected or used unless common open space is provided in accord with the provisions of this section.

Existing Sites: No existing development, building or structure in connection with the above shall be expanded or enlarged unless the minimum common open space required by the provisions of this section are provided to the extent of the alteration or expansion.

## **Section 604.4 Common Open Space Plan**

Proposed uses/projects set forth in 604.3 shall submit an open space or landscaping plan as part of the application for a building permit. The plan shall:

Designate areas to be reserved as open space. The specific design of open

space shall be sensitive to the physical and design characteristics of the site.

Designate the type of open space which will be provided, and indicate the location of plant materials, decorative features, recreational facilities, etc. Specify the manner in which common open space shall be perpetuated, maintained and administered.

#### **Section 604.5      Types of Common Open Space and Required Maintenance**

The types of common open space, which may be provided to satisfy the requirements of this Ordinance together with the maintenance required for each, are as follows:

Natural areas are areas of undisturbed vegetation or areas replanted with vegetation after construction. Woodlands and wetlands are specific types of natural areas. Maintenance is limited to removal of litter, dead trees, plant materials, and brush. Natural watercourses are to be maintained as free flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.

Recreational areas are designed for specific active recreational uses such as tot lots, tennis courts, swimming pools, ball fields, and similar uses. Recreational areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.

Greenways are linear green belts linking residential areas with other open space areas. These greenways may contain bicycle paths, footpaths, and bridle paths. Connecting greenways between residences and recreational areas are encouraged. Maintenance is limited to a minimum or removal and avoidance of hazards, nuisances, or unhealthy conditions.

Landscaped areas, lawns and required buffer areas, including creative landscaped areas with gravel and tile, so long as the tile does not occupy more than two percent of the required open space. Lawns, with or without trees and shrubs shall be watered regularly to ensure survival, and mowed regularly to ensure neatness. Landscaped areas shall be trimmed, cleaned regularly.

## **Section 604.6 Preservation of Open Space**

Land designated as common open space may not be separately sold, subdivided or developed. Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved and maintained as required by this section by any of the following mechanisms or combinations thereof:

1. Dedication of and acceptance by the County.
2. Common ownership of the open space by a homeowner's association which assumes full responsibility for its maintenance.
3. Deed restricted, private ownership, which shall prevent development and/or subsequent subdivision of the open space land and provide the maintenance.

In the event that any private owner of open space fails to maintain same, the county may in accordance with the Open Space Plan and following reasonable notice, demand that deficiency of maintenance be corrected, and enter the open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space.

## ARTICLE VII

### CONDITIONAL USE REGULATIONS

The regulations contained in this Article are intended to ameliorate the impact and improve the siting of certain land uses, buildings and projects whose characteristics could adversely affect surrounding property and environmental conditions. To this end, standards and criteria over and above those set forth elsewhere by this Ordinance are imposed herein.

#### **SECTION 700.      USES AFFECTED BY THIS ARTICLE**

The supplemental requirements of this Article shall apply to the following:

	<u>Section Reference</u>
Vendors	701
Bed and Breakfast Inns	702
Refuse Systems	703
Manufacturing and Processing Plants	704
Accessory Apartments	705
Sexually Oriented Businesses	706
Manufactured Dwellings	707
Manufactured Home Parks	708
General Auto Repair	709
Wrecking, Scrap and Salvage yards	710
Camps and RV Parks	711
Townhouse Projects	712
Patio and zero lot line housing projects	713
Temporary uses	714
Group occupied dwellings	715
Upper story apartments	716
Communication Towers and Antennas	717
Accessory Residential Storage Buildings	718
Home Occupations	719
Open Storage/Display Areas	720
Shipping Containers	721
Horses and Equine	722

## **Section 701 Vendors**

Vendors shall be governed by the following:

- (1) All vending operations shall be located not less than twenty (20') feet from the nearest street right-of-way and provide at least two off-street parking spaces.
- (2) Only one vendor shall be allowed for each one hundred (100') feet of street frontage.
- (3) No portion of a vending operation shall be allowed to occupy or obstruct access to any required off-street parking space.
- (4) No merchandise, vehicles, structures, signage, etc. shall be left on the site past sundown.
- (5) No goods or merchandise offered for sale may be stored in or sold from a tractor-trailer.

Only one sign per vendor shall be allowed, regardless of where it is mounted. Advertising materials attached to or painted onto automobiles are construed to be signs. Signs shall not exceed ten (10) square feet in area and shall meet all applicable sign requirements contained in Article V.

## **SECTION 702 BED AND BREAKFAST INNS**

Bed and breakfast inns shall be allowed under the following conditions.

- (1) Such uses shall be allowed only in older residential structures that are recognized as architecturally, historically, or culturally significant and that, through renovation and use as a bed and breakfast inn, will contribute significantly to the ambience, character, or economic revitalization of the neighborhood.
- (2) The architectural integrity and arrangement of existing interior spaces must be maintained, except as may be required to meet health, safety, and sanitation requirements.
- (3) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or

neighborhood.

- (4) The only scheduled meal shall be breakfast however, lunch and dinner meals may be prepared and served for business meetings, clubs, social gatherings, private parties and for appointment dinners, together with catering for parties on and off premises.
- (5) The facility shall be owner-occupied.
- (6) The number of rooms which may be rented shall not exceed the number of bedrooms contained in the original structure.
- (7) Off-street parking shall be provided on the basis of one space per guest room, plus two spaces for the resident innkeeper; further provided that sufficient off-street parking space shall be available on site to accommodate business and club meetings, social gatherings, private parties, and appointment dinners, where proposed by the applicant.

### **SECTION 703. REFUSE SYSTEMS**

Due to environmental concerns and consideration for the public health and safety of city residents, refuse systems where permitted by Table I shall be limited to the following and shall comply with the supplemental development standards of this Section.

Solid Waste Landfills

Incinerators

Material Recovery (Recycling) Facilities

#### **(1) Solid Waste Landfill**

- (a) Such uses may be located up to but no closer than 100 feet from any property line, except such landfill shall not be located closer than 300 feet from any dwelling, school building, day care center, religious, recreational, or medical facility.
- (b) No material shall be placed in open storage or areas in such a manner that it is capable of being transferred out by wind, water or other causes.
- (c) All materials and activities shall be screened in such fashion as not to be

visible from off-site. The provisions of this subsection may be waived by the Building Official where such facility will be utilized for a period not to exceed 90 days.

- (d) The site shall be restored and re-vegetated on completion of use as a landfill.

(2) Incinerators shall be processed as manufacturing uses, in accord with the provisions of Section 704.

(3) Material Recovery (Recycling) Facilities

- (a) Such facilities shall be in wholly enclosed buildings except for incidental storage, or within an area enclosed on all sides by an opaque fence or wall not less than eight feet in height and landscaped on all street frontages.
- (b) All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured, and maintained in good condition, or shall be baled or palletized.
- (c) The site shall be maintained free of litter and any other undesirable materials, shall be cleaned of loose debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present.
- (d) Space shall be provided on site for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, space shall be provided for a minimum of ten (10) customers or the peak load, whichever is higher, except where the Building Official determines that allowing overflow traffic is compatible with surrounding business and public safety.
- (e) Where a facility is to be located within 500 feet of property in a residential zone, it shall not be in operation between 7:00 p.m. and 7:00 a.m.
- (f) Any containers provided for after hours donation of recyclable materials shall be at least 50 feet from any property zoned or occupied for residential use; shall be of sturdy, rust resistant construction; shall have sufficient capacity to accommodate materials collected; and shall be



secure from unauthorized entry or removal of materials.

- (g) Donation areas shall be kept free of litter and any other undesirable material. The containers shall be clearly marked to identify the type of material that may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.

## **SECTION 704. MANUFACTURING AND PROCESSING PLANTS**

### **Section 704.1 Purpose**

The purpose of this Section is to prevent land or buildings from being used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable or hazardous condition. To this end, the operational characteristics of all manufacturing and processing uses shall be measured for conformance with the provisions of this Section.

### **Section 704.2 Vibration**

No vibration shall be produced which exceeds the following Displacement and Steady-State Impact Standards:

Frequency (cycles per second)	Vibration Displacement (in inches)	
	Steady-State	Impact
Under 10	0.0005	0.0010
10 - 19	0.0004	0.0008
20 - 29	0.0003	0.0006
30 - 39	0.0002	0.0004
40 and over	0.0001	0.0002

Measurements shall be at the lot line in all districts except the Industrial District, where measurements shall be at the district boundary.

For the purpose of measuring vibration, a three-component measuring system recognized as standard for such purpose shall be used. Location and timing of measurements shall be arranged insofar as possible to exclude vibrations emanating from off the premises involved, or a correction factor reasonable under the

circumstances shall be applied to compensate for off-premises vibrations. For the purposes of this Section, certain terms are defined as follows:

Frequency. The number of oscillations per second of a vibration.

Impact vibrations are earth borne oscillations occurring in discrete pulses at or fewer than one hundred (100) per minute.

Steady-state vibrations. Continuous earth-borne oscillations occurring more than one hundred (100)times per minute.

Three-component measuring device. A device for recording the intensity of any vibration in three (3) mutually perpendicular directions.

Vibration emanating from construction activities between 7:00 a.m. and 9:00 p.m. shall be exempt from these regulations.

#### **Section 704.3    Fire and Explosives**

All activities and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazards of fire and explosion including adequate fire fighting and fire suppression equipment, in accord with safety codes of the National Fire Protection Association (which standards are hereby incorporated by reference and made a part of this Ordinance).

#### **Section 704.4    Noise**

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. In no event shall the sound pressure level of noise radiated continuously from a facility exceed at the lot line the values given in Tables V and VI in any octave band or frequency. Sound pressure level shall be measured with a Sound Level Meter and an Octave Band Analyzer that conforms to specifications published by the American Standards Association.

Noises emanating from construction activities between 7:00 a.m. and 9:00 p.m. shall be exempt from these requirements.

#### **Section 704.5    Air Pollution**

The emission of visible smoke, dust, dirt, fly ash, particulate matter from any pipes,

vents, or other openings, or from any other source into the air, shall comply with the regulations of the South Carolina Pollution Control Authority.

Air pollution emanating from construction activities between 7:00 a.m. and 9:00 p.m. shall be exempt from these requirements.

#### **Section 704.6    Odor**

There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at the property line. Any process which may involve the creation or emission of any such odor shall be provided with both a primary and a secondary safeguard system so that control may be maintained in the event of failure of the primary safeguard system.

#### **Section 704.7    Glare**

There shall be no direct glare, whether from floodlights, high temperature processing, combustion, welding or otherwise, so as to be visible in any residence.

Any operation producing intense glare shall be performed within a completely enclosed building in such a manner as not to create a public nuisance or hazard along lot lines.

#### **Section 704.8    Fumes and Vapors**

There shall be no emission of any fumes or vapors of a noxious, toxic, or corrosive nature which can cause damage or irritation to health, animals, vegetation, or to any form of property.

#### **Section 704.9    Heat, Cold, Dampness or Movement of Air**

Activities which could produce any adverse affect on the temperature, motion, or humidity of the atmosphere beyond the lot line shall not be permitted.

#### **Section 704.10    Toxic Matter**

The release of any airborne toxic matter shall not exceed the quantities permitted for those toxic materials currently listed in Threshold Limit Values, adopted by the American Conference of Governmental Industrial Hygienists. If a toxic substance is not contained in said listing, the applicant shall satisfy the Planning Commission that

the proposed levels will be safe to the general population. The measurement of toxic matter shall be at ground level or habitable elevation and shall be the average of any 24-hour sampling period.

#### **Section 704.11 Waste Matter and Storm Drainage**

No use shall accumulate or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the South Carolina Department of Health and Environmental Control, or in such a manner as to endanger the public health, safety or welfare; or cause injury to property.

Plans and specifications for all proposed industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from the South Carolina Department of Health and Environmental Control and the Department of Public Utilities (DPU) prior to the issuance of a local building permit.

Plans and specifications for proposed storm drainage facilities shall be in accord with the South Carolina Stormwater Management and Sedimentation Reduction Regulations, promulgated by the South Carolina Land Resources Conservation Commission, December 1991.

#### **Section 704.12 Electromagnetic Interference**

No activity or process shall be conducted which produces electric and/or magnetic fields which adversely affect public health, safety, and welfare including but not limited to interference with normal radio, telephone, or television reception from off the premises where the activity is conducted.

#### **Section 704.13 Compliance Guarantee**

The applicant of a permit for a manufacturing or processing plant which would produce any of the above "objectionable elements" shall acknowledge in writing his understanding of the performance standards applicable to the proposed use and shall submit with the permit application, an agreement to conform with such standards at all times. Any violation of the agreement shall constitute a violation of this Ordinance and shall be treated accordingly.

Where there is a potential problem in meeting any one of the performance criteria in this section, the applicant may request a hearing before the Planning Commission in accord with the review and hearing provisions of this Article.

## **SECTION 705. ACCESSORY APARTMENTS**

An accessory apartment, where permitted by Table I, shall meet the following conditions:

- (1) The principal structure (dwelling) must be owner-occupied.
- (2) The apartment, whether attached or detached, cannot exceed 50 percent of the gross floor area of the principal dwelling, or contain more than two bedrooms.
- (3) The apartment must be a complete living space, with kitchen and bathroom facilities separated from the principal unit.
- (4) An accessory apartment may be accessory only to a single-unit dwelling, and not more than one apartment shall be allowed per dwelling or lot.
- (5) The lot size shall be at least 50 percent greater where an accessory apartment is proposed in the R-12, R-9, R-6 and MHR Districts.
- (6) The apartment shall meet all yard setback requirements and, where detached from the principal dwelling, shall be set back not less than 10 feet from the principal dwelling.
- (7) Evidence of the accessory apartment should not be apparent from the street in the R-12, R-9, R-6 Districts.
- (8) A third off-street parking space shall be required.

## **SECTION 706. SEXUALLY ORIENTED BUSINESSES**

Owing to potentially objectionable operational characteristics of sexually oriented or adult uses, and the deleterious affect of such uses on existing businesses and/or residential areas around them, the location of such uses shall be tempered by the supplemental siting criteria of this section.

No such use shall be located within 1,000 feet (measured in a straight line) of:

- (1) a residential use,
- (2) a church or religious institution,
- (3) public or private schools and educational facilities,

- (4) public parks and recreational facilities, or
- (5) any other adult or sexually oriented business.

## **SECTION 707. MANUFACTURED DWELLINGS**

Manufactured dwellings, where permitted by this Ordinance, shall:

- a. Be built according to the Federal Manufactured Housing Construction and Safety Standards Code (245 CFR 3280), enacted June 15, 1976. Manufactured housing built prior to the effective date of the Code shall not be permitted for reasons of safety.
- b. Be installed in accord with the Manufacture's Installation Manual. In the absence of such a Manual, the home must be installed in accord with the requirements of Section 19-425.39 of the South Carolina Manufactured Housing Board Regulations.
- c. Be under-skirted around the entire home with brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation.
- d. Have installed or constructed and attached firmly to the home and anchored securely to the ground, permanent landing steps at each exterior doorway, in accord with applicable Building Codes.
- e. Have all moving or towing apparatus removed or concealed including hitch, wheels and axles.
- f. Be provided with a sanitary sewer system approved by DHEC. Evidence of such approval shall accompany each and every permit request to install a manufactured home.
- g. Be served by a separate electric meter. It shall be unlawful for any such home to receive electricity except by use of this separate meter. It shall be unlawful for any public utility or electrical supplier to connect power to any manufactured home in the absence of all approved permits.

## **Section 708. Manufactured Home Parks**

The establishment and operation of a manufactured home park shall comply with the following design and development standards:

- (1) The park site shall not be less than five (5) acres, and have not less than 150 feet frontage on a public dedicated and maintained street or road.

- (2) The park shall be served by public water and sewer systems or other systems approved by DHEC, a system of storm drainage, and refuse disposal facilities, plans of which shall be approved by local DHEC officials.
- (3) All manufactured home spaces shall abut upon an interior all weather roadway of crushed stone, asphalt, cochina, concrete, slag or other all weather material of not less than sixteen (16) feet in width which shall have unobstructed access to a public street or road. All on-site roadway intersections shall be provided with a street light.

Each individual home site shall be at least 25 feet from any other site and at least 25 feet from the right-of-way of any street or drive providing common circulation.

All homes shall be installed in accord with the installation requirements of Section 19-425.39 of the South Carolina Manufactured Housing Board Regulations.

- (7) Not less than 15 percent of the park site shall be set aside and developed for common open space and recreation, in accord with Section 604.3.
- (8) Space Numbers: Permanent space numbers shall be provided on each manufactured home space and shall be located so as to be visible from the street or driveway. Signs identifying space locations shall be provided at each street or driveway intersection.
- (9) The maximum number of manufactured home spaces shall not exceed seven (7) per acre.
- (10) Two parking spaces shall be provided for each designated manufactured home space. Parking may be provided at the designated space or in community parking areas.
- (11) Existing trees and other natural site features shall be preserved to the extent required by Section 603.
- (12) Buffer areas shall be provided on the perimeter of the park or court in accord with the requirements of Section 600.
- (13) A Certificate of Occupancy shall be required to open or operate a manufactured home park and shall be subject to annual renewal. Said certificate may be revoked by the Zoning Administrator for a violation of this Ordinance or other applicable ordinances and regulations

governing the operation of such uses.

A Site Plan showing the above required data, and in all other respects meeting the minimum requirements for a building permit shall accompany all applications to establish a manufactured home park.

#### **SECTION 709. GENERAL AUTO REPAIR**

General auto and other motor vehicle repair operations shall be conducted within fully enclosed buildings. There shall be no open storage of junked vehicles, dismantled parts, scrap parts or other salvage material other than outdoor storage of not more than 10 disabled vehicles with current license plates. Servicing shall be conducted in an area that can be cleaned.

#### **Section 710. Wrecking, Scrap and Salvage Operations**

The location of these uses, where permitted by Table 1, shall be regulated by the following:

1. No such use shall be located closer than 500 feet to any residential use, church, school, historical place or public park.
2. No material or products shall be burned on the premises.
3. No material shall be placed in open storage in such a manner that it may be transferred out by wind, water, or other causes.
4. All paper, rags, cloth and other fibers, and activities involving the same other than loading and unloading shall be within fully closed buildings.
5. All materials and activities not within fully enclosed buildings shall be enclosed by an opaque fence or wall or vegetative material, excluding points of ingress or egress, at least eight (8) feet in height.

#### **Section 711. Camps and Recreational Vehicle Parks**

Camps and recreational vehicle (RV) parks, where conditionally permitted by Table 1, shall comply with the following standards.

- (1) The site shall contain at least ten (10) acres, and a minimum of 150 feet of street frontage.



- (2) The site shall be developed in a manner that preserves natural features and landscape, of which not less than 20 percent shall be set aside and maintained as common open space.
- (3) The following dimensional requirements shall serve as parameters beyond which development shall not exceed.
  - a. Maximum impervious surface ratio shall not exceed 15 percent of the project site.
  - b. Minimum setbacks for all structures and recreational vehicles shall be:

Street right-of-way	100'
All other property lines	50'
  - c. Maximum density shall not exceed 10 vehicles or campsites per acre.
  - d. Buffer areas shall be as specified by Section 600.
- (4) Areas designated for parking and loading or for traffic-ways shall be physically separated from public streets by suitable barriers against unmarked motor vehicle ingress and egress.
- (5) All streets within RV Parks shall be private and not public.
- (6) Each park site shall be serviced by public water and sewer or other systems approved by DHEC.

## **SECTION 712. TOWNHOUSE PROJECTS**

Due to the unique design features of townhouses, the dimensional requirements of Table II are hereby waived and the following design requirements imposed for all such projects:

- (1) Such projects shall have a minimum of 0.5 acre.
- (2) Not more than eight nor fewer than three townhouses may be joined together, with approximately the same (but staggered) front line.
- (3) Side yard setbacks at the end unit shall be as required for the district in which the project is to be located, with not less than 20 feet setback between buildings in the project area.

- (4) Rear yard setbacks shall be 20 feet.
- (5) Minimum lot width shall be 18 feet.
- (6) Sidewalks not less than three feet in width shall be provided along the front property line of each project.
- (7) Impervious surface area shall not exceed 65 percent of a townhouse lot, on average; except where common open space is provided in the amount of 20 percent or more. In such instances, impervious surface areas may increase to 85 percent of a townhouse lot, on average.
- (8) Maximum height of buildings shall not exceed 35 feet.
- (9) Front yard setbacks shall be as prescribed by Table II, but may be waived or modified by the Planning Commission due to the unique style of such housing.
- (10) Rear yards shall be enclosed by a six-foot wall or fence, unless used for parking, and may include one accessory building no greater than 500 square feet in GFA.

### **SECTION 713. PATIO AND ZERO LOT LINE HOUSING PROJECTS**

Due to the unique design features of patio and zero lot line housing, the dimensional requirements of Table II are hereby waived and the following requirements imposed on all such projects:

- (1) Such projects shall have a minimum of 1.5 acres.
- (2) Minimum lot area shall be 3,000 square feet per unit, on average.
- (3) Minimum lot width shall be 40 feet.
- (4) Maximum height of buildings shall not exceed 35 feet.
- (5) Where a unit is to be constructed at or on the property line, a five-foot maintenance easement shall be provided on the adjoining lot.
- (6) A minimum patio or yard area of 700 square feet shall be provided on each lot, not more than 15 percent of which shall be impervious to

water.

- (7) At least one side yard extending not less than 5 feet from the property line shall be provided. Where a second side yard is provided, though not required, it too shall have a minimum width of 5 feet.
- (8) The side yard of the exterior units shall be 10 feet from the "outside" property line.
- (9) Rear yard setbacks shall be not less than 10 feet.
- (10) Front yard setbacks shall be as prescribed by Table II, but may be waived or modified by the Planning Commission due to the unique style of such housing.

#### **SECTION 714. TEMPORARY USES**

The following temporary uses may be permitted by the Building Official, subject to the conditions attached thereto:

- (1) Religious meetings in a tent or other temporary structure in the GC District for a period not to exceed forty-five (45) days.
- (2) Open lot sales of Christmas trees, in the GC and I-1 Districts for a period not to exceed forty-five (45) days.
- (3) Contractor's office and equipment shed, in any district, for a period covering the construction phase of a project, provided such office is placed on the property to which it is appurtenant.
- (4) Real estate office in conjunction with a major project (100 or more lots); provided said office is removed when 75 percent of the lots are sold or developed.
- (5) Fireworks stands for a period not to exceed 30 days during any 3-month period on the same lot or parcel.
- (6) Temporary office or modular structures may be used where a permanent establishment is planned, expanding, rebuilding or remodeling in a commercial or industrial zone, subject to all applicable requirements of this Ordinance. The temporary permit shall be valid for 12 months, with an option to renew for an additional 6 months, depending on the status of the

permanent establishment.

Portable classrooms may be allowed in any district in which cultural, community, educational or religious facilities are permitted without time limitation. Mobile homes may not be considered portable classrooms. All setbacks for the applicable district shall be maintained around the perimeter of the site.

- (8) Cultural and Artistic festivals may be permitted on an individual basis, subject to conditions terms and established by City Council.

Portable storage facilities (PODs) may be permitted in any District not to exceed 30 days; provided not more than one such facility shall be allowed at one time and said facility shall not be located in any required setback area or the public right-of-way. Applicable sign regulations notwithstanding, leasing information may be displayed on the storage facilities.

Garage and Yard Sales shall be permitted in residential districts for not more than two days at intervals of not more than three times a year. Further, no more than one directional off premise sign may be erected and the sale shall discontinue at 6:00 P. M. No public address system shall be used and no new merchandise shall be brought in for the sale.

## **SECTION 715. GROUP OCCUPIED DWELLINGS**

Due to potential lifestyle conflicts between group-occupied and single-family occupied dwellings, the need to resolve such conflicts and provide harmonious living conditions, and meet the variant housing needs of the local population, the additional requirements of this Section shall apply to the location and use of group-occupied dwellings in the City of Marion.

### Conditions of Approval

- (1) A minimum of three off-street parking spaces shall be provided, only two of which may be located in the required front or side yards in the R-12, R-9 or R-6 Districts, plus one space for each bed (over three) in the dwelling. In all other districts the required off-street parking may be provided in all required yards in accord with Section 806.2, provided that in the front or side yards the parking shall meet the off-street parking design standards of Section 400.3, and include a Type A Buffer around all perimeters of the parking area.

- (2) No such use shall be located within 600 feet of an existing group-occupied dwelling in the R-12 District, or 400 feet in the R-9, R-6, GR, RMH, or OR Districts.
- (3) An agreement executed by the owner of the dwelling shall accompany the request for a permit:
  - (a) To ensure proper maintenance of the yards and dwelling,
  - (b) To ensure the control of noise and litter,
  - (c) To ensure participation by the owner in communication and enforcement process necessary to accomplish compatibility within the neighborhood.
  - (d) To ensure that only independently functioning dwelling units are rented on a single lease agreement.

#### Compliance and Permit Requirements

An Occupancy Permit shall be prerequisite to the use of a dwelling unit for group occupancy. Said permit shall be valid for 12 months. Thereafter group occupancy permits shall be subject to annual review by the Building Official to determine continuing compliance with the requirements of this Section.

Group occupied dwellings in existence on the effective date of this Ordinance shall have 24 months within which to meet the off-street parking requirements of this Section. Said dwellings shall be exempt from the spacing requirements of this Section.

Where non-compliance with the provisions of this Section or an on-going problem has been determined to exist, the Building Official shall notify the owner in writing of the nature and extent of the problem, together with instructions to correct the problem within a reasonable time frame. Failure of the owner to comply fully with an order to correct the situation shall constitute a violation of this Ordinance resulting in (a) revocation of the Occupancy Permit, and/or (b) fines and penalties, as determined by the court.

An on-going problem shall be determined to exist where written documentation has been compiled over a three-month period by the Building Official, affected neighborhood associations, or area residents. Copies of the documentation shall be filed with the city and forwarded to the property owner.

## **SECTION 716. UPPER STORY APARTMENTS IN THE CC DISTRICT**

Apartments may be permitted in the upper floors of buildings in the CC District; provided, the ground floor is occupied by a commercial use, further provided that off-street parking shall be provided in accord with the requirements of Table I, except that said parking may be located off-site.

## **Section 717. Communication Towers and Antennas**

Where conditionally permitted as a principal use by Table 1, communication towers and antennas shall adhere to the following regulations.

- (1) All new towers shall be mounted on mono-poles, without need for guy wires, and shall be designed to accommodate additional antennas equal in number to the applicant's present and future requirements.
- (2) All applicable safety code requirements shall be met, including requirements for lighting, except that strobe lights shall not be permitted.
- (3) Towers or antennas shall not be painted or illuminated unless otherwise required by state or federal regulations. However, if permitted, they shall be done so in muted colors.
- (4) No tower shall be located in any wetlands.
- (5) No tower or antenna shall be located within 1,000 feet of an existing tower or antenna, except where the applicant certifies that the existing tower does not meet the applicant's structural specifications and applicant's technical design requirements, or that a co-location agreement could not be obtained.
- (6) The height of a tower or antenna shall not exceed 200 feet. The base of the structure shall be no located no closer to a residential structure than a distance of one foot for each foot in height of the proposed tower, plus fifty (50) feet; provided should all affected owners agree to waive or reduce this requirement, the City may in its sole discretion grant a variance to allow the tower to be closer.
- (7) The tower shall be appropriately screened and secured by means of a wall, fence, or other device as deemed appropriate by the Building

Official. No advertising of any type may be attached to a communication tower.

- (8) The design, location and height of the tower will not adversely impact the aesthetics and character of adjacent residential properties.
- (9) Communication towers not in use for a period of 120 days shall be presumed to be abandoned and out of service. It shall be the duty of the tower owner to notify the city Building Official that the tower is not in use and have it removed within 60 days. To assure the removal of the tower, a statement of financial responsibility shall be submitted with each application and annually thereafter to the Building Official. Removal costs shall be charged to the tower owner. Should the applicant not own the tower or should said applicant transfer ownership of the tower, the City shall be notified as to who the owner is and the new owner shall be required to comply with the terms of this ordinance. Failure to remove the tower within the prescribed time frame shall constitute a violation of this ordinance punishable by a fine not to exceed \$500.00. Each day shall constitute a separate offense.
- (10) Permit requirements for the erection or replacement of a tower or antenna shall be accompanied by the following:
  - (a) One copy of typical specifications for proposed structures and antenna, including description of design characteristics and material.
  - (b) A site plan drawn to scale showing property boundaries, tower location, tower height, anchors, existing structures, fall zone (as determined by a structural engineer, licensed & certified in South Carolina), 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].
  - (c) A current map or update of an existing map on file, showing locations of applicant's antenna, facilities, existing towers, and proposed towers which are reflected in public records, serving any property.

- (d) Identification of the owners of all antennae and equipment to be located on the site.
- (e) Written authorization from the site owner for the application.
- (f) Evidence that a valid FCC license for the proposed activity has been issued.
- (g) A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
- (h) A written agreement to remove the tower and/or antenna within 120 days after cessation of use.
- (i) A certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, together with written indemnification of the City and proof of liability insurance or financial ability to respond to claims up to \$1,000,000 in the aggregate which may arise from operation of the facility during its life, at no cost to the City.

### **Section 718. Accessory Residential Storage Buildings/Areas**

Storage buildings/areas in residential zones shall not be used for the following:

- (1) Storage in connection with a trade.
- (2) Storage of building materials except in connection with active on-site construction.
- (3) Open storage of any material or use other than accessory to the principal residential use. Open storage or storage buildings or structures shall not be permitted in any front yard or required setback area.

### **Section 719. Home Occupations**

Home occupations, as defined by this ordinance, shall meet the following requirements, where conditionally permitted by Table 1.

- (1) The home occupation shall be carried on wholly within the principal building, and shall be properly licensed.



- (2) The floor area dedicated to such use shall not exceed 25 percent of the floor area of the principal dwelling.
- (3) No activity shall be conducted outside, nor shall there be any outdoor storage, display, or refuse area in the yard.
- (4) There are no retail sales of goods or other business activity which would generate customers or patrons.
- (5) Not more than one (1) person residing on the premises shall be permitted to work on the premises.
- (6) There is no alteration whatsoever of the residential character of the building(s) and/or premises.
- (7) The occupation, profession, or trade shall generate no noise, glare, heat, vibration, smoke, dust, or odor perceptible to adjacent uses.

## **Section 720. Open Storage and Outdoor Displays**

Open storage as an accessory use may be permitted where indicated by Table I; provided such storage area does not occupy over 20 percent of the buildable area, is not located in the required setback area, and is relatively obscured from public view by screening or placement on the lot.

Outdoor displays of merchandise customarily used outdoors such as motor vehicles, boats, shrubbery, lawn mowers, lawn furniture, etc., may be permitted where allowed by Table I.

Outdoor displays of merchandise not customarily used outdoors may be permitted from time to time as a temporary use for a period not to exceed 14 days duration at intervals of not less than 90 days.

Outdoor displays, unless elsewhere authorized by this ordinance, shall not be placed or located within 35 feet of the edge of a street or within a required buffer area.

## **Section 721. Shipping Containers**

Where conditionally permitted by Table I, the use and storage of shipping containers shall be governed by the following:

- a) Shipping containers shall not be used as a principal use or structure.
- b) Shipping containers shall not be located in front of any principal building or structure.
- c) Shipping containers shall be permanently screened from public view.
- d) Shipping containers shall not be stacked.
- e) Shipping containers shall not be located in any required side or rear yard set back area.
- f) The number of accessory shipping containers shall not exceed one per establishment or lot, except where the building to which it is accessory exceeds 20,000 square feet, then an additional shipping container may be established; provided it shall meet in full the above requirements.
- g) Shipping containers shall not be placed or stored on any lot or parcel for sale or distribution.
- h) Shipping containers shall be rust and damage free, and properly maintained at all times.
- i) Shipping containers shall not exceed 50 percent of the floor area of the principal structure(s) to which they are accessory.

## **Section 722. Horses and Other Equine**

Owing to the consequences of keeping horses and other equine in residential areas and elsewhere, horse stables, pens and areas for keeping horses shall meet the following requirements:

1. Minimum lot area for the first three horses and/or stalls shall be one acre, plus 20,000 square feet for each additional horse or stall.
2. Lot must be designed to drain, and maintained so as to prevent ponding and propagation of insects, and pollution of adjacent streams and water bodies.
3. Lot must be maintained in sanitary condition through the proper use of lime and pesticides.
4. Manure piles must be maintained in covered containers located not less than 50 feet from the nearest residential property line and 25 feet from any

other property line, and must be removed at least twice weekly to prevent propagation of flies and odors.

5. Grain must be stored in rodent proof containers.
6. Feed spillage must be promptly removed to prevent attraction of flies and rodents.
7. Exercise and training areas must be dampened to prevent dust accumulation.
8. Prompt veterinary care and service must be provided for sick horses, which shall be removed from the premises when deemed necessary by a licensed veterinarian.

## ARTICLE VIII GENERAL PROVISIONS

The regulations contained in this Article are intended to clarify, supplement or modify the regulations set forth elsewhere in this Ordinance.

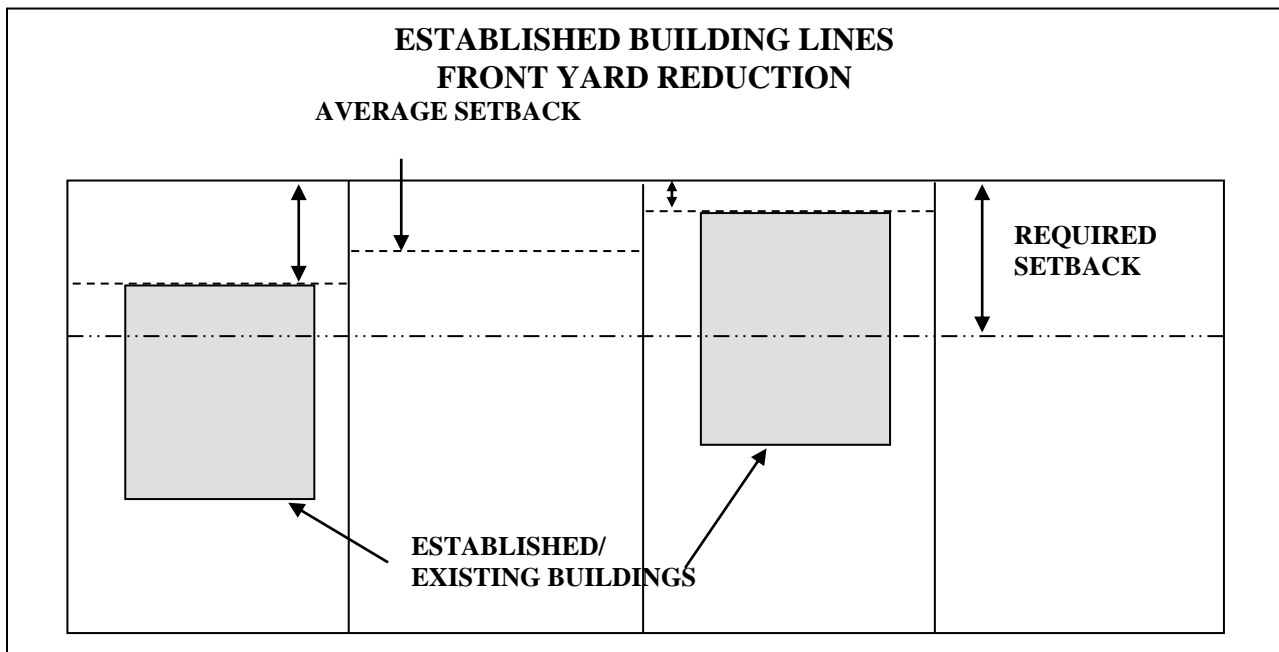
### SECTION 800. STREET ACCESS

Each principal building shall be located on a lot or parcel having direct vehicular and pedestrian access to a publicly dedicated or publicly maintained street; or approved private street.

### SECTION 801. YARD AND SETBACK MODIFICATIONS

#### Section 801.2 Setbacks From Streets

The street setback requirements shall not apply on any lot where the average setback of existing buildings located wholly or in part within one hundred (100) feet on each side of such lot within the same block and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the setbacks of the aforementioned existing buildings.



## **Section 801.2     Setbacks on Corner Lots**

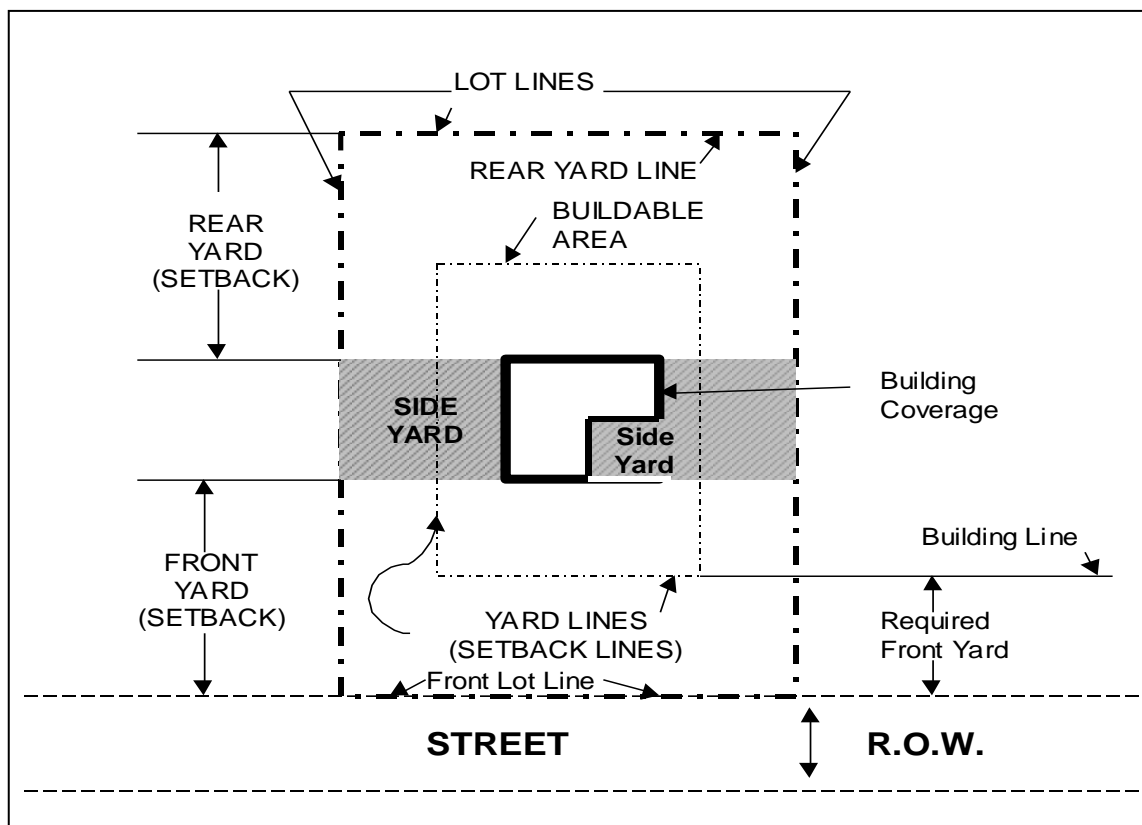
Where a side yard abuts a street, the minimum side yard requirements along the street shall be not less than the minimum front yard requirements for the same lot.

## **Section 801.3     Setbacks From Railroads**

Structures within commercial and industrial districts which are adjacent to railroads may locate closer to the railroad right-of-way than the permitted side or rear yard setbacks of the respective zoning districts. However, the location must be in accordance with applicable railroad standards and conform to all other pertinent provisions of the Zoning Ordinance.

## **SECTION 802.     YARD MEASUREMENTS - BUILDABLE AREA**

The required front, side and rear yards for individual lots, as set forth for the particular zoning district within which a given lot is located, shall be measured inward toward the center of said lot from all points along the respective front, side and rear property lines of the lot. Once the yard areas of a given lot have been



established, the remaining area of the lot which is not included in any required

front, side or rear lot shall be known as the "buildable" area within which the approved structure(s) shall be placed.

### **SECTION 803.      STRUCTURES AND PROJECTIONS INTO REQUIRED YARDS AND SETBACK AREAS**

Every building or structure hereafter erected or established shall be located within the area formed by the building lines at outer boundaries and, in no case shall such buildings extend beyond the building lines into the respective front, side, rear yards or other setbacks required for the district in which the lot is located, except that ornaments, eaves, chimneys, cornices and window sills may project into any required yard (setback area) a distance not to exceed three (3) feet. Open uncovered porches or steps may project into a required yard a distance not to exceed 5 feet. Fences, walls and hedges may be erected in any required yard or setback area or along the edge of a property line, provided that no such structure or hedge shall impede visibility at intersections.

### **SECTION 804.      EXCEPTIONS TO HEIGHT LIMITATIONS**

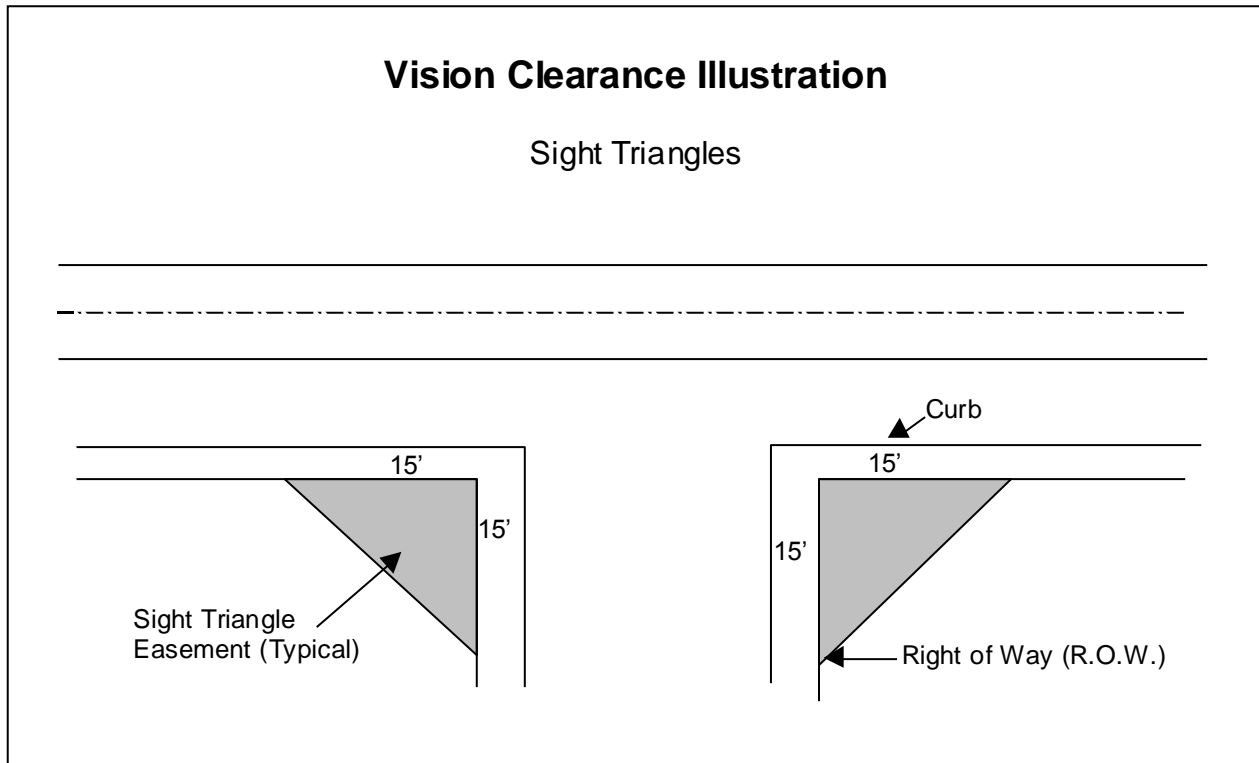
The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes not intended for human occupancy, monuments, water towers, transmission towers, utility poles, chimneys, conveyors, flag poles, radio or television towers, masts, antennas, or roof mounted mechanical equipment; provided, however, that such structures shall be separated from any adjoining lot or property line (measured from the required setback line) a distance equal to one foot for each two feet in height over the limit for the district within which the structure is located.

### **SECTION 805.      VISIBILITY AT INTERSECTIONS**

On any corner lot in any district except the CC District, no planting shall be placed or maintained and no fence, building, wall or other structure shall be constructed after the effective date of this Ordinance, if such planting or structure thereby obstructs vision at any point between a height of two and a half (2-1/2) feet and ten (10) feet above the upper face of the nearest curb (or street center line if no curb exists) and within the triangular area bounded on two sides by the street right-of-way lines and on the third side by a straight line connecting points on the two street right-of-way lines as required by the site triangular and vertical vision clearance illustration. However, poles and support structures less than 12" in diameter may be permitted in such areas.

## Vision Clearance Illustration

### Sight Triangles



## Section 806. Accessory Buildings and Uses

### Section 806.1 Accessory Uses to Observe Required Setbacks

Unless specifically provided herein, accessory uses and structures shall observe all required setbacks, yard, and other requirements applicable to the principal building or use for the district within which they are located.

### Section 806.2 Requirements Applicable to All Accessory Uses

1. If located within the buildable area, accessory buildings shall observe the height limits for the district within which they are located. If located in a required setback area, said buildings shall not exceed 12 feet in height.
2. No accessory building may be located in a required front yard. Where an accessory building is erected in the required rear yard on a corner lot, it shall not be located closer to any street than the required front yard distance.
3. No accessory use shall occupy any part of a buffer area.

## **Section 806.3 Requirements Applicable To Specific Accessory Uses**

Requirements applicable to Specific Accessory Uses are as follows:

1. Off-Street Parking and Loading Space

Paved off-street parking and loading spaces, not to include parking structures, are permitted in all required yards and setback areas, but no closer than 5 feet to a residential property line and two feet to any other property line.

2. Free-Standing Signs

Free-standing signs are permitted in all required yards, but no closer than 5 feet of a property line.

3. Buildings, Sheds, and Structures for Dry Storage; Greenhouses

Building sheds and structures for dry storage and greenhouses may be located in rear yard setback areas only, but no closer than 3 feet to a residential property line.

4. Domestic Animal Shelters and Pens

Domestic animal shelters and pens may be located in rear yard setback areas only, but no closer than 10 feet from any side or rear residential property line.

5. Swimming Pools, Tennis Courts, Recreational Uses

These uses may be located in required rear yard and setback areas only; provided said uses shall be no closer than 10 feet to the nearest property line, and shall have all lighting shielded or directed away from adjoining residences.

6. Ground Supported Communication and Reception Antennas

These uses may be located in required rear and side yards only, but no closer than 5' to the property line, and if located in the buildable area shall not extend or be located in front of any principal building.



## 7. Fences and Walls

Fences and walls are allowed within required yards and setback areas, and may extend to the property line; provided that when located within a required front yard in a Residential District, fences and walls in excess of 4.0' in height must be of decorative nature and open design. A chain link fence in excess of 4.0' is prohibited in the front yard.

### **SECTION 807. USE OF LAND OR STRUCTURES**

#### **Section 807.1 Conformity With Regulations**

No land or structure shall be used or occupied, and no structure or portions thereof shall be constructed, erected, altered, or moved, unless in conformity with all of the regulations specified for the district in which it is located.

No structure shall be erected or altered:

- (1) with greater height, size, bulk, or other dimensions,
- (2) to accommodate or house a greater number of families,
- (3) to occupy a greater percentage of lot area,
- (4) to have narrower or smaller rear yards, front yards, side yards or other open spaces, than required by this Ordinance, or in any other manner contrary to the provisions of this Ordinance.

#### **Section 807.2 Number of Principal Buildings Per Lot**

No more than one single-family dwelling, residentially designed manufactured home or duplex shall be allowed on a single lot or parcel.

There is no limit on the number of other principal buildings or uses; provided all setback and other applicable requirements of this Ordinance are met.

#### **Section 807.3 Minimum Requirements Established**

The minimum yards, parking spaces, and open spaces required by these regulations for each building existing at the time of the passage of this Ordinance

shall not be encroached upon, reduced, or considered as required yards, parking or open space for any other building, except as otherwise provided herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

## **SECTION 808. NONCONFORMITIES**

### **Section 808.1 Continuation**

Nonconforming uses, buildings, or structures are declared by this Ordinance to be incompatible with permitted construction in the districts in which they are located.

However, to avoid undue hardship, the lawful use of any such use, building, or structure at the time of the enactment, amendment, or revision of this Ordinance may be continued (Grand Fathered) even though such use, building, or structure does not conform with the provisions of this Ordinance.

### **Section 808.2 Modification**

A proposed change or modification of a nonconforming use shall be governed by the following:

#### **1. Change of Nonconforming Use**

If a change from one nonconforming use to another is proposed and no structural alterations are involved, the change may be permitted, provided:

- a. Nonconformity of dimensional requirements such as height, density, setbacks, or other requirements such as off-street parking shall not be increased; and
- b. The proposed change will have little discernable impact over the existing nonconforming use.

If a change to a permitted use is proposed which is nonconforming only as to dimensional requirements such as height, density, setbacks, or other requirements such as off-street parking, the change may be permitted, provided that all applicable requirements that can be reasonably complied with are met.

Compliance with a requirement is not reasonably possible if it cannot be achieved without adding land to the lot of the nonconforming use or moving the use if it is on a permanent foundation.

Whenever a nonconforming use of land or building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted or nonconforming use.

2. Enlargement or Expansion of Nonconforming Use

Enlargement or expansion of a nonconforming building, use, or structure shall be permitted; provided such enlargement shall meet all applicable setbacks, buffer area, and off-street parking requirements for the district within which it is located.

3. Repair or alteration of Nonconforming Use, Building, or Structure

The repair or alteration of a nonconforming use shall in no way increase the nonconformity of said use, except as otherwise permitted by Subsection 2 above.

4. Replacement of Nonconforming Use

A building permit for the replacement of a nonconforming building or structure where damaged or destroyed must be initiated within 6 months of the time of the damage or destruction or forfeit the right of replacement.

Replacement, if initiated within 6 months of the time of damage or destruction, shall adhere to all applicable requirements of Table II. Replacement of a nonconforming mobile or manufactured home once removed from a lot or parcel shall be accomplished within 30 days of removal or forfeit nonconforming status, and if replaced shall not infringe on established setbacks, and shall meet in full the requirements of Section 707 of this Ordinance.

### **Section 808.3 Discontinuance**

No building or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of six months, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located.

## **Section 808.4 Existing Lot of Record**

Where the owner of a lot of record at the time of the adoption of this ordinance does not own sufficient land to meet the setback requirements of this Ordinance, such lot may nonetheless be used as a building site provided applicable setback requirements are not reduced by more than 20%. Setback reductions greater than 20% shall be referred to the Board of Zoning Appeals for consideration. If, however, the owner of two or more adjoining lots with insufficient land dimensions decides to build on or sell off these lots, they must first be combined to comply with the dimensional requirements of this Ordinance.

## **SECTION 809. PARKING, STORAGE OR USE OF CAMPERS OR RECREATIONAL VEHICLES**

No recreational vehicle or boat in excess of 17 feet shall be parked or stored in any required front or side yard setback area in a residential district; however, such use may be parked anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading or unloading, and recreational vehicles may be used for temporary lodging, up to seven (7) days.

## **SECTION 810. PARKING, STORAGE AND USE OF NON-RECREATIONAL VEHICLES AND EQUIPMENT**

- (1) No automobile, truck or trailer of any kind or type, without current license plates, shall be parked, and construction equipment shall not be stored on any lot zoned for residential use, other than in completely enclosed buildings, or screened from vision from the public street serving the property.
- (2) Parking of vehicles, implements and/or equipment used for commercial, industrial, farm or construction purposes in residential districts shall be limited to one vehicle per residence, with a capacity of no more than 2 tons.
- (3) Vehicles with a capacity in excess of 2 tons and used for commercial, industrial, farm or construction purposes are prohibited from parking in residential districts, including the street/highway right-of-way in such districts, when not actively involved in commerce.

## **ARTICLE IX FLOOD DAMAGE PREVENTION REGULATIONS**

The provisions of this Article are designed to meet the requirements of FEMA (Federal Emergency Management Agency) for participation in the National Flood Insurance Program and to meet the purposes set out in Section 900.

### **SECTION 900.      PURPOSE**

The purposes of this Article are to:

- (1) Minimize public and private losses due to flood conditions in areas subject to flooding.
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion in flood heights or velocities.
- (3) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (4) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.
- (5) Control filling, grading, dredging, and other developments which may increase erosion or flood damage.
- (6) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (7) Protect human life and health.
- (8) Minimize expenditure of public money for costly flood control projects.
- (9) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (10) Minimize prolonged business interruptions.

- (11) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.
- (12) Help maintain a stable tax base by providing the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.
- (13) Insure that potential home buyers are notified that property is in a flood area.

**SECTION 901. AREAS AFFECTED BY THIS ARTICLE**

The additional requirements of this Article shall apply to all areas shown on Flood Hazard Boundary Maps promulgated by FEMA (Federal Emergency Management Agency) for the City of Marion, latest edition. These map(s) are hereby adopted by reference and made an integral part of this Ordinance.

**SECTION 902. DEVELOPMENT STANDARDS AND SPECIFICATIONS FOR ALL FLOOD HAZARD AREAS**

In all flood hazard areas, the following standards shall apply:

- (1) Anchoring
  - (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - (b) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top ties to ground anchors.

Specific requirements shall be that:

- (i) Over-the-top ties be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long requiring one additional tie per side.
- (ii) Frame ties be provided at each corner of the home with

five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side.

- (iii) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- (iv) Any additions to the mobile home be similarly anchored.

(2) Construction Materials and Methods

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (c) When flood proofing is utilized for a particular structure, the Building Official shall obtain certification from a registered professional engineer or architect, in accordance with Section 1001.3(4)(c).

(3) Utilities

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (c) Onsite water disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Subdivisions

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres.

(5) Encroachments. The cumulative effect of any proposed development shall not adversely affect the area of special flood hazard.

(6) New construction. Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance.

**SECTION 903. DEVELOPMENT STANDARDS AND SPECIFICATIONS FOR FLOOD HAZARD AREAS**

In all designated flood hazard areas in the City of Marion, the following standards shall apply:

- (1) Residential construction. New construction or substantial improvement of any residential structure (including mobile homes) shall have the lowest floor, including basement, elevated to or above base flood elevation.
- (2) Nonresidential construction. New construction or substantial improvement of any commercial, industrial or other nonresidential structure (including mobile homes) shall have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural



components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Building Official in accord with Section 1001.3(4)(c).

- (3) Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces.
- (a) Designs for complying with this requirement must be certified by a professional engineer or architect or meet the following minimum criteria:
    - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
    - (ii) The bottom of all openings shall be no higher than one foot above grade.
    - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - (b) Electrical, plumbing and other utility connections are prohibited below the base flood elevation.
  - (c) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
  - (d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (4) Floodways. Located within flood hazard areas are areas designated as

floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
- (b) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions contained in this Ordinance.
- (c) Prohibit the placement of mobile homes, except in an existing mobile home park or subdivision. A replacement mobile home may be placed on a lot in an existing mobile home park or subdivision provided that anchoring standards and elevation standards are met.

#### **SECTION 904. ALTERATION OF WATERCOURSES**

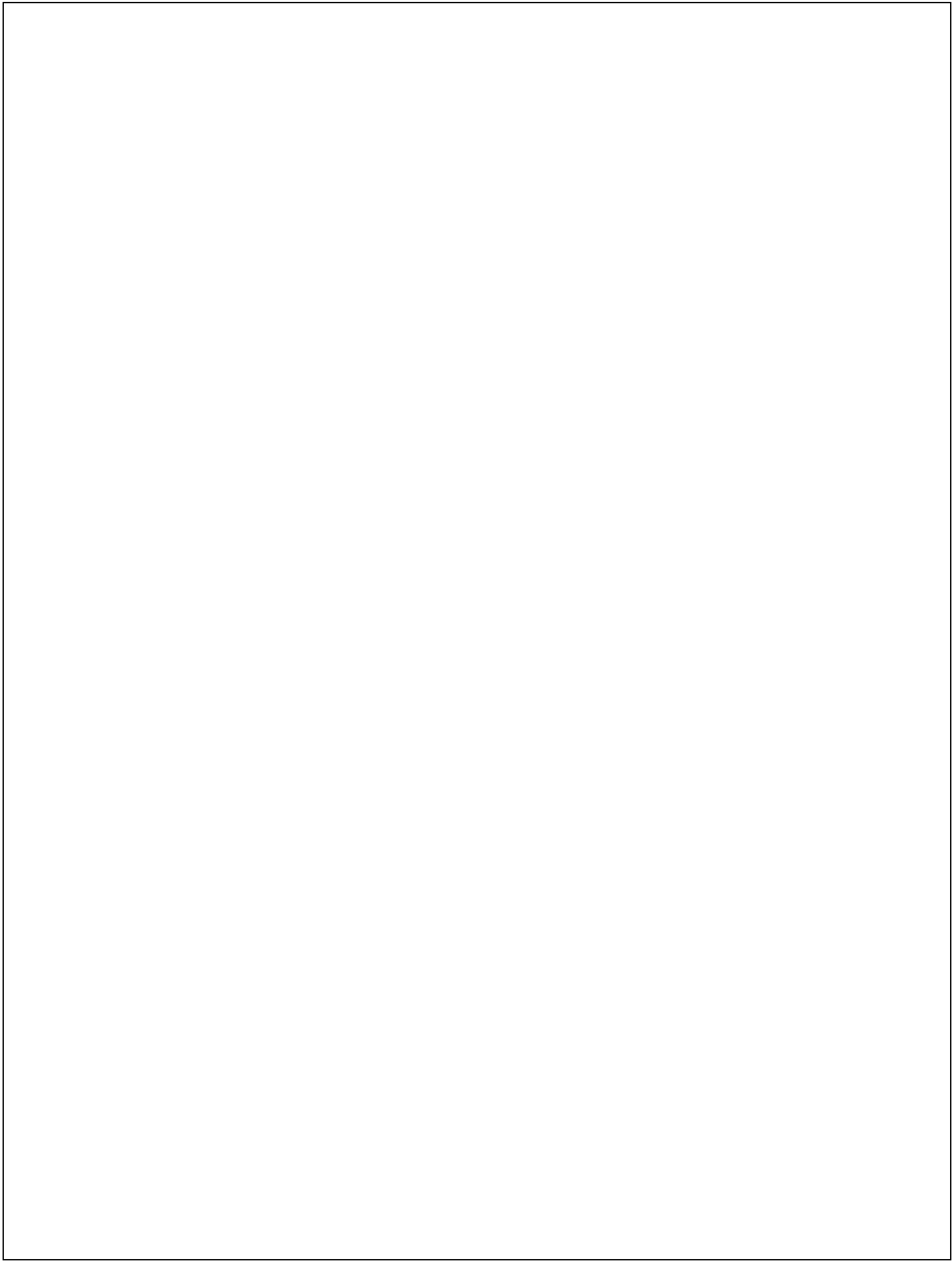
The Building Official shall:

- (1) Notify adjacent communities and the South Carolina Water Resources Commission prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

#### **SECTION 905. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Ordinance does not imply that land outside the areas of special food hazard or uses permitted within such areas will be free from flooding or flood damage. This Ordinance shall not create liability on the

part of the City of Marion or by any officer or employee thereof for any flood damage that results from reliance on this Ordinance or any administrative decision lawfully made there under.



## **ARTICLE X**

### **ADMINISTRATION, ENFORCEMENT, APPEALS**

#### **SECTION 1000. ADMINISTRATION AND ENFORCEMENT**

The Building Official is hereby designated and duly charged with the authority to administer and enforce the provisions of this Ordinance.

The Building Official shall accept and examine all applications for construction, land use or reuse, and shall issue permits where such applications are in accord with the provisions of this Ordinance and applicable building codes. He shall direct parties in conflict with this Ordinance, cause to be kept records and files of any and all matters referred to him/her and to execute any and all reports as the City Administrator, Planning Commission, Historic District Commission, City Attorney and City Council may require.

If the Building Official shall find that any one of the provisions of this Ordinance is being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

#### **SECTION 1001. ADMINISTRATIVE PROCEDURES AND REQUIREMENTS FOR GRADING, BUILDING, AND SIGN PERMITS, AND CERTIFICATES OF OCCUPANCY**

No building, structure or sign requiring a permit or any part thereof shall be erected, added to or structurally altered, nor shall any excavation or grading be commenced until the required permits have been issued.

No building, structure or land shall be used; nor shall any building, structure or land be converted, wholly or in part to any other use, until a Certificate of Occupancy, certifying compliance with this Ordinance has been issued by the Building Official. No Certificate of Occupancy shall be issued where such use is in violation of the provisions of this Ordinance, or of any other applicable law or regulation.

No permits inconsistent with the provisions of this Ordinance shall be issued unless accompanied by an approved variance as provided by this Article.

The provisions of this Section shall not apply to the necessary construction, replacement or maintenance by a public utility of its outside plant facilities, including such items as poles, crossarms, guys, wire, cable and drops.

### **Section 1001.1 Filing Applications**

Applications for permits and certificates shall be signed by the owner or his/her designee and shall be filed on forms provided by the Building Official.

### **Section 1001.2 Application Requirements for a Grading (Land Disturbing) Permit**

Requirements for a grading permit are contained in the South Carolina Stormwater Management and Sediment Reduction Regulations hereby adopted by reference.

### **Section 1001.3 Application Requirements for a Building Permit**

Each application for a permit for a building or structure other than a sign shall be accompanied by two (2) sets of the following or as much thereof as the Building Official shall find necessary to determine whether the proposed building or use will be in compliance with the provisions of this Ordinance:

- (1) Assurances as to the acceptable performance of industrial uses, where applicable.
- (2) A plat and/or Site Plan with date and scale, showing the actual shape and dimensions of the lot to be built upon; the size, height and location on the lot of existing and proposed buildings and structures; the existing and intended use of each building or part of a building; the number of families or housekeeping units the building is designed to accommodate; buffer areas; flood and wetland areas; proposed parking; building elevations and such other information with regard to the lot and contiguous land uses as required to determine compliance with and provide for the enforcement of this Ordinance.
- (3) For projects containing more than one principal building or use, the following additional information shall be required: a vicinity map, detailed layouts for all utilities, rights-of-way, streets, and other improvements, natural and manmade features affecting the site; a copy of any proposed deed restrictions or similar covenants; name and address of the developer, if other than the applicant.

- (4) For projects to be located in a Flood Hazard Area, as delineated on Flood Hazard Boundary Maps for the City of Marion, latest edition, the following information shall accompany a Permit Application:
- (a) Elevation in relation to mean sea level (MSL) of the lowest floor (including basement) of all proposed structures;
  - (b) Elevation in relation to mean sea level to which any nonresidential structure will be flood proofed;
  - (c) Certification by a registered professional engineer or architect that the nonresidential flood proofed structure meets the flood proofing criteria in Section 902(2).
  - (d) Description of the extent to which any water-course will be altered or located as a result of proposed development.

In reviewing a Permit Application for development in a Flood Hazard Area, the Building Official shall determine if the proposed development adversely affects the flood-carrying capacity of the flood-plain. For purposes of this Ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent bank areas.

- (a) If it is determined that there is no adverse effect, and the development is not a building, then the permit shall be granted without further consideration.
- (b) If it is determined that there is an adverse effect, then technical justification (i.e. a registered professional engineering analysis) for the proposed development shall be required.
- (c) If the proposed development is a building, then the provisions of this chapter shall apply.

To assist in making a determination, the Building Official shall utilize base flood elevation data where available. In the absence of such data the Building Official shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source.

Additionally, the Building Official shall:

- (a) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
  - (b) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed. Certification of such flood-proofing shall be obtained in accordance with Section 902(2).
  - (c) All records pertaining to the provisions of Article IX shall be maintained in the office of the Building Official and shall be open for public inspection.
- (5) For projects involving historical buildings or premises in the Historic and Preservation District, the following additional information or as much thereof as deemed necessary by the Building Official shall accompany a permit application: architectural plans, site plans, landscaping plans, proposed signs and appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view and indications as to construction materials, design of doors and windows, ornamentation, colors and the like, photographs or perspective drawings indicating visual relationships to adjoining structures and spaces, and such other exhibits and reports as are necessary for a determination of compliance with the intent of the district.

#### **Section 1001.4 Application Requirements For a Sign Permit**

Each application to erect a sign, where a sign permit is required by this Ordinance, shall be accompanied by the following information:

- (1) Common signage plan, where applicable, in accord with the requirements of Section 502.
- (2) Identification of ownership and/or leaseholder of property on which the sign is to be erected, including street address.
- (3) Name and address of the owner of the sign.
- (4) Site plan sketch with dimensions (non-professionally drafted plan is acceptable) showing the location of the sign with respect to the



property and right-of-way lines, building and setback lines, and buildings, parking areas, existing free-standing signs, and buffer areas.

- (5) Correct size, shape, configuration, face area, height, nature, number and type of sign to be erected.
- (6) The value of the sign and sign structure.
- (7) The Building Official may waive any of the informational requirements listed above deemed unnecessary to process an application.

### **Section 1001.5      Application Requirements For Certificate of Occupancy**

Application materials required for a Building Permit and on file in the city shall constitute the basis for compliance determination and the subsequent issuance of a Certificate of Occupancy. Each application for a Certificate of Occupancy shall be made coincident with the application for a Building Permit, and shall be issued upon finding by the Building Official that the building or structure has been constructed, erected, or altered in accord with all applicable requirements of this Ordinance.

Failure to comply with the standards and requirements of this Ordinance may result in withholding the issuance of such permit and prevent the use of said building or property until compliance is certified.

Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance, and punishable as prescribed by Section 1005.

### **Section 1001.6    Expiration of Permits**

Any permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of its date of issue or if the work authorized by it is suspended or abandoned for a period in excess of one (1) year.

### **Section 1001.7    Vested Right**

#### **1. Definition**

'Vested right' means the right to undertake and complete the development of property under the terms and conditions provided in this section.

## **2. Duration**

A vested right is established for two years upon the approval of a PUD plan, including a phased development plan, as provided herein.

A vested right may be extended at the end of the vesting period for an additional 12 months, or 36 months for a phased development plan, upon request by the applicant and a determination by the Planning Commission that there is just cause for extension and that the public interest is not adversely affected.

A validly issued building permit does not expire or is not revoked upon expiration of a vested right, except for public safety reasons or as prescribed by the applicable building code.

## **3. Amendment**

A vested site specific development plan or vested phased development plan may be amended if approved by the Planning Commission or City Council, as applicable, pursuant to the provisions of this ordinance.

## **4. Revocation**

A vested right to a site specific development plan or phased development plan is subject to revocation by the Planning Commission or City Council, as applicable, upon determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval.

## **5. Applicability of Other Regulations**

A vested site specific development plan or vested phased development plan is subject to later enacted federal, state, or local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. The issuance of a building permit vests the specific construction project authorized by the building permit to the building, fire, plumbing, electrical, and mechanical codes in force at the time of the issuance of the building permit;

A vested site specific development plan or vested phased development plan is subject to subsequent local governmental overlay zoning that imposes site plan-related requirements but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses;

A change in the zoning district designation or land use regulations made subsequent to vesting that affect real property does not operate to affect, prevent,

or delay development of the real property under a vested site specific development plan or vested phased development plan without consent of the landowner;

The Planning commission or City Council, as applicable, must not require a landowner to waive his vested rights as a condition of approval of a site specific development plan or a phased development plan.

## **6. Vested Right to Run with Property**

A vested right pursuant to this section is not a personal right, but attaches to and runs with the applicable real property. The landowner and all successors to the landowner who secure a vested right pursuant to this Section may rely upon and exercise the vested right for its duration subject to applicable federal, state, and local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. This Section does not preclude judicial determination that a vested right exists pursuant to other statutory provisions. This Section does not affect the provisions of a development agreement executed pursuant to the South Carolina Local Government Development Agreement Act in Chapter 31 of Title 6.

## **SECTION 1002. FEE SCHEDULE**

To help defray the cost of processing applications under this Ordinance, the following fee schedule is hereby established.

Building Permit	Refer Building Permit Fee Schedule
Sign Permit	\$40.00
Certificate of Occupancy	Included in Building Permit Fee
Appeals/Variances	\$175.00
Ordinance Amendment	\$175.00

## **SECTION 1003. INSPECTIONS FOR COMPLIANCE**

The Building Official may make or require inspections of any land disturbing activity, construction or maintenance requirement to ascertain compliance with the provisions of this Ordinance and to ascertain compliance with approved permit

applications, plats and/or plans. In so doing, the Building Official shall present proper identification and credentials to the owner, agent or occupant in charge of the property and/or premises, and upon securing oral or written permission, may enter and make such inspections as necessary to determine compliance during all reasonable hours.

If permission for entry for the purpose of inspection is denied and no emergency exists, the Building Official shall, after presentation of probable cause, procure court order from the Municipal Court Judge.

In cases of emergency where extreme hazards are known to exist which may involve potential loss of life or severe property damage, the above limitations will not apply.

#### **SECTION 1004. COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, the Building Official shall record and investigate such complaint, and take such action as provided by this Ordinance. Complaints may be filed in writing or verbally, stating fully the cause and basis thereof.

#### **SECTION 1005. PENALTIES FOR VIOLATION**

Any persons violating any provision of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined as determined by the Court for each offense.

Where any building, structure or sign is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure, sign or land is or is proposed to be used in violation of this Ordinance, the Building Official or other appropriate administrative officer, may in accord with the provisions of Section 56-7-80 of the South Carolina Code of Laws 1976, as amended, issue an ordinance summons, or institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate the violation or to prevent the occupancy of the building, structure or land. Each day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues shall be deemed a separate offense.

## **SECTION 1006. RIGHT OF APPEAL**

Any decision or determination by the Building Official may be appealed to the Board of Zoning Appeals.

## **SECTION 1007. BOARD OF ZONING APPEALS**

A Board of Zoning Appeals is hereby established. Said Board shall consist of five (5) members, who shall be citizens of the city and shall be appointed by the City Council for overlapping terms of three years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment and any member may be removed by the City Council for cause, after a public hearing. Members shall hold no other public office in the city or county.

## **SECTION 1008. PROCEEDINGS OF THE BOARD OF ZONING APPEALS**

The Board of Zoning Appeals shall elect a Chairman from its members, who shall serve for one year, or until reelected. The Board shall appoint a Secretary, who may be a city officer or a member of the Board of Zoning Appeals. The Board shall adopt rules and by laws in accordance with Section 6-29-790 of the South Carolina Code of Laws. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public.

## **SECTION 1009. APPEALS TO THE BOARD OF ZONING APPEALS; HEARINGS AND NOTICES**

Appeals to the Board shall be taken within 30 days of the date of the action which is appealed, by filing notice of appeal with the Building Official, who shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Building Official and on due cause shown.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give at least 15 days public notice thereof in a newspaper of general circulation in the community, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

## **SECTION 1010. POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS**

The Board of Zoning Appeals shall have the following powers and duties:

### **Section 1010.1 To Hear and Decide Appeals, Generally**

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building Official in the enforcement of this Ordinance.

### **Section 1010.2 To Grant Variances, Generally**

To authorize upon appeal in specific cases a variance from the terms of the Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will, in an individual case, result in the unnecessary hardship so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Board of Zoning Appeals that:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (2) These conditions do not generally apply to other property in the vicinity;
- (3) Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

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, to extend physically a nonconforming use of land, or to change the zoning district boundaries

shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

### **Section 1010.3 To Hear and Decide Appeals and Grant Variances In Flood Hazard Areas**

- (1) In passing upon applications to appeal a decision of the Building Official or grant a variance in a Flood Hazard Area, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - (a) the danger that materials may be swept onto other lands to the injury of others;
  - (b) the danger to life and property due to flooding or erosion damage;
  - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) the importance of the services provided by the proposed facility to the community;
  - (e) the necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) the compatibility of the proposed use with existing and anticipated development;
  - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) the safety of access to property in times of flood for ordinary and emergency vehicles;
  - (j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

- (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (2) Upon consideration of the factors listed above, and the purposes of this ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Conditions for Variances:
  - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
  - (b) Variances shall be only issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
  - (d) The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.



## **SECTION 1011. DECISIONS OF THE BOARD OF ZONING APPEALS**

In exercising the above powers, the concurring vote of four (4) members of the Board of Zoning Appeals shall be required to reverse or affirm, wholly or in part, or modify any order, requirement, decision, or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, and to that end, shall have the powers of the officer from whom the appeal is taken and may direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and, in case of contempt may certify such fact to the Circuit Court in and for the County of Marion, South Carolina.

## **SECTION 1012. APPEALS FROM DECISIONS OF BOARD OF ZONING APPEALS**

Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal said decision to the Circuit Court in and for the County of Marion in accord with the procedures of Section 6-29-820 through 6-29-850 of the South Carolina Code of Laws.

## **ARTICLE XI**

### **AMENDMENTS**

#### **SECTION 1100. AMENDMENT AUTHORIZATION AND PROCEDURE**

This Ordinance, including the Official Zoning Map, may be amended from time to time by City Council, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Planning Commission for review and recommendation.

#### **SECTION 1101. INITIATION OF AMENDMENT**

Amendments to the text of this Ordinance may be initiated by:

- (1) Adoption of a motion by the Planning Commission;
- (2) Application by a member of City Council; and
- (3) Application or petition of property owners and residents of the City of Marion.

Amendment to the district map may be initiated by:

- (1) Adoption of a motion by the Planning Commission;
- (2) Application by a member of City Council and
- (3) The filing of an application by the owner of the subject property or his authorized agent.

#### **SECTION 1102. AMENDMENT PROCEDURE**

##### Step I

An application to amend the Ordinance shall be submitted to the Building Official, who shall have five days within which to examine it for completeness. Upon such a finding, the Building Official shall forward the application to the Planning Commission.

## Step II

The Planning Commission shall review the application at a scheduled meeting, and if designated by City Council, hold a public hearing on such amendment. The Commission shall then forward a recommendation for final disposition to City Council.

## Step III

The City Council shall receive and review the recommendation of the Planning Commission, and conduct a public hearing on such amendment if the responsibility for holding the public hearing has not been designated to the Planning Commission, and decide the matter by ordinance.

### **SECTION 1103. APPLICATION REQUIREMENTS**

- (1) All applications shall be filed on forms provided by the Building Official.
- (2) All applications shall be signed by the applicant and shall state both name and address.
- (3) In the case of a text amendment, the application shall set forth the new text to be added and the existing text to be deleted.
- (4) In the case of a map amendment, the existing and proposed boundary (district) change shall be stipulated.
- (5) A nonrefundable processing fee as stipulated by the fee schedule in Section 1102 shall accompany the application. However, in the event an application is withdrawn prior to the time it is ordered advertised for hearing, one-half (1/2) of the fee shall be refunded.

### **SECTION 1104. ACTION BY PLANNING COMMISSION**

- (1) All applications shall be decided on the basis of the evidence of record.
- (2) The Planning Commission shall act on an application within thirty (30) days after receipt thereof (1) to defer not more than 30 days or (2) to recommend to City Council denial or approval. The decision shall be

determined by a majority of those voting. All decisions of the Planning Commission shall be made in open session. The resolution embodying the decision shall not be valid unless it is incorporated in the Planning Commission's minutes.

- (3) The recommendation shall include an evaluation of the proposed zoning amendment relative to the following:
  - (a) How the proposed zoning amendment relates to and affects the city's Comprehensive Land Use Plan.
  - (b) The validity of the Comprehensive Plan relative to the area under consideration.
  - (c) The need to correct an error or deficiency in the Zoning Ordinance.
  - (d) Any benefits which would be derived from the proposed amendment.
  - (e) Any cost to the city in terms of expenditures for public improvements, facilities and services.
  - (f) The public interest.

#### **SECTION 1105. PUBLIC HEARING**

A public hearing shall be conducted in advance of any official action on a zoning amendment prior to such action being taken. The City Council may hold such hearing or designate the Planning Commission to hold the public hearing.

#### **SECTION 1106. NOTICE OF PUBLIC HEARING IN NEWSPAPER**

In scheduling a public hearing for a proposed zoning map and/or text amendment, the City shall have published in a daily newspaper of general circulation notice of said hearing at least 15 days prior to the hearing.

When a proposed zoning amendment affects the district classification of property, such notice shall contain the following information:

- (1) The date, time and place of the hearing.

- (2) A description to inform the public of the location of the property for which action is pending, including but not limited to use of a map or street address, a metes and bounds description or a tax map reference.
- (3) The substance of the proposed ordinance, specifying the nature of the issues being considered.
- (4) The sections of the code that are pertinent to the hearing procedure.
- (5) Where information may be examined and when and how written comments addressing findings required for a decision by the hearing body may be submitted.

#### **SECTION 1107. POSTING OF PROPERTY**

When a proposed amendment affects a zone district classification of a lot or parcel, the Building Official shall cause to be conspicuously located on or adjacent to the property affected one (1) hearing notice for every two hundred (200) feet of street frontage or portion thereof. Such notice shall be posted at least 15 days prior to the hearing and shall indicate the nature of the change proposed, identification of the affected property, and time, date and place of the hearing.

Where one (1) or more blocks are affected in one application, the posting of the property is not required. However, in lieu of posting, a written notice of the hearing shall be mailed by the Building Official at least fifteen (15) days before the date of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned to the address of such owners appearing on the latest published tax list, neighborhood associations, and to such other list or lists that may be specified by City Council. The failure to deliver the notice, as provided in this Section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers.

#### **SECTION 1108. ACTION BY CITY COUNCIL**

The City Council shall take action on the proposed amendment within 30 days of a receipt of a recommendation from the Planning Commission. If no action is taken within such time, the proposed amendment shall be considered denied, unless otherwise specified by Council.

An amendment adopted by City Council shall become effective immediately

after second reading approval. Any such amendment to the zoning map shall be made by the Building Official within seven days thereafter.

Withdrawal of an amendment application by the applicant prior to the public hearing or final determination by Council shall be considered as a termination of the application. Resubmission shall be processed as a new application with prescribed fees.

#### **SECTION 1109. RECONSIDERATION OF PROPOSED AMENDMENTS**

The City Council shall not reconsider a proposed amendment to the Zoning Map if such amendment requests a change to the same zoning classification for the same lot, parcel or portion thereof, within a period of one year from the date of final determination of the prior request unless the Planning Commission recommends to the City Council that such reconsideration be given after the Planning Commission has found that either (a) a substantial change in the character of the area has occurred or (b) evidence, factors or conditions existing at the time were not considered by the Planning Commission or the City Council in previous deliberations which might have altered the basis upon which the previous determination was reached.

## **ARTICLE XII**

### **DEFINITIONS**

Words not defined herein shall have the meanings stated in the Standard Building Code, Standard Plumbing Code, Standard Gas Code or Standard Fire Prevention Code. Words not defined in the Standard Codes shall have the meanings in Webster's Ninth New Collegiate Dictionary, as revised.

Words in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

The word "shall" is always mandatory.

The word "may" is permissive.

The word "lot" includes the word "plot" or "parcel".

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

The word "used" or "occupied" as applied to any land or building shall be construed to imply that said land or building is in actual use or occupancy and shall be construed to include the words "intended," "arranged," or "designed to be used or occupied". An intended project shall be defined as one where substantial monies have been spent towards the goal of the project.

The word "map" or "zoning map" shall mean the Official Zoning Map of the City of Marion, South Carolina.

The term "Planning Commission" refers to the Planning Commission for the City of Marion. The term Council, Mayor and Council, or City Council shall mean the legally elected governing body of the City of Marion. The term "Board of Zoning Appeals" refers to the Board of Zoning Appeals for the City of Marion.

Abutting - Having a common border with or being separated from such common border by an easement.

Animal Shelter, Domestic - A pen, shelter, or structure where no more than

three dogs or small domestic animals, not to include horses, cows, goats, swine including pot bellied pigs, sheep, ponies, grazing animals and fowl of any kind, are boarded or kept.

Area of Special Flood Hazard - The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood - The flood having a one percent chance of being equaled or exceeded in any given year.

Buildable Area - That portion of any lot which may be used or built upon in accordance with the regulations governing the zoning district within which the lot is located when the front, side and rear yard, open space, and applicable buffer area requirements have been met.

Building, Accessory - A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use. Included in this definition are private garages, storage sheds, workshops, animal shelters, pool houses, etc., when detached from the principal building, and carports attached to the principal building when at least 75 percent open or unenclosed.

Building, Alteration - Any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to the erection, construction, reconstruction, or removal of any structure.

Building, Principal - A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

Canopy Tree - A deciduous tree that forms the top layer of vegetation in a forest. Examples of such trees include oaks, hickories, maples, poplars, and others.

Certificate of Occupancy - A document allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all applicable provisions of this Ordinance and the Building Code.

Cluster Home Development - A development design technique that concentrates buildings in specific areas on the site to allow the remaining land



to be used for recreation, common open space, and preservation of environmentally sensitive features. It permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.

Conditional Use - A use of land or structure which is permitted in a district under conditions specified in the zoning ordinance.

Condominium - A unit in a multi-unit structure owned by an individual who has use of all common areas associated with that structure.

Density - The number of dwelling units per acre of land developed or used for residential purposes. Unless otherwise clearly stated, density requirements in this Ordinance are expressed in dwelling units per net acre; that is, per acre of land devoted to residential use and common open space exclusive of land utilized for streets, alleys, parks, playgrounds, school grounds, or other public uses.

Developed Lot - Any lot or parcel containing over \$20,000 in improvements, other than a sign.

Dwelling - A building or portion of a building arranged or designed exclusively for human habitation.

Dwelling, Apartment - (See dwelling, multi-family unit)

Dwelling, Attached - A dwelling unit attached to one or more other dwelling units by common vertical walls.

Dwelling, Detached - A single dwelling unit, other than a mobile home, surrounded by open space or yards and which is not attached to any other dwelling by any means.

Dwelling, Duplex - A building containing two dwelling units.

Dwelling, Group Occupied - A dwelling unit occupied by four (4) or more individuals unrelated by blood, marriage, adoption, or guardianship living together as a single housekeeping unit.

Dwelling, Manufactured Home - A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Act, effected June 15, 1976.

Dwelling, Multi-Family - A building containing five or more dwelling units.

Dwelling, Patio House - A single-family detached or semi-detached dwelling unit. It is built on a small lot generally enclosed by walls which provide privacy. The term is synonymous with zero lot line dwellings.

Dwelling, Quadruplex - A building containing four dwelling units.

Dwelling, Residential Designed Manufactured Home - A single-family dwelling unit built according to the Federal Manufactured Housing Construction and Safety Standards (245 CFR 3280) HUD Code, 6-15-76, and which:

- a. Has a minimum width over 20 feet (multiple-section);
- b. Has a minimum of 900 square feet of enclosed living area;
- c. Has a minimum 5:12 roof pitch; and has a type of shingle commonly used in standard residential construction;
- d. Is covered with an exterior material customarily used on site built homes, including vinyl or aluminum lap siding, wood, masonite, or other materials similar to the exterior siding commonly used in standard residential construction; and
- e. Has a roof overhang of not less than eight (8) inches.

Dwelling, Single-family - A building containing one dwelling unit.

Dwelling, Standard Designed Manufactured Home - A single family dwelling unit built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code, 6-15-76, and which does not meet the definition of a *Residential Designed Manufactured Home*.

Dwelling, Townhouse - A series of attached dwelling units on separate lots which may or may not have a common roof and are separated from each other by common vertical walls.

Dwelling, Triplex - A single building containing three dwelling units.

Dwelling Unit - A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, Zero Lot Line - A zero lot line dwelling is a single-family detached unit which instead of being centered on a lot, is placed against at least one of the side lot lines. The term is synonymous with patio house.

Elevated Building - A non-basement building constructed to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, (post and piers), shear walls, or breakaway walls.

Evergreen Tree - A coniferous or deciduous tree that remains green throughout the year.

Family - One or more persons related by blood, marriage, adoption or guardianship, and not more than three (3) persons not so related, except that mentally and physically handicapped persons for whom care is provided on a 24-hour basis shall be construed a family, in accord with the provisions of 6-7-830 of the South Carolina Code of Laws.

Family Day Care Home - A family day care home is one in which care is given by a family member and no others during the day only for one and not more than seven children, including the day care parents' own children.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain - Those normally dry land areas subject to periodic inundation by water as defined by the Federal Emergency Management Agency on Flood Boundary and Floodway Maps for the City of Marion, the most recent edition available.

Flood Hazard Boundary Map (FHBM) - The official map issued by the Federal Emergency Management Agency, where the areas of special flood hazard have been designated as Zone A.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor - The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in wood frame construction. Term does not include floor of a garage used solely for parking vehicles.

Floor Area - The sum of the floor area for each of a building's stories measured from the exterior limits of the faces of the structure, including basement floor area. It does not include unenclosed porches or any floor space in an accessory building or in the principal building which is designed for parking of motor vehicles.

Floor Area Ratio - An intensity measure of land use derived at by dividing the total floor area of a building by the total site area.

Habitable Floor - Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

Height - The vertical distance of a structure or vegetation measured from the average grade elevation within 20 feet of the structure to the highest point of the structure.

Home Occupation - Any occupation within a dwelling, including a family day care home, and clearly incidental thereto, carried on by a member or members of the family residing on the premises.

Impervious Surface - Impervious surfaces are those that do not absorb water. All buildings, paved parking areas, driveways, roads, sidewalks, and any areas in concrete or asphalt shall be considered impervious surfaces within this definition. In addition, other areas determined by the Building Official to be impervious within the meaning of this definition also will be classed as impervious surfaces.

Impervious Surface Ratio - The impervious surface ratio is a measure of the intensity of land use. It is determined by dividing the total area of all impervious surfaces within the site by the total site area.

Institutional Uses - Uses which are supportive of the residential community. They provide indoor space for recreation, hobbies, meetings, education, and worship as well as cultural facilities, group quarters for religious groups and the infirm or elderly. While some uses may be operated for private profit, they duplicate services that are generally provided by public or non-profit groups.

Lot - A parcel of land considered as a unit. The terms "lot", "lot of record", "property", or "tract", whenever used in this Ordinance are interchangeable.

Lot, Corner - A lot located at the intersection of two or more streets.

Lot, Double Frontage - A lot which has frontage on more than one street.

Lot, Interior - A lot, other than a corner lot, which has frontage on only one street other than an alley.

Lot, Depth - The horizontal distance between front and rear lot lines.

Lot, Width - The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Lot Area - The area contained within the boundary line of a lot.

Lot Line - A line bounding a lot which divides one lot from another or from a street or any other public or private space.

Manufactured Home Park - A lot or parcel with space, improvements and utilities for the long-term parking of two (2) or more mobile or manufactured homes which may include services and facilities for the residents.

Mini-warehouse - A building or group of buildings in a controlled-access and fenced compound that contains individual, compartmentalized and controlled-access stalls or lockers for the dead storage of customer's goods or wares.

Modular Building Unit or Modular Structure - Any building of closed construction, regardless of type of construction or occupancy classification, other than a mobile or manufactured home, constructed off-site in accordance with the applicable codes, and transported to the point of use for installation or erection. When meeting the requirements of the Modular Building's Construction Act (23-43-10 of the S. C. Code of Laws), said building unit or structure may be located in any of the city's several zoning districts.

Nonconformity - A nonconformity is any lot of record, use, building, structure or vegetation in existence prior to the effective date of this Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the Ordinance.

Non-residential Use - A principal use of land for other than residential purposes, i.e. commercial, industrial, institutional.

Open Space Ratio - The open space ratio is a measure of the intensity of land use. It is arrived at by dividing the total amount of open space within the site by the Total Site Area.

Parcel - A land area bounded by property lines that is recognized as such by the County Assessor's Office.

Park - A public facility open for recreation, with commercial activities for recreational uses only, open space and public gardens.

Premises - A lot, plot, or parcel of land including the buildings or structures thereon, under control by the same owner or operator together with all adjacent land.

Recreational Vehicle - A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including, but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Right-of-way - The land occupied by a road and adjacent to it that is dedicated to a public entity for maintenance or other public purposes.

Sexually Oriented Business – A sexually oriented business is one which, as one of its principal purposes, sells, displays or exhibits materials, including books, magazines, movies, tapes, photographs, etc. which appeal to prurient interests, contain patently offensive depictions of sexual conduct, and have no serious literary, artistic, political or scientific value.

Shipping Container – A rectangular, prefabricated metal structure, designed for stacking, storage and transfer of goods and commodities by ship and/or container chassis trucks.

Sign - Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

Sign, Abandoned - A sign structure not containing a sign for 120 continuous days or a sign not in use for 120 continuous days, or a sign advertising a business no longer occupying the site on which the sign exists or to which it refers.

Sign, Animated - Any sign that uses movement or change of lighting to depict action or creates a special effect or scene.

Sign, Awning, Canopy or Marquee - A sign that is mounted or painted on or attached to an awning, canopy or marquee.

Sign, Banner - Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Sign, Building - Any sign attached to any part of a building.

Sign, Changeable Copy - A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight

times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this Ordinance.

Sign, Face - The area or display surface used for the message.

Sign, Flat - A single faced sign attached flush to a building or projecting no more than 12 inches.

Sign, Free-Standing - Any non-movable sign not affixed to a building.

Sign, Incidental - A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

Sign, Permanent - A sign attached to a building, structure or the ground in some manner and made of materials intended for more than short term use.

Sign, Political - A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

Sign, Portable - A sign that is not permanently affixed to a building, structure or the ground.

Sign, Projecting - A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

Sign, Roof - A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof or the deck line of a building with a mansard roof.

Sign, Temporary - A sign that is used only for a short period of time and is not permanently mounted.



Sign, Wall - A sign painted on the wall of a building and has no sign structure.

Sign, Window - A sign that is applied or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window.

Street - Any thoroughfare (drive, avenue, boulevard) or space more than 18 feet in right-of-way width which has been dedicated, deeded or designated for vehicular traffic, public or private.

Street, Major Arterial - Includes all state primary and federal aid highways and streets that serve to circulate traffic on to, out or around the city, having signals at important intersections and stop signs on side streets and/or one having controlled access and channelized intersections.

Structure - (As defined by the Standard Building Code.)

Structural Alteration - Any change in the supporting members of a building, such as the bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior walls.

Understory Tree - A small deciduous tree that forms the layer of vegetation under the canopy trees in a forest. Examples of such trees include dogwoods, sourwoods, fruit trees and others.

Use, Accessory - See Building, Accessory.

Use - The purpose or activity for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use, Principal - The primary purpose for which land is used.

Variance - A modification of the area regulations of this Ordinance, granted by the Board of Zoning Appeals, where such modification will not be contrary to the public interest, and where, owing to conditions peculiar to the property, a literal enforcement of the Ordinance would result in unnecessary and undue hardship, and where such modification will not authorize a principal or accessory use of the property which is not permitted within the zoning district

in which the property is located.

Vegetation - Any object of natural growth.

Wetlands - Areas of one-quarter (.25) acre or more where standing water is retained for a portion of the year and unique vegetation has adapted to the area. Jurisdictional wetlands are those over which the U.S. Corps of Engineers has permitting jurisdiction.

Yard - An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided by this Ordinance.

Yard, Front - A yard extending the full width of the front of a lot between the front (street) right-of-way line or property line and the front building line.

Yard, Rear - A yard extending the full width of the lot in the area between the rear lot line and the rear building line.

Yard, Required - That part of a yard between a lot line and the minimum required building setback line, within which no structure shall be located except as provided by this Ordinance.

Yard, Side - A yard extending the full length of the lot in the area between the side lot line and a side building line.

Zoning District - A specifically delineated area or district in the city within which regulations and requirements govern the use, placement, spacing and size of land and buildings.

## **ARTICLE XIII**

### **LEGAL STATUS PROVISIONS**

#### **Section 1300. Conflict with Other Laws**

Whenever the regulations of this Ordinance require a greater width or size of yards, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.

#### **SECTION 1301. VALIDITY**

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

#### **SECTION 1302. REPEAL OF CONFLICTING ORDINANCES**

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

#### **SECTION 1303. EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after the date of its adoption by the Mayor and City Council of the City of Marion.

**ENACTED AND ORDAINED into an Ordinance this 14th day of November, 2006, by the CITY OF MARION.**