

# Town of Summerville, SC

## Ordinances related to Business Licenses

*updated 01.15.16*

### **Sec. 2-293. - Collection of license fees.**

The finance director, subject to the supervision of the town administrator, shall be responsible for the collection of business license fees, sanitation fees and other amounts due to the town from businesses, individuals and other governmental agencies.

### **Sec. 2-326. - Award to other than low bidder.**

(a) When the award is not given to the lowest responsive bidder, a full and complete statement of the reasons therefore shall be filed with the purchase order. Local vendor preference shall be given to those vendors who maintain a principal place of business (owned or rented) within the town, as registered in official documents filed with the Secretary of State, the Internal Revenue Service, or state tax commission and hold a valid town business license.

(b) In evaluating the price of eligible local vendor bids, the bids shall be evaluated as though the prices proposed by local bidders were either five percent, two percent or one percent lower than actually proposed in accordance with the following schedule:

(1) If the local bidder submits a bid costing less than \$10,000.00, the business or individual shall be evaluated on a five percent reduction basis;

(2) If the local bidder submits a bid costing \$10,000.00 or more, the business or individual shall be evaluated on a two percent reduction basis;

(3) For bids \$50,000.00 or more, the evaluation shall be based on a one percent reduction basis, but will not exceed a total reduction of more than \$2,000.00.

(4) Nothing herein shall be construed as increasing or decreasing the actual price of a bid and the resulting contract; this section is intended only to be used for the purposes of comparing and evaluating bids and proposals for products and services. Nothing within this section shall be construed to create any private rights claims, or cause of action on behalf of any person, including, but not limited to bidders.

(5) The requirements of this section may be waived by the finance committee of town council upon a formal finding that the best interest of the town would not be served by adhering to the provisions of this section.

(6) This section shall not apply in emergency or sensitive procurement situations.

(7) The town reserves the right to specify brand names based on its experience, current inventory, and other qualifications specified by the user department.

(Ord. No. 12-0301, 5-9-2012)

**Sec. 8-31. - License required.**

Every person engaged or intending to engage in any calling, business, occupation or profession, in whole or in part, within the limits of the Town of Summerville, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

(Ord. No. 05-0301, § 1, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-32. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meaning ascribed herein:

*"Business"* means a calling, occupation, profession, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly.

*"Charitable organization"* means an organization that is determined by the Internal Revenue Service to be exempt from federal income taxes under [26](#) U.S.C. sections 501(c)(3), (4), (6), (7), (8), (10) or (19).

*"Charitable purpose"* means a benevolent, philanthropic, patriotic, or eleemosynary purpose which does not result in personal gain to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization.

*"Classification"* means that division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by the council.

*"Gross income"* means the total revenue of a business, received or accrued, for one calendar year collected or to be collected from business done within the municipality, excepting therefrom income earned outside of the municipality on which a license tax is paid to some other municipality or a county and fully reported to the municipality. The term gross receipts means the value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character and all receipts, by the reason of any

business engaged in, including interest, dividends, discounts, rentals of real estate or royalties, without any deduction on account for the cost of the property sold, the cost of the materials used, labor or service cost, interest paid or any other expenses whatsoever and without any deductions on account of losses. The gross income for business licenses purposes shall conform to the gross income reported to the sales tax commission, state insurance commission or the Internal Revenue Service. Gross income for brokers or agents means gross commissions received or retained, unless otherwise specified. Gross income for insurance companies means gross premiums collected. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds which are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross income for business license purposes may be verified by a certified letter from the applicants CPA, or inspection of a transcript of the returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Insurance Commission, or other government agency.

*"License official"* means a person designated to administer this article.

*"Licensee"* means the business, the person applying for the license on behalf of the business, an agent or legal representative of the business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

*"Municipality"* means the Town of Summerville, South Carolina.

*"Person"* means any individual, firm, partnership, LLP, LLC, cooperative nonprofit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

*"Residential landlord or property manager"* means a person managing or renting property. Residential property would require a business license only if managing/renting three or more single-family units. Both the owner of the property and the property manager are required to obtain a business license. If the owner is paying property taxes to the Town of Summerville, then in-town rates apply.

(Ord. No. 05-0301, § 2, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

### **Sec. 8-33. - Purpose and duration.**

The business license levied by this article is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Each license shall be issued for one calendar year ending May 31. The provisions of this article and the rates herein shall remain in effect from year to year as amended by the council.

(Ord. No. 05-0301, § 3, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-34. - License tax.**

(a) The required license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the 30th day of June in each year, except for those businesses in Rate Class 8 for which a different due date is specified.

(b) A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the license tax shall be computed on the combined gross income for the classification requiring the highest rate. A license tax based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a 12-month projected income based on the monthly average for a business in operation for less than one year. The tax for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the license year. The initial tax for an annexed business shall be prorated for the number of months remaining in the license year. No refund shall be made for a business that is discontinued.

(Ord. No. 05-0301, § 4, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-35. - Registration required.**

(a) The owner, agent or legal representative of every business subject to this article, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year; provided, a new business shall be required to have a business license prior to operation within the municipality. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued a state alcohol, beer or wine permit or license and will have actual control and management of the business.

(b) Application shall be on a form provided by the license official which shall contain the Social Security number and/or the federal employer's identification number, the business name as reported on the South Carolina income tax return, and all information about the applicant and the licensee and the business deemed appropriate to carry out the purpose of this article by the license official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross income figures.

(c) The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported, or estimated for a new business, without any

unauthorized deductions, and that all assessments, personal property taxes on business property and other monies due and payable to the municipality have been paid.

(d) Insurance agents and brokers shall report the name of each insurance company for which a policy was issued and the total premiums collected for each company for each type of insurance coverage on a form approved by the license official. An insurance agent not employed by a company shall be licensed as a broker.

(e) No business license shall be issued until the applicant first submits documents necessary to establish compliance with zoning, any necessary building codes, and with other regulatory codes as adopted by town council.

(Ord. No. 05-0301, § 5, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

### **Sec. 8-36. - Deductions, exemptions and charitable organizations.**

a) No deductions from gross income shall be made except income earned outside of the municipality on which a license tax is paid to some other municipality or a county and fully reported to the municipality, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to state or federal law. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.

(b) No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the municipality, unless exempted by state or federal law. The license official shall determine the appropriate classification for each business in accordance with the latest issue of the North American Industry Classification System (NAICS) for the United States published by the Office of Management and Budget. No person shall be exempt from this article by reason of the payment of any other tax, unless exempted by state law, and no person shall be relieved of liability for payment of any other tax or fee by reason of application of this article.

(c) A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A charitable organization or any for-profit affiliate of a charitable organization, that reports income from for-profit activities, or unrelated business income, for federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

(d) A charitable organization shall be deemed a business subject to a business license tax on its total gross income if: (1) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a charitable organization as defined in this article; or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a charitable purpose as defined in this article. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer,

officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

(Ord. No. 05-0301, § 6, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-37. - False application unlawful.**

It shall be unlawful for any person subject to the provisions of this article to make a false application for a business license, or to give or file, or direct the giving or filing of, any false information with respect to the license or tax required by this article.

(Ord. No. 05-0301, § 7, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-38. - Display and transfer.**

(a) All persons shall display the license issued to them on the original form provided by the license official in a conspicuous place in the business establishment at the address shown on the license. A transient or nonresident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the municipality.

(b) A change of address must be reported to the license official within ten days after removal of the business to a new location and the license will be valid at the new address upon written notification by the license official and compliance with zoning and building codes. Failure to obtain the approval of the license official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

(c) Business owners shall notify the license official upon termination of business operation. Owner will submit written notice on company letterhead or submit the Summerville affidavit certifying that the business has ceased operation. A new license would be required if the owner either begins a new business or re-established the previous business. The affidavit may be obtained by contacting the business license office.

(Ord. No. 05-0301, § 8, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-39. - Administration of article.**

The license official shall administer the provisions of this article, collect license taxes, issue licenses, make or initiate investigations and audits to insure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this article, and perform such other duties as maybe duly assigned. The license official may use the most recent business license handbook from the municipal association to assist in interpreting and administering this business license ordinance (Appendix E, on file with the town).

(Ord. No. 05-0301, § 9, 4-13-2005)

#### **Sec. 8-40. - Inspection and audits.**

- (a) For the purpose of enforcing the provisions of this article, the license official or other authorized agent of the municipality is empowered to enter upon the premises of any person subject to this article to make inspections, examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of license tax shall constitute a separate offense. Upon approval by council an amnesty period, as outlined in Appendix D on file with the town, may be implemented.
- (b) The license official shall make systematic inspections and random audits of all businesses within the municipality to insure compliance with the ordinance. The audit period will be for the current year's business license and three years back. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this article, state or federal law, or proper judicial order. Statistics compiled by classifications are public records.

(Ord. No. 05-0301, § 10, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

#### **Sec. 8-41. - Assessments, payment under protest, appeal.**

- (a) If a person fails to obtain a business license or to furnish the information required by this article or the license official, the license official shall examine such records of the business or any other available records as may be appropriate, and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a license tax and penalties as provided herein.

- (b) A notice of assessment shall be served by certified mail or personal service. An application for adjustment of the assessment may be made to the license official within five days after the notice is mailed or personally served or the assessment will become final. The license official shall establish a uniform procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.
- (c) A final assessment may be appealed to the council only by payment in full of the assessment under protest within five days and the filing of written notice of appeal within ten days after payment pursuant to the provisions of this article relating to appeals to council.

(Ord. No. 05-0301, § 11, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-42. - Delinquent license taxes, partial payment.**

- (a) For nonpayment of all or any part of the correct license tax, the license official shall levy and collect a late penalty of five percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any license tax remains unpaid for 60 days after its due date, the license official shall report it to the municipal attorney for appropriate legal action.
- (b) Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; provided, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

(Ord. No. 05-0301, § 12, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-44. - Denial of license.**

The license official shall deny a license to an applicant when the license official determines:

- (1) The application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact; or
- (2) The activity for which a license is sought is unlawful or constitutes a public nuisance per se; or
- (3) The applicant, licensee or prior licensee or the person in control of the business has been convicted of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or



- (4) The applicant, licensee or prior licensee or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the municipality or in another jurisdiction; or
- (5) The applicant, licensee or prior licensee or the person in control of the business is delinquent in the payment to the municipality of any tax or fee; or
- (6) The applicant, licensee for the business or for a similar business of the applicant or licensee in the municipality or another jurisdiction has been denied, suspended or revoked within the previous license two years.

A decision of the license official shall be subject to appeal to council as herein provided. Denial shall be written with reasons stated.

(Ord. No. 05-0301, § 14, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-45. - Suspension or revocation of license.**

When the license official determines:

- (1) A license has been mistakenly or improperly issued or issued contrary to law; or
- (2) A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this article; or
- (3) A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or
- (4) A licensee has been convicted of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
- (5) A licensee has engaged in an unlawful activity or nuisance related to the business; or
- (6) A licensee is delinquent in the payment to the municipality of any tax or fee;

the license official shall give written notice to the licensee or the person in control of the business within the municipality by personal service or certified mail that the license is suspended pending a hearing before council for the purpose of determining whether the license should be revoked.

The notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special council meeting within 30 days from the date of service of the notice, unless

continued by agreement. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this article.

(Ord. No. 05-0301, § 15, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-46. - Appeals to council.**

- (a) Any person aggrieved by a decision, final assessment, proposed revocation, suspension, or a denial of a business license by the license official may appeal the decision to the council by written request stating the reasons therefore, filed with the license official within ten days after service by certified mail or personal service of the notice of decision, final assessment, proposed revocation, suspension or denial.
- (b) An appeal or a hearing on proposed revocation shall be held by the council within 30 days after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or licensee has been given written notice, unless continued by agreement. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by council shall govern the hearing. Council shall by majority vote of members present render a written decision based on findings of fact and application of the standards herein which shall be served upon all parties or their representatives and shall be the final decision of the municipality.
- (c) No person shall be subject to prosecution for doing business without a license until the expiration of ten days after notice of denial or revocation which is not appealed or until after final judgment of a circuit court upholding denial or revocation.

(Ord. No. 05-0301, § 16, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-48. - Consent, franchise or business license fee required.**

The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license fees unless specifically provided by the franchise or consent agreement.

(Ord. No. 05-0301, § 18, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-52. - Classification and rates.**

(a) The sectors of businesses included in each rate class are listed with the United States North American Industry Classification System (NAICS) Codes. The alphabetical index referred to in this article is a tool for classification, not a limitation on businesses subject to a license tax. The license official shall determine the proper class for a business according to the applicable NAICS Manual, whether or not the business is listed in the alphabetical index.

(b) The license fee for each class of businesses subject to this article shall be computed in accordance with the rates listed in the alphabetical index referred to in this article.

(Ord. No. 05-0301, § 22, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-81. - Definitions.**

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

*Event license* is used for a "one-time" event, ongoing multiple events must obtain a regular business license.

*Interstate commerce* means the trading in commodities between citizens of different states. Articles are considered interstate commerce when they commence their final movement for transportation from the state of their origin to the state of their destination. The term includes the buying and selling of goods for shipment from one state to another and all component parts of the transaction are included; for example, taking orders, shipping, unloading, storage, delivery to purchaser and collection of sales price. However, goods may come out of interstate commerce at some stage and become a part of an activity that is intrastate in nature and subject to a license tax as determined by town officials.

*Peddler* and *solicitor* mean any person who goes from house to house or from place to place in the city soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, newspapers, or magazines, or subscriptions to newspapers or magazines.

(Ord. No. 05-0301, § 23, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-82. - Business license required.**

(a) *Required.* It shall be unlawful for any person, except as provided in sections [8-83](#) and [8-84](#), to engage in any activity as a peddler or solicitor without first obtaining a business license.

(b) *Application.* Any person, except as provided in sections [8-83](#) and [8-84](#), desiring to engage in any activity as a peddler or solicitor shall make written application for a business license.

- A valid driver's license is required.

- All persons engaged in peddling, canvassing, soliciting or selling shall be identified in writing by providing a valid driver's license which states their name, address, driver's license number, if any, and date of birth. They must also supply a description of the vehicle they will be driving along with the VIN number and license tag number.

- A criminal background check from SLED or Summerville Police Department is required prior to issuing the business license.

- Applicant must also identify the name and address of the person the applicant represents, the name and address of the corporate headquarters of the entity the applicant purports to represent, whether the applicant is an agent, independent contractor or employee of the entity the applicant represents, the kind of goods offered for sale and whether the applicant, upon any sale or order, shall demand or accept a payment or deposit of money in advance of final delivery, and the period of time the applicant wishes to sell or solicit in the municipality.

- Applicant must meet all regulations pursuant to the provisions of S.C. Code 1976, § 40-41-10, and be in compliance with the zoning, building and fire codes.

- An application for a transient merchant license shall disclose whether or not the person having management or supervision of the applicant's business has been convicted of any crime or violation of any federal, state or local laws or ordinances within the five years immediately preceding the date of the application, or of the violation of any law or ordinance relating to the same or similar business to be conducted by the applicant. If so, the nature of the offense, the date of the same, the jurisdiction in which the offense was heard and the punishment therefor; whether the applicant has ever applied for a license under this chapter, which has been denied; whether the applicant has ever held a license under this chapter, which has been revoked.

(c) *To be carried on person.* It shall be unlawful for any person to engage in any activity as a peddler and solicitor unless such person is carrying on the person, while so engaged, a valid business license issued under this article, except as provided in sections [8-83](#) and [8-84](#).

(d) *Operating hours.* Operating hours within the town limits for all transient vendors, canvassing, hawking, peddling or soliciting door-to-door from place to place, shall be no earlier than 10:00 a.m. and no later than 8:00 p.m. during daylight savings, all other times will be 10:00 a.m. to 6:00 p.m.

(Ord. No. 05-0301, § 24, 4-13-2005; Ord. No. 13-0901, 11-13-2013)

**Sec. 8-145. - Violations.**

It shall be a violation of this division to:

- (1) Fail to collect the local hospitality tax in connection with the sale of prepared meals, food and beverages;
- (2) Fail to remit to the town the taxes collected pursuant to this division on a monthly basis, or as provided by state law;
- (3) Provide false information on the form of return submitted to the town;
- (4) Fail to provide or make available books and records to the license official or other authorized agent for the purpose of an audit upon 24 hours' written notice; or
- (5) Fail to comply with any other specific provision/requirement of this division.

The failure of an establishment subject to this division to remit to the town the taxes required by the division, as and when due, shall constitute a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment for up to 30 days, or both. Notwithstanding the foregoing, any misrepresentation of the information required by return(s) as set forth in this division or the failure to collect or timely remit to the town the taxes imposed by this division may result in the suspension and/or revocation of the business license of the offending establishment, as may be determined, after a hearing by the finance committee. At least ten days-notice of such hearing shall be provided to the owner of the applicable establishment.

(Ord. No. 04-1103, § 5, 7-13-2005)

**Sec. 12-92. - Collection service may be contracted.**

(a) The municipality may contract with an independent contractor or independent contractors to collect and remove debris, garbage, and refuse.

(b) There is hereby imposed upon all improved property in the town limits a sanitation collection fee, which shall be established from time to time by the town council, to be billed annually by the county auditor on the property tax bill and collected by the county treasurer in the same manner as provided for property taxes on the 2002 property tax bill. Provided however, that in the case of properties which, due to tax exemptions or other reasons, cannot be billed by the county auditor, the town administrator shall implement systems for collection of the sanitation collection fee imposed by this section or by subsection (c).

Be it further provided, that in the case of new residences issued a certificate of occupancy prior to December 31, an interim sanitation collection fee in an amount established by the town council shall be assessed and collected on behalf of the town by the commissioners of public works. The interim fee will be replaced by the sanitation collection fee billed annually along with property taxes beginning January 1 of the following year.

(c) In addition to the sanitation collection fee imposed on all improved properties pursuant to subsection (b), there is hereby imposed an additional fee on all improved properties which do not qualify as owner-occupied legal residences. Said additional fee shall be based on the total volume of container or dumpster space available at each business, commercial, industrial or tax exempt property at the rate established from time to time by the town council. This fee shall be collected in full immediately prior to the issuance or renewal of a business licenses to the business occupying the property. In the event that the owner or occupant of the property is not required to obtain a business license, the town administrator shall establish a method of collecting the appropriate fee.

(d) Recognizing that there are situations which require special handling in order to achieve a fair and impartial application of the fee, the town administrator shall develop guidelines for determining the fee in special situations and for making adjustments to the fee.

(e) Any person aggrieved by a determination by the town administrator may appeal the decision by filing in writing, within ten days of written notification of the administrator's decision, a request for reconsideration. This request shall be filed with the mayor, who shall submit the matter to the public works committee of the town council, which shall render a decision within 30 days. If the appellant desires, a final appeal before the full town council may be requested by filing written notice with the clerk of council within ten days of the decision of the public works committee.

(Code 1982, § 10-30; Ord. No. 02-0502, 6-12-2002; Ord. No. 02-0602, § I, 7-10-2002)

#### **Sec. 16-14. - Hiring of illegal aliens.**

(a) It is the policy of the town to discourage business entities from knowingly recruiting, hiring for employment, or continuing to employ a person who is an unauthorized alien to perform work within the town.

(b) Definitions. For the purposes of this section, the following terms and phrases shall have the meanings ascribed to them herein, and shall be construed so as to be consistent with state and federal law, including federal immigration law:

(1) *Business entity* means any person, group of persons, partnership or corporation that engages in any activity, enterprise, profession or occupation for financial gain, benefit, or livelihood, and shall include all such activities, enterprises, professions, or occupations, whether performed in one or more establishments by one or more corporate or other

organizational units, including departments or establishments operated through leasing arrangements, whether for profit or not for profit. The term business entity shall include but not be limited to, contractors, subcontractors, self-employed individuals, partnerships, and corporations. The term business entity shall include both business entities that are required to obtain a license or permit to conduct business in the Town of Summerville and businesses that are not required to obtain a license or permit to conduct business in the Town of Summerville.

(2) *Work* means any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected or due, including but not limited to all activities conducted by business entities.

(3) *E-verify program* means the electronic verification of employment authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208, United States Code [Title 8](#), Section 1324a, and operated by the United States Department of Homeland Security (or successor program established by the federal government).

(4) *Business license* means any license, permit, occupation tax registration, business registration, or registration certification issued to a business entity by the Town of Summerville.

(5) *Town* means the Town of Summerville.

(6) *Contractor* means a person, licensee, subcontractor or business entity that enters into an agreement to perform any service or work or to provide a certain product in exchange for valuable consideration. This definition shall include, but not be limited to, a subcontractor, contract employee, or a recruiting or staffing entity.

(7) *Director* means the Director of the South Carolina Department of Labor, Licensing and Regulation, or his designee.

(8) *Unauthorized alien* shall have the same meaning as 8 U.S.C. § 1324a(h)(3) and means with respect to the employment of an alien at a particular time that the alien is not at that time either:

- a. An alien lawfully admitted for permanent residence; or
- b. Authorized to be so employed by the United States Immigration and Nationality Act or by the United States Attorney General.

The town shall not conclude that a person is an unauthorized alien unless and until an authorized representative of the town has verified with the Director of the South Carolina Department of Labor, Licensing and Regulation, following an investigation conducted by that department under the South Carolina Illegal Immigration Reform Act which finds that

based on information obtained from the federal government, pursuant to United States Code [Title 8](#), Subsection 1373(c), the person's citizenship or immigration status is unauthorized.

(9) *Employment eligibility verification* means the verification by an authorized representative of the Town of Summerville that a person providing work or services on behalf of a business entity licensed by the town is lawfully present in the United States in an immigration status for which such work has been authorized. Verification is made by obtaining and adopting the findings of an enforcement action conducted by the Director of the South Carolina Department of Labor, Licensing and Regulation pursuant to the South Carolina Illegal Immigration Reform Act.

(c) This section shall not apply to the hiring of an independent contractor by a business entity, or to the intermittent hiring of casual labor for domestic tasks customarily performed by the residents of a dwelling. Such independent contractors or laborers are not employees within the meaning of this section. This section shall be interpreted to be fully consistent with United States Code [Title 8](#), Section 1324a, and with all other applicable provisions of federal law and with S.C. Code 1976, § 41-8-10 et seq.

(d) It is unlawful for any business entity to recruit, hire for employment, or continue to employ, or to permit, dispatch, or instruct any person who is an unauthorized alien to perform work in whole or part within the town. Every business or person that applies for a business license to engage in any type of work in the town shall sign an affidavit, on a form designated by the town or prescribed by the South Carolina Illegal Immigration Reform Act, attesting under penalty of perjury that the business and, or person, does not knowingly utilize the services of, engage or hire any person who is an unauthorized alien; and further, the licensee shall affirm and attest that as a condition of issuance for a business license the applicant accepts and agrees to the provisions of this section and shall fully cooperate with the enforcement of this section as provided herein. Upon request, the town will provide business license applicants or licensees with information pertaining to the requirements of the South Carolina Illegal Immigration Reform Act and federal law regarding the unlawful employment of unauthorized aliens and unfair immigration related employment practices.

(e) *Enforcement.*

(1) The Town of Summerville Business License Department shall enforce the requirements of this section in cooperation with and in deference to the South Carolina Illegal Immigration Reform Act. For purposes of this section, an enforcement action is an action undertaken by the town to ascertain the lawful employment of any person within the town as may be determined by the Director of the South Carolina Department of Labor, Licensing and Regulation pursuant to an investigation under the South Carolina Illegal Immigration Reform Act.

(2) An enforcement action shall be initiated by means of:



- a. A written signed complaint filed with the town business license department submitted by any town official, business entity, or individual, whether or not a resident of the town; or
- b. As part of an audit; or
- c. As a result of notice of an investigation and/or findings from the Director of the South Carolina Department of Labor, Licensing and Regulation pursuant to the South Carolina Illegal Immigration Reform Act.

(3) A complaint filed with the town business license department shall include specific allegations describing the alleged violation including, but not limited to, the date and location where an alleged violation occurred. For purposes of this section, "the alleged violator" means a licensee and "the actions constituting a violation" include allegations which create in the mind of a reasonable person that the licensee engages in unlawful business practices in violation of this section, federal law and/or South Carolina Illegal Immigration Reform Act.

(4) A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, religion, or race shall be deemed invalid and shall not be enforced nor shall same constitute grounds to conduct an audit.

(5) Upon receipt of a written complaint alleging that a licensee has failed, neglected or refused to comply with this section, federal law, or the South Carolina Illegal Immigration Reform Act, or upon receipt of specific information which would lead a reasonable person to conclude that there exists cause to investigate the compliance of a licensee, the business license division will cause an investigation to commence by forwarding the complaint, audit results, or information to the Director of the South Carolina Department of Labor, Licensing and Regulation for further investigation pursuant to the South Carolina Illegal Immigration Reform Act.

(6) If the director's investigation of a complaint or the results of an audit by the director show that the licensee:

- a. Complied with 8 U.S.C. 1324a; or
- b. Has otherwise complied with the South Carolina Illegal Immigration Reform Act; then
- c. Further enforcement action by the town shall be immediately concluded and any complainant and licensee notified thereof in writing.

(7) If an investigation of a complaint or the results of an audit conducted by the Director of the South Carolina Department of Labor, Licensing and Regulation, pursuant to the South Carolina Illegal Immigration Reform Act, show that the licensee is in violation of the South Carolina Illegal Immigration Reform Act the town shall, exclusive of monetary

penalty, subscribe the same license suspension or revocation penalty upon the licensee as is imposed upon the licensee by the director under S.C. Code 1976, § 41-8-50, and such suspension or revocation shall run concurrently with the penalty imposed upon the licensee by the director and shall not be reinstated until the licensee has complied with the requirements of the South Carolina Illegal Immigration Reform Act to the satisfaction of the director, of which such compliance shall be verified by the town business license department before reinstatement will be authorized. Any license reinstatement by the town shall be subject to the same probationary period(s) and requirements as set forth by the South Carolina Illegal Immigration Reform Act. No penalty shall be imposed by the town until the town has received notice from the director that a penalty has been prescribed and is currently in effect against the licensee by the state.

(8) Appeals. An appeal from a finding by the Director of the South Carolina Department of Labor, Licensing and Regulation shall stay the enforcement or assessment of penalties by the town until such time as the appeal is concluded. The results of any appeal of the director's findings shall be conclusive on the town and no action to impose a penalty shall be taken by the town until the town has received notice from the director that the results of the finding have been affirmed and a penalty has been prescribed and is currently in effect against the licensee by the state.

(9) Penalties. The exclusive remedies for violation of this section are as provided herein:

a. In addition to the monetary penalties set forth in [section 8-50](#), Code of Ordinances of the Town of Summerville, the penalty for violation of this section shall consist of suspension or revocation of the business license of any business entity which has been found to be in violation of the South Carolina Illegal Immigration Reform Act.

b. The suspension of a town business license shall be the same license suspension or revocation penalty upon the licensee as is imposed upon the licensee by the director under S.C. Code 1976, § 41-8-50 et seq., and such suspension or revocation shall run concurrently with the penalty imposed upon the licensee by the director. However, no penalty shall be imposed by the town until the town has received notice from the director that a penalty has been prescribed and is currently in effect against the licensee by the state.

c. Any license reinstatement by the town shall be subject to the same probationary period(s) and requirements as set forth by the South Carolina Illegal Immigration Reform Act.

(10) The town shall enroll and participate in the E-verify program.

(11) As a condition for any award of any town contract or grant to a business entity, the business entity shall provide documentation confirming its enrollment and participation in the employment eligibility verification program as provided by the South Carolina Illegal Immigration Reform Act.

(f) *Prohibition of discrimination.*

(1) The Federal Immigration and Nationality Act, as amended, and Title VII of the Civil Rights Act of 1954, as amended, the South Carolina Human Affairs Law, as amended, the South Carolina Unfair Trade Practices Act., as amended, among other federal and state laws and regulations prohibit employment discrimination. Employers must treat all employees the same when completing employment eligibility verification documents. Employers may not set different employment eligibility verification standards or require different documents to be presented by different groups of employees.

(2) An allegation of discrimination may be filed by an individual who believes he or she is the victim of employment discrimination by contacting the appropriate state and federal agencies.

(g) *Applicability and effective date.* This ordinance shall become effective upon second and final reading.

(h) *Severability.* If any part of the ordinance from which this section derives is held by a court of competent jurisdiction to be unconstitutional, illegal, or invalid for any reason, it shall be construed to have been the legislative intent of the Summerville Town Council to pass the ordinance without such unconstitutional, illegal or invalid provision, and the remainder of the ordinance shall be deemed and held to be constitutional, lawful and valid as if such portion had not been included. If this section or any provision thereof is held by a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

(Ord. No. 10-0901, 10-13-2010)

**Sec. 24-9. - Outdoor cafés.**

(a) *Purpose and applicability.* The provisions of this section shall apply to conforming businesses within a nonresidential district for the establishment, operation and maintenance of outdoor dining areas and cafes located on sidewalks and public plazas. The purpose of this section is to promote the general economic development and atmosphere of the Town of Summerville for the benefit of all businesses and citizens located there, and no rights of individuals or individual businesses are created in this section. The town shall have broad discretion to grant, modify, or revoke permits issued pursuant to this section in the interests of improving public health, safety and welfare.

(b) *Definitions.* As used in this section, the following words, terms and phrases, when used, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:

*Building official* means the person authorized by the town to enforce this section.

*Design requirements* means the standards adopted with this section that guide design and materials in encroachment areas.

*Encroachment* means stands, tables, umbrellas, chairs, displays, and other objects related to the business on the public right-of-way, sidewalk, or common area on public property.

*Outdoor café* means the business of providing food and beverage service with chairs and tables on sidewalks and plazas, adjacent to a business licensed to operate as an eating establishment, where food and/or other refreshments are served.

*Permittee* means the recipient of an encroachment permit under the terms and provisions of this section.

*Plaza* means any outdoor area which is owned or controlled by the town, which is open to the general public, but which is not a sidewalk or street.

*Sidewalk* means an area of the public right-of-way between the curb lines or the lateral lines of a roadway and the adjacent property lines and which is reserved for pedestrian traffic, but not including street crossings.

(c) *Penalties.* Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with Town of Summerville Code of Ordinances, [section 1-8](#). Each day any violation of this section occurs shall constitute a separate offense.

(d) *Permit required.*

(1) It shall be unlawful for any person to create, establish, operate maintain or otherwise be engaged in the business of running an outdoor café, including, but not limited to, placing any items upon the sidewalks or public property in the town unless a permit has been obtained in compliance with this section.

(2) Permits shall be issued only to validly licensed businesses that wish to set up tables and chairs or other objects related to their business on the public sidewalk or plaza.

(e) *Application for permit.*

(1) Application for the permit required by this section shall be made with the Town of Summerville's Planning Department in a form deemed appropriate by the town. Such application shall include, but not be limited to the following information:

a. Name, home and business address and telephone number of the applicant, and the name and address of the owner of the business if other than the applicant.

b. Name, home address and telephone number of a responsible person whom the town may notify or contact at any time concerning the applicant's encroachment.

c. A copy of a valid business license to operate a business establishment adjacent to the public property which is subject to the application.

d. Each permittee of an outdoor café permit shall furnish a certificate of insurance evidencing commercial general liability insurance with limits of not less than \$600,000.00 per occurrence, \$1,000,000.00 in the aggregate combined single limit, for bodily injury, personal injury and property damage liability. The insurance shall provide for 30 days prior written notice to be given to the Town of Summerville if coverage is substantially changed, cancelled or non-renewed. The Town of Summerville shall be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the operation of an outdoor café.

e. The permittee shall indemnify, defend and hold the town harmless from any loss that results directly or indirectly from the permit issuance or the operation of the outdoor café.

f. If alcoholic beverages will be served at the outdoor café, the permittee shall provide proof of liquor liability insurance for the outdoor café, with limits of not less than \$1,000,000.00 in such type as shall be acceptable to the town.

g. A sketch, to scale of the proposed location, showing the layout and dimensions of the existing public area and adjacent private property.

(2) No later than 15 days after the filing of a completed application, the applicant shall be notified by the zoning administrator of the decision on the issuance or denial of the permit.

(3) Application for a permit shall be made at the planning department within 48 hours of written notice for failure to obtain a permit, or as soon thereafter as town offices are open. Where the same owner, occupant or person responsible has been given notice for the same violation at the same location within the previous 180 days, such requirement of written notice may be waived and legal proceedings commenced immediately.

(4) The town's building official, zoning administrator, fire marshall, or other such designee's as named by the town will inspect all outdoor cafes after permits have been issued and the café is in operation. Any violations of the provisions of the rules and regulations, or any deviation from approved plans or willful omissions of the application will result in citations being issued to the operator and/or revocation of permittee's outdoor café permit.

(f) *Prohibited acts.*

(1) No merchant, vendor, business or property owner shall:

- a. Place any items for sale or other equipment, tables or chairs on any portion of the public property other than directly in front of his existing place of business without written consent of adjacent landowners or businesses. In no event shall such items be placed in the landscaped areas or extend beyond the authorized 25 feet from each side of the applicant's business.
- b. Block or restrict the pedestrian passageway to less than three feet (36 inches) in width, or block ingress or egress to or from any building. In areas of congested pedestrian activity, the town is authorized to require a wider pedestrian path as circumstances dictate. Also, no items shall be placed so as to block any driveway, crosswalk, bus stop, counter service window, or block visibility within an intersection. The plaza encroachment is limited to the first 25 feet from the building into the common area of the plaza. Where the town has installed a permanent structure such as a planter, light pole or other device, the permittee shall make accommodation for the required clearance for pedestrian passage.
- c. Sublicense the encroachment area.
- d. Use tables, chairs, umbrellas and any other objects of such quality, design, materials, and workmanship which are not authorized by the town.
- e. Use umbrellas or decorative material which is not fire-retardant, pressure-treated or manufactured of fire-resistive material.
- f. Fail to secure permission of the landlord where a building has multiple occupants.
- g. Permit patrons not wearing shirts and shoes at all times.
- h. Vend or display without the insurance coverage specified.
- i. Permit vending machines, carts, or objects for the sale of goods in an outdoor café.
- j. Sound or permit the sounding of any device on the public property which produces a loud noise or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device in violation of the noise regulations of the Town of Summerville Code of Ordinances.
- k. Store, park or leave any stand or items of merchandise overnight on any street, sidewalk, except tables and chairs, which may be kept in the permitted area at the permittee's risk.
- l. Store, park or leave any vehicle, truck or trailer within the encroachment area.

(2) The encroachment permit is a temporary license, which may be denied, suspended or revoked for any conduct which is contrary to the provisions of this section or for conduct of the business in any manner as to create a public nuisance or constitute a danger to the operator's or the public's health, safety or welfare. No property right is created by this section, and the decision of the town shall be final.

(g) *Lighting.* Lighting for outdoor cafes may be utilized if approved by the zoning administrator.

(1) Any such lighting shall complement the existing building and outdoor café design.

(2) Lighting shall not cause a glare to passing pedestrians or vehicles.

(3) Electrical wires shall not be permitted to access the outdoor café area.

(4) Possible lighting sources include tabletop candles or low wattage battery-operated fixtures.

(5) Additional lighting may be attached to the permittee's adjacent establishment, provided permittee obtains all necessary approvals for such lighting from the town and the architectural review board, if applicable.

(h) *Outdoor heaters.* Outdoor heaters, fans or misters may be utilized upon the approval of the building official and fire marshal.

(i) *Form and conditions of permit.* The permit required by this section shall be issued on a form deemed suitable by the town. In addition to naming the permittee and any other information deemed appropriate by the town, the permit shall contain the following conditions:

(1) Each permit shall be effective for one year to run concurrently with the building license cycle, subject to annual renewal, unless revoked or suspended prior to expiration.

(2) The permit issued shall be personal to the permittee only and shall not be transferable in any manner.

(3) The permit may be suspended by the town when necessary to clear the public property for public safety for a community or special event authorized by a permit issued by the town.

(4) The town may require the temporary removal of items within the encroachment area when street, sidewalk, common area or utility repairs necessitate such action.

(5) The permit shall be specifically limited to the area shown on the plat diagram attached to the permit application. As a condition of approval, the town may reduce and otherwise

reconfigure the proposed area and the number of requested chairs, tables, and items within the encroachment.

(6) The encroachment area within and surrounding the outdoor café must be maintained in a clean, neat and sanitary condition at all times and shall be policed routinely by the permittee to ensure removal of all wrappings, litter, debris and food. Daily sanitary cleaning of the outdoor café is required. Sidewalks within and adjacent to the outdoor café must be cleaned on a daily basis. The permittee shall not wash garbage cans or any other container, or other personal property of any nature on the sidewalks. All cleaning must be performed in accordance with applicable federal and state regulations.

(7) All signage shall conform to the standards set forth in the Town of Summerville's Zoning Ordinance relating to signs.

(8) Permanent structures on the sidewalk or plaza are not permitted.

(9) No tables or chairs or any parts of the business shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area in a manner which causes or threatens to cause injury to any person or damage to public or private properties. No additional outdoor seating authorized under this section shall be used for calculating seating requirements pertaining to location of, application for or issuance of an ABC license for any establishment, or be used as the basis for computing required seating for restaurants and dining rooms, or is grounds for claiming exemption from such requirements under the provisions of any town ordinance or state law.

(10) The issuance of a permit does not grant, infer or imply vested rights to use the area by the permittee. The town retains the right to deny the issuance of a permit or the renewal permit for any reason.

(11) Table, chairs, umbrellas and any other objects provided shall be kept safe and in good repair at all times.

(12) The town retains the right to suspend the privilege of using glass containers within the encroachment area during major festivals and events and when streets are closed. The use of glass containers will be revoked if an incident jeopardizes the health, safety and welfare of customers or the general public. Any violation of state or local laws will also result in a revocation of this privilege. Repeated offenses may result in revocation or denial of the encroachment permit.

(13) The serving and consumption of alcoholic beverages on town sidewalks and public property is limited to beer and wine. The serving and consumption of alcoholic beverages in sidewalk encroachments pursuant to this section is limited to patrons seated at tables.

(14) It is unlawful to consume alcoholic beverages within the encroachment area not purchased at permittee's establishment.



(15) The town may require the posting or placement of the permit and relevant notices to facilitate the administration and enforcement of this section.

(j) *Denial, suspension, retraction or revocation of permit; removal of property by town.*

(1) The town may deny, retract, revoke or suspend a permit issued under this section at any time for any business authorized in the town if it is found that:

- a. Any necessary business or health permit has been suspended, revoked or cancelled.
- b. The permittee does not have insurance in force which is correct and effective in the minimum amount described in this section.
- c. Changing conditions of pedestrian or vehicular traffic causing congestion or changes of property conditions necessitating removal of an encroachment exist.
- d. The permittee has failed to correct violations of this section or the permit upon receipt of the town's notice of the violation delivered in writing to the permittee.
- e. The permittee has failed to take positive actions to prohibit violations from reoccurring.
- f. The permittee has failed to make sufficient modifications upon receipt of the town's notice to make such modifications delivered in writing to the permittee.
- g. The outdoor café activity endangers the public health, safety or general welfare as determined by the town.

(2) Tables, chairs and other vestiges of the business may be removed by the Town of Summerville's Public Works Department and a reasonable fee charged for labor, transportation and storage, should the permittee fail to remove the items within 36 hours of receipt of the town's final notice to do so for any reason provided under this section. If the action is taken based on subsections (j)(1) or (j)(2) of this section, the action shall become effective upon receipt of such notice and the permittee shall have four hours to remove the items.

(3) *Notice of denial or revocation.* Upon denial or revocation, the town shall give notice of such action to the applicant or the permittee, in writing, stating the action which has been taken and the reason therefore. The action shall be effective upon giving such notice to the permittee.

(4) *Appeals.* The permittee shall have the right to appeal the decision of the town to the town council within five working days from the receipt of notice. An appeal does not stay the denial, suspension or revocation of the permit. The hearing shall be held as soon as

possible, but may not be longer than 30 working days from the date of notice of the request. The permittee or applicant may be represented by an attorney and may present witnesses, affidavits and any relevant documentary evidence. Formal rules of evidence shall not apply. The town council shall notify the permittee or applicant of the determination in writing. The town council shall have the discretion to designate the duties of this section to an experienced hearing officer.

Ord. No. 12-0302, 4-11-2012)

**Sec. 30-190. - [Business license required.]**

All contractors working in the town limits of Summerville for either a private or public entity must have a Town of Summerville business license.

(Ord. No. 09-0402, § 10, 6-10-2009)

**Sec. 32-141. - Commercial design review board.**

(a) *Creation/authority.* There is hereby created a commercial design review board (CDRB).

(b) *Mission statement.* The purpose of the commercial design review board is to establish a review process that intends to protect and improve the visual and aesthetic character of commercial development within the Town of Summerville while intending to build or enhance economic value. The CDRB seeks to enhance corridors in order to contribute to a sense of place and pride, further strengthening the integrity of Summerville's historic and/or best characteristics. The process aims to respect the character, integrity and quality of the built environment of the Town of Summerville which will be established without stifling innovative architecture and/or development. All development shall adhere to the definitions and terms outlined in the town's zoning ordinance and codes first with authority granted to the commercial design review board to determine the appropriateness of the aesthetics of the development and construction of the commercial site in pursuit of achieving that style which is characteristic of the region and of Summerville in particular as stated in the following guidelines.

(c) *Membership.* The commercial design review board (hereinafter referred to as the "CDRB") will be composed of seven members appointed by the Mayor of the Town of Summerville. Only those persons residing within the town who fulfill designated requirements and have demonstrated their civic interest, general knowledge of the town, independent judgment and availability to prepare for and attend meetings will be considered for appointment. Membership of the CDRB shall be as follows: One architect or architectural designer; one landscape architect or recognized landscape designer; one civil engineer or commercial developer/contractor; one commercial real estate agent, registered land surveyor, commercial

appraiser or a private planning consultant, and the remaining seats will be at large. A representative of the building department is required to attend meetings for consultation between the board and the applicant concerning allowable building practices within the adopted codes of the town but will have no authority to vote on the approval or denial of the application.

(d) *Term of office.* Each seat shall run for three years staggered. Newly appointed members shall be installed at the first regularly scheduled meeting after their appointment. A vacancy in a term of office shall occur whenever council finds that a member has resigned; not maintained required qualifications; has not attended at least 70 percent of properly called meetings within a year without just cause; or has been found guilty of malfeasance or misconduct in office and in accordance with South Carolina State Code of Laws of 1976, as annotated. Any new member selected to replace a board member will only fulfill the remainder of that term.

(e) *Officers.* The CDRB shall select from its membership a chairman and vice-chairman. The zoning administrator or his/her designee will be designated to act as a secretary (nonvoting) and informational liaison between the board, the applicant and the town.

(f) *Meetings and quorum.* Four members of the board shall constitute a quorum for conducting business. All meetings shall be open to the public and conducted in accordance with state law. Applicants and/or their representative are required to attend and other interested parties are strongly encouraged to attend. Meetings shall be held once a month in a set week on a set day to be determined by the CDRB. Special meetings may be held on the call of the chairperson or as scheduled by a majority of the members at any previous meeting. Times and places shall be duly advertised as required by state law.

(g) *Rules and procedures.* In the absence of the chairperson and vice-chairperson, an acting chairperson shall be elected by the board members present at the affected meeting. The chairperson or acting chairperson shall decide all points of order and all letters of transmittal to council shall be over the signature of same. The secretary shall be the custodian of the minutes and other official records, shall execute correspondence and post all notices required for the CDRB's conduct of business.

(1) The official record shall be these regulations of this section, the minutes of meetings, together with all findings, decisions and other records of the CDRB.

(2) The minutes shall record the presence, absence, vote or abstention of each member.

(3) All matters coming before the CDRB shall be made part of the official record, such record to be available to the public for inspection at town hall during normal working hours.

(4) Any member other than the chairman (of the meeting) may make motions. A motion to approve or disapprove any matter before the CDRB shall require a majority vote of the members present. Tie votes constitute a failure of the motion.

(5) Complete applications including required review fees as listed in subsection (n) below, for review by the CDRB are to be received by the planning department for staff review of zoning ordinance requirements by a deadline date to be determined by the zoning administrator or his/her designee based on staff resources but shall not be more than 30 days prior to the next regularly scheduled meeting. This deadline date shall be reviewed each year and set for the following 12 months. Every proposal shall be submitted in the form required by the town staff. Should application packages not be complete, and requests by staff unmet, the application shall not be forwarded to the board for consideration of any approval. Any information supporting a proposal or request for approval or denial shall be submitted only in writing through the secretary of the CDRB or publicly before the CDRB. Any additional information may be required at the discretion of the CDRB. Withdrawal at any stage of consideration terminates all consideration by the town and files shall be closed.

(6) The CDRB has the authority to delay the approval of an application in the form of denial in compliance with the intent of the article or by holding the item in committee for an additional 30 days. Holding in committee may only be done once per level of approval requested (once for preliminary and/or once for final). At this point, the CDRB may suggest additional information, changes in the form of architectural aesthetics in conformity to building codes, changes in placement of landscaping (including, but not limited to pedestrian access(es), lighting, etc.). The application will remain active and will be reviewed again at the next scheduled meeting at the applicant's request providing the information is submitted within the time stated in subsection (5) above and as described.

(7) Once approval by the CDRB is granted, the standard building permit and business license process applies. If conditions are attached to the approval, these conditions must be met prior to obtaining building permits. Approval is effective in accordance with the Town of Summerville's Vested Rights Ordinance and applicable state code. If construction has commenced, approval shall run with the approved permit's allowable time limits per applicable town ordinances. Should the CDRB approve an application with conditions that can then be reviewed by staff, such action will take place before any building permits are to be sold. The board may allow the applicant to submit elements individually (i.e., architecture, site lighting).

(h) *Appeals.* After receiving denial of an application brought before the board, any person aggrieved has the right to appeal the board's decision before the courts of the State of South Carolina as provided in S.C. Code 1976, § 6-29-900 et seq., as amended, which provides for appeals from the CDRB.

(i) *Duties and powers.* The duty of the CDRB is to protect and promote the appearance, character and economic value of commercial development located within the commercial, industrial and designated residential zones of the town excluding any development allowed within the designated historic district which is regulated by the board of architectural review. In carrying out this duty the CDRB is given the authority to review and approve the

appropriateness or deny the inappropriateness, of all applications for new developments or major alterations to an existing structure or to the site of existing developments. For purposes of this section, major alterations to an existing structure shall be determined by the zoning administrator utilizing the most recently assessed property value by the respective county. If the proposed construction is limited to the building, only the assessed value of the building will be utilized. If the proposed construction includes work on the building and on the site, both the assessed value for the building and the land will be combined for a total assessed value. If the proposed construction is determined to increase this assessed value by 50 percent or more, the CDRB shall have purview as described in this section. Or, should the proposed construction, as a separate structure, be located in the front (including sites with more than one front) or side yard of the site, the CDRB shall have purview as described in this section.

(j) *Areas of purview defined.* The CDRB shall have purview over all proposed new developments, and over all major alterations, as described in subsection (i) above, to existing developments, for the following permitted uses where such uses have been authorized by guidelines set forth by our ordinance for inclusion within the approved planned development.

(1) Permitted uses:

- a. All permitted uses in B-1, residential business.
- b. All permitted uses in B-2, neighborhood business centers.
- c. All permitted uses in B-3, general business.
- d. All permitted uses in I-1, limited industrial.
- e. All permitted uses in I-2, Industrial.
- f. All permitted uses in PL, public lands.
- g. Multifamily residential projects including mobile home parks regardless of the zoning district classification.
- h. All commercial uses in PUD, planned development district unless otherwise stated in the PUD document as has been approved by town council through ordinance ratification.

(2) All current developments that fall within the stated areas of purview will be deemed legal nonconforming uses. Once major alterations, as describe in subsection (i) above, are planned that change the appearance from public right-of-ways, the board will then have purview over the site.

(3) The board will review plans with regard given to the following areas of concern:

a. Effect of proposed project on the surrounding area as well as to the general character of the town by improving the site in comparison with the surrounding buildings (i.e., the relation of proposed building(s) and/or existing buildings to the surrounding environment).

b. Preservation of the existing landscape as well as the proposed landscape plan in accordance with the existing ordinance. The development shall predominantly utilize those species of material native to the area and the state that will survive within the environment of the site being reviewed for approval by staff. The board shall only review the design of the landscaping for site layout and may suggest various combinations of plant material for survivability.

c. Only the design of advertising features within the requirements of the existing sign ordinance. Staff shall approve the sign standards for construction as outlined herein the zoning ordinance and building codes ordinance for the town.

d. The placement of driving areas, parking, traffic circulation, pedestrian accesses and site lighting according to the town's existing ordinances. The number of allowable parking spaces driving aisle widths and other stated parameters stated herein, the ordinance shall be approved by staff.

e. Utilities type and placement.

f. The design and architectural features of the proposed structure(s).

g. Any variance sought by any party shall be requested through the town's board of zoning appeals as stated in this chapter and governed South Carolina State Code of Laws of 1976, as annotated.

(k) *Design review guidelines.* With respect to Summerville's location in the South Carolina Lowcountry, architectural details and development shall incorporate this character as much as possible into buildings that meet today's economic and functional requirements. Window and door openings, glazing, details and finishes, colors, roof profiles, accessory features, landscape treatment, and as much as possible, those building materials that have predominately and historically been used in Summerville, are some examples of building design that should reflect this architectural tradition. These practices, as well as the appropriate use of technology to promote high standards of energy and resource conservation, are strongly encouraged. New projects and renovations to existing buildings will be reviewed for their ability to harmoniously blend into their surroundings.

## **SITING**

Proposed developments shall be located and configured in a visually harmonious manner with the terrain and vegetation of the subject parcel and with that of surrounding parcels.

Buildings should be sited so that they create an ordered relationship with one another, specifically through the creation of public space defined by buildings as well as defined landscaped pedestrian connections between sites (i.e., the proposed building can be brought to the front setback with parking placed on the sides and in the rear. This scenario is preferable along Main Street, but may not necessarily be required dependent upon the site and may not be feasible or aesthetically acceptable for another site, but such scenarios shall be considered. The town shall encourage the use of sidewalks for interconnectivity between sites as well as connectivity to existing sidewalk infrastructure when such exists on the adjacent property(ies)).

## **BUILDING**

All elevations of a structure shall be in harmony one with another in terms of height, mass and scale. Other considerations will be with regard to proportion, detail, material, color and design quality. Rear elevations will be decided on a case-by-case basis dependent upon the adjoining use abutting the rear property line (i.e, Should the site have more than one front along public rights-of-way, or be adjacent to a residential zone, all elevations shall be aesthetically acceptable.).

Any building exterior elevation shall consist of architectural materials which are equal in quality, appearance and detail to all other exterior elevations of the same structure. Different materials on different exterior elevations are allowed on the same structure so long as those materials maintain the architectural unity and integrity of the entire structure (i.e, there may be brick and wood on the same building).

The scale of buildings and accessory structures (including canopies) shall be complimentary to the scale of structures located in the surrounding area.

Long monotonous facade design, including, but not limited to, those characterized by unrelieved repetition of shape or form, or by unbroken extension of line, shall be discouraged.

Shingles, metal standing seam, tile or other roofing materials with similar appropriate texture and appearance shall be encouraged. Flat roofs will not be discouraged where they are appropriate to the design theme of a structure.

Mechanical equipment shall be shielded and screened from public view.

Those features of the site which have potential negative impact on surrounding properties and/or public view (i.e. loading areas, vehicle maintenance areas, outside storage areas, etc.) shall be oriented on the site or screened in a manner, which will create the least negative impact. Screening may be achieved through landscaping or manmade materials that are durable and complimentary with the building materials.

Colors of an extremely bright and garish nature shall not be allowed. Generally, no more than three colors complimentary to each other will be allowed between the building and advertising features.

Structures, excluding signs, which are of symbolic design for reasons of advertising, shall not be permitted by right; the board shall have authority to consider for approval.

A symbol or symbols attached to a building shall be reviewed for appropriateness and will be considered as advertising and the dimensions will be calculated against the maximum amount of allowable signage by ordinance.

(1) *Landscaping design review guidelines*. Refer to article VIII, [section 32-323](#) of the zoning ordinance.

## **VEGETATION**

The retention of existing trees is critically important. Building and parking arrangement, including islands, should respect and be derived from existing natural features (especially grand trees). Existing land features should be utilized to screen parking, direct views and organize circulation. This can best be achieved by arranging parking areas according to the existing landscape after the building footprint has been decided.

Each application for development shall provide minimum visual buffers in accordance with the landscaping requirements of the town's landscaping ordinance and will be reviewed for approval by staff. The board shall review the landscaping design for site layout approval. Predominate use of indigenous plant materials is required.

## **PARKING**

Refer to article VII Parking and Loading of the zoning ordinance of which staff shall review for approval in accordance with the required standards. The board shall have authority to review for approval the layout of any parking areas, driving aisles, loading zones, etc.

## **LIGHTING**

All site lighting that is security-oriented shall also be aesthetically pleasing, not harsh. All landscape lighting shall be integrated with the architectural design of the building(s).

Landscape lighting shall be of low-intensity from a concealed light source fixture or decorative fixtures such as period lighting.

Light bulbs shall not be visible unless designed as ornamental lighting.

Security lighting shall be provided at all pedestrian walkways.



Parking lot lighting shall only have a maximum illumination between one to three foot candles as established by a photometric plan submitted by the applicant of which does not distort colors or structures and shall not spill over into adjoining properties, roadways, or in any way interfere with the vision of oncoming motorists. Lighting standards shall be of a type capable of shielding the light source from direct view from any adjoining residential or agricultural parcel and public right-of-way.

(m) *Major alterations and/or major additions.* The CDRB shall review applications concerning the major alterations to existing commercial sites as well as industrial sites, public lands and the central business district if deemed necessary by the planning and zoning department. These new major alterations and/or major additions shall conform to the guidelines of this document. Major alterations and major additions are classified as those projects valued at more than 50 percent of the most recent assessed value. See subsection [32-141\(i\)](#) for delineation of 50 percent threshold. All other additions and alterations will be handled by staff.

(n) *Design review fee.* Review fees shall be set as follows:

| <b>Fee Schedule:</b>         |   |
|------------------------------|---|
| Conceptual                   | No Charge   |
| 0ô 5 acres                   | \$100.00  |
| <a href="#">6ô</a> 10 acres  | \$150.00  |
| <a href="#">11ô</a> 20 acres | \$200.00  |
| <a href="#">21ô</a> 50 acres | \$300.00  |
| 51ô 100 acres                | \$400.00  |
| 100+ acres                   | \$400.00 + \$2.00 per each acre or portion thereof over 100 |
| Signs                        | \$25.00   |

(o) *Application checklist.* Complete applications must be received by the town's planning department by a deadline date to be determined by the zoning administrator or his/her designee, dependent upon available staff resources, but shall not be more than 30 days prior to the regularly scheduled meeting and shall include the items listed below. At any time before submission of an application, the planning and zoning departments encourage the owner and/or developer to schedule an appointment to discuss his/her ideas about the development or existing building(s) in order to further explain what the town and CDRB are requesting as a final product. The following includes information required at the time of application submission. Additional information may be required if deemed necessary by staff and/or the board:

- (1) Tree survey of parcel as well as proposed footprint of building(s).
- (2) Plot plan in triplicate, drawn to scale showing exact size, shape and location of existing and/or proposed buildings.
- (3) Floor plan.
- (4) All building elevations.

- (5) Location and layout of parking areas and driveways.
- (6) Proposed grade and drainage plans including calculations.
- (7) Proposed water and sewer facilities including electrical, gas, cable, etc.
- (8) Landscaping plans including screening and fencing, tree survey of existing site and photometric plan of site lighting.
- (9) Advertising features and signs.
- (10) Photographs of the proposed/existing site/building taken from the street, those properties on either side of the proposed/existing site and photos of the lots across the street from the project site.
- (11) Other information as requested by staff.

(Ord. No. 2001-0601, § 20-45, 6-1-2001; Ord. No. 05-0801, 9-14-2005; Ord. No. 08-1002, 12-10-2008; Ord. No. 09-1202, 1-13-2010)

**Sec. 32-212. - Conditional use permits for bed and breakfast establishments.**

For purposes of this section, "bed and breakfast" means a residential-type lodging facility having no more than five guestrooms where transient guests are fed and lodged for pay. This section does not apply to other types of transient accommodations, such as hotels, motels, motor inns, resorts, rooming houses, boarding houses, hunting lodges, or campgrounds.

- (1) The use by the individual owner of property, who is also the resident of the property involved, of part of an existing residential structure or on site residential accessory building as a bed and breakfast establishment may be permitted by the zoning administrator after staff review of the application submitted. The applicant should affirmatively demonstrate to staff and the staff, after review, find that:
  - a. The proposed use does not adversely affect the immediate neighborhood;
  - b. The proposed use of the property will not create noise, light or traffic conditions clearly detrimental to neighboring residents; and
  - c. No exterior alterations, other than those necessary to ensure the safety of the structure, shall be made to any building for the purpose of maintaining such accessory use.

- (2) The zoning administrator shall, in approving any application, consider the historic, architectural and aesthetic features of the street and immediate neighborhood; the nature, character, population density of the street and immediate neighborhood, as well as traffic and the availability of parking in the immediate neighborhood. The zoning administrator shall also consider the traditional use of the structure, the character and appropriateness of the proposed use, and the desirability of such commercial activity in the area proposed.
- (3) Should there exist other lawfully existing commercial establishments within 150 feet from the center of the front lot line of the lot where the establishment of a bed and breakfast is sought the zoning administrator shall, prior to issuing a recommendation, affirmatively find that:
  - a. The addition of another commercial establishment will not impede the access of emergency vehicles to the neighborhood;
  - b. The addition of another commercial establishment to the neighborhood will not alter its residential character; and
  - c. The neighborhood has available adequate on-street parking to support an additional commercial establishment.

Prior to the zoning administrator issuing any approval, the zoning administrator, building official, and the fire marshal or their respective designees will conduct an on-site inspection of the subject property. The staff shall recommend restrictions or conditions on the use of the structure as deemed necessary to effectuate the intent of this section. The proposed use shall not be expanded in any respect throughout the structure, nor shall the use be changed to any other use without reapplication to and approval by the zoning administrator.

- (4) In all cases, guestrooms shall meet the following operation requirements:
  - a. No meals other than breakfast may be served by the resident owner to the paying guests.
  - b. The resident owner shall comply with all business license and revenue collection ordinances of the town and the state.
  - c. The property provided one off-street parking place for each guestroom.
  - d. The principal use of any such structure or structures shall be residential and that no more than five units will be utilized as guestrooms.
- (5) Application process: Applications for bed and breakfast establishments shall be notarized and include the location and owner of the property, a site plan of the lot showing the proposed location of the bed and breakfast use and the location of the required off-street parking spaces, and a photograph or photographs of the current principal view or views

of the structure where the proposed bed and breakfast use is to be located. The application shall also include a statement which the resident-owner must sign acknowledging that he/she has reviewed and understands the requirements of this section. The applicant shall also provide a statement of notification of the application signed by the property owners whose property is within 500 feet of any property line of the subject property.

- a. Upon receiving a complete application and prior to the issuance of a conditional use permit, the zoning administrator or designee shall post a sign on the subject property for 15 consecutive days providing notice that the resident-owner of the property has applied for a conditional use permit to establish a bed and breakfast use at the location and supplying a phone number to call for further information.
  - b. If the proposed bed and breakfast establishment is zoned "general business" (B-3), outdoor events (e.g., weddings, receptions, parties) or similar activities conducted for compensation shall be permitted provided the following requirements are met: Plans for holding these events are included in the statement of notification to surrounding property owners; all guest parking must be contained either on the property, on allowable public rights-of-way or by private agreement with a private property owner who can accommodate multiple parking areas such as a church and must be approved by the zoning administrator no sooner than 30 days prior to the event; noise levels shall not exceed those levels as addressed by the town's noise ordinance enforceable by the town's police department; all site lighting shall be directed down and in towards the site at all times; all event activities shall terminate by 11:00 p.m.
  - c. Should anyone object in writing to the proposed bed and breakfast use, the board of zoning appeals shall hear the appeal to the zoning administrator's decision per [section 32-91](#) of the zoning ordinance.
- (6) Approval of a conditional use permit shall be required prior to the issuance of a business license for operation.
- (7) Upon a change of ownership of a property and prior to the issuance of a new business license to allow continuation of an existing permitted bed and breakfast use upon said property, the new property owner shall be required to recertify compliance of the bed and breakfast use with the zoning administrator by having an application for recertification of the bed and breakfast use notarized, filed with, and approved by the zoning administrator.
- (8) Should the bed and breakfast use fail to meet the requirements under which it was authorized for operating a bed and breakfast or be discontinued for a period of 12 months or more, the conditional use permit shall be revoked.
- (9) All operators of bed and breakfast establishments permitted under this section shall cooperate fully with the zoning administrator and his/her designees, including, but not limited to, providing pertinent information upon request and affording access to that

portion of the premises which is used for the bed and breakfast use for reasonable site inspections.

(Ord. No. 2001-0601, § 20-56, 6-1-2001; Ord. No. 10-0703, 8-11-2010)

**Sec. 32-321. - General provisions.**

(a) In order to protect and preserve the health, safety and general welfare of the community and properly enforce the regulations contained in this chapter and other related regulations adopted by the town, no public, professional, commercial, industrial or other nonresidential use and no residential use allowed in R-3, R-5, R-6 or R-7 and PUD districts shall be permitted, nor shall any building permit or occupancy permit be issued for such use until an overall site plan is submitted to the town's zoning officer and approval received.

(b) Plans shall include a true and accurate plot plan, submitted in triplicate and drawn to scale showing the exact size, shape and location of existing and proposed buildings, the dimensions and acreage of each lot to be built upon, and other such information as may be necessary to determine compliance with these regulations. The plans shall show not less than the floor plan and front elevation of all proposed principal and accessory buildings and structures, the location and layout of parking areas and driveways, the proposed grade and drainage, the proposed sewer and water facilities, and the proposed planting, screening and fencing.

(c) Plans must be acted on by the zoning officer within 30 days, and written notice of approval or disapproval with reasons for such action shall be sent to the applicant. If the plans are disapproved, the applicant may appeal to the board of adjustments. If no action is taken within 30 days, the plans shall be deemed approved.

(d) The plans will be reviewed with regard given to the following areas of concern:

- (1) Preservation of landscape.
- (2) Relation of proposed buildings to surrounding environment.
- (3) Drive, parking and traffic circulation.
- (4) Surface water drainage.
- (5) Utility services.
- (6) Advertising features.
- (7) Special features.
- (8) Application of design standards.

(9) Effect of proposed project.

(e) These areas of concern are not intended to discourage creativity, invention or innovation and should be regarded as flexible tools in creating quality development projects.

(f) Lot design standards.

(1) a. Flag lots of less than five acres are prohibited.

b. Unless topographical restraints unique to the property to be subdivided prevent traditional lot design irregular lots are prohibited. The front lot line for all lots shall abut a publicly or privately maintained right-of-way.

c. The lot size, width, shape, grade and orientation shall be in proper relation to street and block design, to existing and proposed topographical conditions, and for the type of development and use contemplated.

d. Insofar as practical, side lot lines shall be at right angles to straight street lines and radial to curved street lines.

e. So as to facilitate the creation of building sites at the end of a cul-de-sac, lots that access the terminus may provide a frontage reduced to a distance half that required by the minimum lot size of the applicable zoning district. In no case shall such a lot be narrower than 30 feet, as measured between the two points at which side lot lines intersect the right-of-way.

f. Excessive lot depth in relation to lot width shall be avoided. The depth of a residential lot of less than five acres shall be not less than half its width and not more than four times its width.

g. Corner lots shall be of sufficient size and shape to permit required building setback and orientation to both streets.

h. In general, blocks of lots used for residential purposes shall be of sufficient width to allow for two tiers of lots of appropriate depth, except where reverse frontage lots are required along a major street; where an alley is provided to the rears of such lots.

(2) Methods of measurement for lots, yards and related terms.

a. *Measurements for regular lots.* The width of a regular lot shall be determined by the measurement across the rear of the required front yard. Lot width shall be measured only along continuous frontage facing one street. Yards and street lines shall be measured along the arc of the curve for curvilinear yards and street lines.

b. *Determination of the front yard for regular lots.*

(i) For regular interior lots, the front shall be construed to be the portion nearest the street.

(ii) For regular corner lots, there shall be two front yards and two side yards. The structure shall be addressed on the street it faces.

(3) Yards adjacent to a street.

a. Regular lots shall have front yards of at least the depth required for the district across the entire frontage of the lot.

b. Other required yards adjacent to streets shall be provided across or along the entire portion of the lot adjacent to the street.

c. Street lines should be used for the measurement of required yards adjacent to streets. Where the lot line adjacent to the street is straight, required yards shall be measured from such line, extended in the case of rounded corners. On convex or concave lots, if applicable, front, side and rear yards, shall be parallel to or concentric with the street line.

d. The depth of required yards adjacent to streets shall be measured perpendicular or radically to such straight lines.

(4) *Yards on double frontage lots.* On double front lots the minimum front yard setback established for the district in which such lot is located shall be provided on each street. Double frontage lot setbacks apply on any lot wherein the structure is to be situated diagonally (approximately 45 degrees + or -) with respect to two intersecting lot lines, both of which are roadway frontages.

(5) *Side yards on regular lots.* Side yards on regular lots are defined as running from the required front yard line to the required rear yard line. On regular through lots, the required side yard shall run from the required front yard line to the second required front yard line. On corner lots, the required side yards shall run from the point where side yard lines intersect to the required front yard lines.

(6) *Rear yards on regular lots.* Rear yards provided on interior regular lots shall be at least the depth required for the district, and shall run across the full width of the lot at the rear.

(g) Accessory structures.

(1) No accessory structure or building shall be constructed prior to construction of the principal building on a lot. Buildings intended to serve as accessory structures constructed prior to the principal building shall be considered the principal building and shall meet all applicable district regulations thereto.

- (2) Accessory structures shall be located on the same lot of record as the principal structure.
- (3) Accessory structures are permitted in the rear and side yards of the parcel.
- (4) Accessory buildings and structures, and parking related thereto, shall be included in calculations of impervious surfaces and lot coverage.
- (5) Accessory structures shall have a maximum square footage of 50 percent of the square footage of the principal structure.
- (6) Accessory structures shall be constructed of similar materials as the principal building, or finished in a similar fashion, so as to present a complimentary appearance.
- (7) Accessory structures shall not detract from the principal building, nor disturb the quality of the neighborhood appearance, by displaying unpainted, bright metal, or garish contrasting surfaces.
- (8) Definitions.

a. *Freight/cargo container.* A container that is fully enclosed and securable unit with the primary use being a transported-shipping container for air freight, seaward, and landward freight forwarding. Should the container be used in conjunction with a fully permitted construction project, the container must be removed from the parcel prior to the issuance of a certificate of occupancy or final inspection. A shipping container may be modified in accordance with the town's building code and review by the town's commercial design review board as prescribed for in article III, [section 32-141](#) of this chapter to be used as a permanent accessory structure in the B-3, general business; I-1, industrial; I-2 industrial; PL, public lands (may be exempt from the CDRB review); and, AC, agricultural conservation district. These containers may be brought in by any public agency for properties for public purposes as needed. Properties may be allowed temporary use of these containers depending upon the necessity to be approved by the zoning administrator and may be required to meet building code requirements. (These containers may also be referred to as shipping containers, transport containers or other similar term.)

All freight/cargo containers defined herein not compliant with the provisions above, shall be brought into compliance within 60 days once given notification by the town.

b. *Portable storage unit.* Temporary container designed and used exclusively for the temporary storage of on-site household goods, materials, or other commodities of the developed land use. These containers must have a temporary use permit prior to being permitted on the developed property and may be allowed a maximum time limit of 30 calendar days. The following conditions shall also be met:



Portable storage units:

1. These containers shall not exceed 16 feet in length, eight feet in height and eight feet in width. Only one container per parcel shall be allowed at one time.
2. At no time shall these containers be allowed to be placed within any right-of-ways, buffer areas or required parking or loading areas for nonresidential properties; residential properties may be allowed to locate the container within the driveway but not within any required side or rear setbacks or block access or egress to a principal structure regardless of use.
3. Notwithstanding the time limitations set forth herein, all portable storage containers must be removed from the property within 48 hours of the issuance of a tropical storm warning or hurricane watch by a recognized government agency. The zoning administrator may allow a one-time extension to the approved time limitation not to exceed 30 days and may also order the immediate removal of the portable storage unit.
4. The portable storage unit shall remain locked when not in use.
5. At no time shall the portable storage unit be allowed to store solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, and/or goods for property other than that of the property of where the unit is located or for any other illegal use/purpose or storage of hazardous material.
6. The business that provides these containers for rent shall have a current business license to operate within the town, as required by [chapter 8](#) (Businesses), [section 8-31](#), (Licenses) of the Code of Ordinances of the Town of Summerville.

All portable storage units defined herein not compliant with the provisions above shall be brought into compliance within 30 days of the passage of this language.

(Ord. No. 2001-0601, § 20-110, 6-1-2001; Ord. No. 06-0702, 8-9-2006; Ord. No. 06-0601, 7-12-2006; Ord. No. 09-1203, 1-13-2010)