

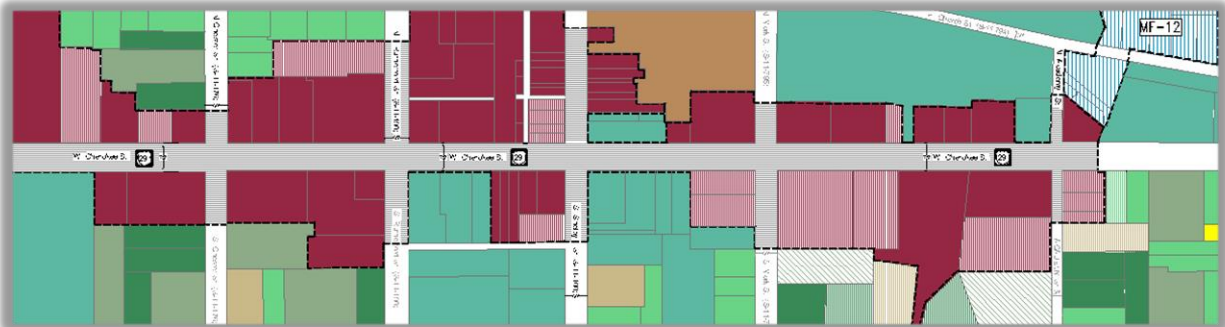


# Zoning

## *Article 1 – In General*



# *Town of* *Blacksburg* *South Carolina*



This pamphlet is a print of the new Zoning of the Code of the Town of Blacksburg, South Carolina, prepared by order of the Town Council.



Town of Blacksburg, SC – Zoning Ordinance - Article I

Index

<u>Part I</u>	<u>General.</u>	<u>Page</u>
Sec. 1.1	Definitions. _____	04
Sec. 1.2	Authority and purpose. _____	04
Sec. 1.3	Jurisdiction. _____	04
Sec. 1.4	Official zoning map. _____	04
Sec. 1.5	Exceptions to applicability. _____	05
Sec. 1.6	Relation to other ordinances and laws. _____	05
Sec. 1.7	Relation of this ordinance to any pending actions. _____	05
Sec. 1.8	Separability. _____	06
Sec. 1.9	Effective date; Transitional provisions. _____	06
Sec. 1.10	Vested rights. _____	06
Sec. 1.11	General rules of construction. _____	07
Sec. 1.12	Intent of districts. _____	07
Sec. 1.13	Establishment of districts. _____	08
Sec. 1.14	Applicability of the regulations. _____	09
<u>Part II</u>	<u>General Provision.</u>	<u>09</u>
Sec. 2.0	General provision _____	09
Sec. 2.A	Street access. _____	09
Sec. 2.B	Location of principal buildings on zoning lots and residential limitations. _____	09
Sec. 2.C	Corner lots. _____	09
Sec. 2.D	Double frontage lots. _____	09
Sec. 2.E	Front yard requirements. _____	09
Sec. 2.F	Home occupations. _____	09
Sec. 2.G	Accessory uses. _____	10
Sec. 2.H	Setback and other yard requirements for accessory uses. _____	11
Sec. 2.I	Off-street parking and off-street loading requirements. _____	11
Sec. 2.J	Curb cuts. _____	14
Sec. 2.K	Corner visibility. _____	14
Sec. 2.L	Height limitation exceptions. _____	14
Sec. 2.M	Fences. _____	14
<u>Part III</u>	<u>Traffic Impact Analysis.</u>	<u>15</u>
Sec 3.0	Traffic Impact analysis. _____	15
Sec 3.A	TIA determination. _____	15
Sec 3.B	Min thresholds for TIAs. _____	15
Sec 3.C	Scoping meeting. _____	16
Sec 3.D	Scoping document. _____	16
Sec 3.E	Fees. _____	16
Sec 3.F	Transportation mitigation agreement (TMA). _____	16
Sec 3.G	TIA outline and contents. _____	17
<u>Part IV</u>	<u>Rental housing regulations.</u>	<u>22</u>
Sec. 4.1	Definitions. _____	22
Sec. 4.2	Rental permit required. _____	24
Sec. 4.3	Application. _____	24
Sec. 4.4	Issuance or refusal of rental permit. _____	24



**Index (continued)**

Sec. 4.5 Property owner, responsible local representative, and occupant. \_\_\_\_\_ 24

Sec. 4.6 Violations and assignment of violations. \_\_\_\_\_ 25

Sec. 4.7 Revocation of permit. \_\_\_\_\_ 26

Sec. 4.8 Effect of revocation. \_\_\_\_\_ 27

Sec. 4.9 Notification exemption. \_\_\_\_\_ 27

Sec. 4.10 Defenses \_\_\_\_\_ 27

Sec. 4.11 Operating without a permit a public nuisance. If a person operates as a landlord \_\_\_\_\_ 28  
without a rental permit as set forth in this section, such shall constitute a public nuisance.

Sec. 4.12 Inspections and complaints. \_\_\_\_\_ 28

Sec. 4.13 Offenses. \_\_\_\_\_ 28

Sec. 4.14 Denial of permit. \_\_\_\_\_ 28

Sec. 4.15 Permit fee. \_\_\_\_\_ 29

Sec. 4.16 Severability. \_\_\_\_\_ 39

Sec. 4.17 Remediation plan. \_\_\_\_\_ 39

Sec. 4.18 Existing rights unaffected. \_\_\_\_\_ 39

**Part V Sexually Oriented Businesses. 30**

Sec. 5.1 Purpose and intent. \_\_\_\_\_ 30

Sec. 5.2 Definitions. \_\_\_\_\_ 30

Sec. 5.3 Classification. \_\_\_\_\_ 33

Sec. 5.4 Permit and/or license required. \_\_\_\_\_ 33

Sec. 5.5 Procedures for application and review of permits and/or licenses. \_\_\_\_\_ 33

Sec. 5.6 Issuance of permit and/or license. \_\_\_\_\_ 34

Sec. 5.7 Fees. \_\_\_\_\_ 35

Sec. 5.8 Inspection. \_\_\_\_\_ 35

Sec. 5.9 Expiration of permit and/or license. \_\_\_\_\_ 36

Sec. 5.10 Suspension. \_\_\_\_\_ 36

Sec. 5.11 Revocation. \_\_\_\_\_ 36

Sec. 5.12 Judicial review of permit denial, suspension or revocation. \_\_\_\_\_ 37

Sec. 5.13 Transfer of permit and/or license. \_\_\_\_\_ 37

Sec. 5.14 Sexually oriented business employee license. \_\_\_\_\_ 38

Sec. 5.15 Location of sexually oriented businesses. \_\_\_\_\_ 39

Sec. 5.16 Additional regulations for adult motels. \_\_\_\_\_ 39

Sec. 5.17 Regulations pertaining to exhibition of sexually explicit films or videos. \_\_\_\_\_ 40

Sec. 5.18 Prohibitions regarding minors and sexually oriented businesses. \_\_\_\_\_ 41

Sec. 5.19 Advertising and lighting regulations. \_\_\_\_\_ 41

Sec. 5.20 Hours of operation. \_\_\_\_\_ 41

Sec. 5.21 Nudity at sexually oriented businesses. \_\_\_\_\_ 42

Sec. 5.22 Regulations pertaining to live entertainment. \_\_\_\_\_ 42

Sec. 5.23 Add. criminal prohibitions for the operation of sexually oriented bus. w/o a valid permit. \_\_\_\_\_ 43

Sec. 5.24 Exemptions. \_\_\_\_\_ 43

Sec. 5.25 Criminal penalties and additional legal, equitable, and injunctive relief. \_\_\_\_\_ 44

**Part VI Cellular towers. 45**

Sec. 6.A Conditions. \_\_\_\_\_ 45

Sec. 6.B Application Requirements. \_\_\_\_\_ 46

Sec. 6.C Finding of Facts. \_\_\_\_\_ 46

Sec. 6.D Other Permitted uses to be amended. \_\_\_\_\_ 46



Town of Blacksburg, SC – Zoning Ordinance - Article I

**PART I  
GENERAL**

**Sec. 1.1 Definitions.** See attached “Definitions” section.

**Sec. 1.2 Authority and purpose.**

- A. The Town Council of the Town of Blacksburg is authorized to adopt this Ordinance pursuant to the enabling authority contained in the *S.C. Code of Laws, Title 6, Chapter 29*. and all other relevant laws of the State of South Carolina. These zoning regulations have been designed to guide development in accordance with existing and future needs and to promote the public health, safety, and general welfare. To that end, the regulations address, among other things, the following public purposes to:
- Lessen congestion in the streets;
  - Secure safety from fire, panic and other dangers;
  - Promote health and the general welfare;
  - Provide adequate light, air and open space;
  - Prevent the overcrowding of land;
  - Avoid undue concentration of population;
  - Protect and preserve, scenic, historic, and environmentally sensitive areas;
  - Facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks and other public facilities and services;
  - Secure safety from fire, flood, and other dangers; and
  - Regulate the use, density, distribution of population, and character of development on land to carry out these purposes.
- B. The zoning districts and the Official Zoning Map have been made with due consideration of future growth, development, and change in land development according to policy for the development of the community, as well as with due consideration of existing development and uses of land in the Town of Blacksburg.
- C. These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment and/or assuring the development of a future environment that realizes the greatest possible use and enjoyment of land on individual properties. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

**Sec. 1.3 Jurisdiction.**

These regulations govern the development and use of all land and structures in the Town of Blacksburg. The regulations and provisions found in this ordinance shall apply to all properties located within the corporate limits of the Town of Blacksburg and any other areas under the zoning jurisdiction of the Blacksburg Planning & Zoning Commission at the adoption of this ordinance. The boundaries of the areas zoned are shown on the Official Zoning Map.

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

**Sec. 1.04 Official Zoning Map.**

The Town Council, upon the recommendation of the Planning & Zoning Commission, may adopt the Official Zoning Map, which shall set out and delineate the zoning districts for all land within the jurisdiction of these regulations. The Zoning Map stored in CAD is hereby designated, established, and incorporated as a part of these regulation and the originals thereof, which are on file at the offices of the Town Administration Department, shall be as much a part of



## Town of Blacksburg, SC – Zoning Ordinance - Article I

---

these regulations as if they were fully described in these regulations. The Official Zoning Map shall be reviewed and may be amended from time to time through the amendment process, and other public policies related to land development adopted by the Town Council provided, however, that nothing herein shall limit the authority of the City Council to approve any petition for reclassification of property.

The boundaries of the various zoning districts have been indicated on the zoning map. Such map shall be known as the “Official Zoning Map” of the Town of Blacksburg, South Carolina, and shall be certified by the signatures of the Town Clerk and Mayor. The Zoning Map is hereby made a part of this ordinance. All changes to the district boundaries shown on the official zoning map shall be certified by the signature of the Town Manager or his designee.

---

### **Sec. 1.5 Exceptions to applicability.**

- A. These regulations shall not be applicable or enforceable without the consent of the owner with regard to lots, buildings, or structures for which a building permit has been issued prior to the effective date of these regulations so long as the permit has not been revoked. If construction authorized by the permit is not started within 6 months of the permit issuance, or after construction has commenced, it is discontinued for a period of 12 months, the permit shall immediately expire.
  - B. Any amendments, modifications, supplements, repeal, or other changes to these regulations and restrictions or the Official Zoning Maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses for which either:
    1. A building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired and the building permit has not been revoked, or
    2. A vested right has been established and such vested right remains valid and unexpired. A permit issued shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right is outstanding. If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire.
    3. These regulations shall not be applicable or enforced without the consent of the owner with regard to uses previously approved as a conditional zoning district or approved pursuant to a special use permit.
- 

### **Sec. 1.6 Relation to other ordinances and laws.**

It is not intended that this ordinance will in any way repeal, annul or interfere with the existing provisions of any other law or ordinance except the Zoning Ordinance, which this ordinance replaces. In addition, it is not intended that this ordinance will in any way repeal, annul or interfere with any rules, regulations or permits which were legally adopted or issued under previous ordinances for the use or development of land or structures. Finally, it is not intended that this ordinance will interfere with any easements, covenants, or other agreements between parties. However, if the provisions of this ordinance impose greater restrictions or higher standards for the use of a building or land, or for yards or size of structures than is called for by other ordinances, permits, easements or agreements, then the provisions of this ordinance will take precedence over the others and will control the use or development, except as otherwise provided under *Art. I-Sec. 1.05*. If the provisions of this ordinance are inconsistent with the law or regulations of the state or federal government, the more restrictive provision will govern to the extent permitted by law. Additionally, whenever any provision of this Ordinance refers to or cites a section of the S.C. Code of Laws or federal law, and that section is later amended or superseded, this Ordinance is deemed to be amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

---

### **Sec. 1.7 Relation of this ordinance to any pending actions.**

The adoption of this Ordinance will not affect any action, suit or proceeding which may be pending at the time the Ordinance is adopted. With respect to the subject matter of any pending action, all rights and liabilities that have been received or created under any previous zoning ordinances which have been superseded by this ordinance are still valid and may be preserved and enforced.

---



### **Sec. 1.8 Separability.**

If any section or specific provision or standard of these regulations or any zoning district boundary that now exists or may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations, except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

### **Sec. 1.9 Effective date; transitional provisions.**

These regulations shall become effective in December 2023. Any violation of the previous Zoning Ordinance continues to be a violation under this Ordinance and subject to enforcement as set forth herein.

Transition for eliminated zoning districts. The Town has decided to eliminate certain zoning districts. As a result, the referenced zoning districts (“Eliminated Districts”) are hereby eliminated, and any properties and associated rights-of-way previously zoned as one of the eliminated districts are hereafter zoned within the zoning district described in this Zoning Ordinance and as such properties are designated on the Official Zoning Map.

### **Sec. 1.10 Vested rights.**

- A. The General Assembly of the State of South Carolina, by [Act 287 of 2004](#), amended the South Carolina Local Government Comprehensive Planning Enabling Act ([Title 6, Chapter 29 of the S.C. Code](#)) to add [Article 11](#) cited as the “Vested Rights Act.”
- B. The Town Council has determined that it is in the best interest of the Town to avoid the default provisions and maintain and allow for local government control and flexibility of local planning and zoning functions to the extent allowed by law.

#### 1. Establishment and Conditions of Vested Rights

- a. What is a Vested Right? Vested right means the right to undertake and complete the development of property under the terms and conditions of a site-specific development plan or a phased development plan.
- b. What is a Site-Specific Development Plan? Site-specific development plans are those that describe with reasonable certainty the types and density or intensity of uses for a specific property or properties. Depending on whether that definition is met on a specific plan or not, the following may be considered site-specific development plans: Master planned district approvals, conditional use permits, special exception permits, variance permits, administrative adjustments, site plan approvals, subdivision plat approvals, and certificates of appropriateness. Approvals of other types may also be considered site-specific development plans if they meet the above definition.

Components of a site-specific development plan that do not give reasonable the types and density or intensity of uses for a specific property or properties are not considered vested. For example, areas on a site plan that are shown in a lighter color than the remainder of the plan (usually shown in light gray instead of hard black lines) or that are called out as “future” are not considered vested.

- c. Is a Phased Development Plan Considered a Site-Specific Development Plan? No. Each phase of a development plan must have a separate site-specific development plan approved before it is considered to have vested rights.
- d. When Does a Vested Right Begin? A vested right to develop property in accordance with a site-specific development plan is triggered upon:
  - The final approval of the site-specific development plan by the final official or decision-making body authorized to approve the site-specific development plan; and
  - The payment to the Town of all applicable established fees.



## Town of Blacksburg, SC – Zoning Ordinance - Article I

---

Note: that while the Town may approve grading, installation of utilities, streets or other infrastructure under separate permits in anticipating of site-specific development plan approval, any such construction or any expenditure in preparing documents for further permits is done at risk, since rights are not vested until a site-specific development plan is approved and the associated fees are paid.

- e. How Long does a Vested Right Last? A vested right last for two (2) years unless extended according to the provisions below.
  - f. What if a Site-Specific Development Plan is Amended? Approval or conditional approval of an amendment to any plan or permit approval does not re-set or re-start the expiration period of a vested right.
  - g. Can a Vested Right Be Extended? Pursuant to [Title 6, Chapter 29, Article 11](#) of the South Carolina Code of Laws, all approvals of site-specific development plans must be granted up to five (5) annual extensions consistent with the following procedures and criteria:
    - The applicant must apply for an extension of approval no earlier than ninety (90) days and no later than thirty (30) days before the expiration of the approval or previously approved extension. Application must be made on a form provided by the Town.
    - The Town Council must approve an application for extension unless the Zoning Ordinance or other land development ordinances or regulations have been amended in such a way that prohibits approval of the extension.
- A. How Long Do Approvals Last if They Are Not Considered a Site-Specific Development Plan? Approvals that do not meet the definition to be considered a site-specific development plan are subject to expiration or extension as specified by this Ordinance for each particular type of application. If no expiration is specified for a particular type of approval, the permit or approval will expire after one (1) year if development is not commenced, or a subsequent permit is not obtained.

---

### **Sec. 1.11 General rules of construction.**

For the purposes of these regulations, the following rules of construction shall apply:

- A. These regulations shall be construed to achieve the purposes for which they are adopted.
- B. In the event of a conflict between the text of these regulations and any caption, figure, illustration, or table, the text of these regulations shall control.
- C. In the event of any conflict in limitations, requirements, or standards applying to an individual use or structure, the more stringent or restrictive provision shall apply.
- D. The words "shall", "must", and "will", are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- E. The word "may" is permissive in nature, except when the context of the particular use is negative, then it is mandatory.

---

### **Sec. 1.12 Intent of districts.**

- A. Each district is established as an exclusive zoning district, and only those uses which are listed as permitted are allowed. If a particular use of the land is not mentioned for a certain district, that use shall be prohibited for that district unless added by amendment.
- B. When uncertainty exists with respect to the boundaries of districts as shown on the Official Zoning Map, the following shall apply:
  1. Delineation. District boundary lines are generally intended to be along or parallel to property lines, lot lines, the centerline of streets, alleys, railroads, easements, other rights-of-way and creeks, streams, or other water channels. In the absence of specified distances on the map, dimensions or districts shall be determined by scaling the distance on the Official Zoning Map.



Town of Blacksburg, SC – Zoning Ordinance - Article I

- 2. Planning & Zoning Commission. When the street or property layout existing on the ground is at variance with that shown on the Official Zoning Map, the Planning & Zoning Commission shall interpret the district boundaries of this Ordinance.
- 3. Increase or reduction of boundaries. The entire land area within the corporate limits of the Town of Blacksburg at the time of adoption of this ordinance shall be zoned under the provisions of this ordinance. When the total land area under the jurisdiction of the Blacksburg Planning & Zoning Commission is increased or reduced by virtue of annexation by the Town of Blacksburg or some other means, the zoning district boundaries shall be adjusted in the following fashion:
  - a. Then the change results in an increase in land area within the corporate limits of the Town of Blacksburg and the land area involved was previously under the jurisdiction of the Blacksburg Planning & Zoning Commission, the zoning district classification which applied to said area when it was unincorporated shall continue to apply.
  - b. When the change results in an increase in land area under the jurisdiction of the Blacksburg Planning & Zoning Commission and the land area involved was not previously under the jurisdiction of the Blacksburg Planning & Zoning Commission, each land area shall be zoned for its most logical and reasonable use by the Blacksburg Planning & Zoning Commission subject to approval by the Blacksburg Town Council.
  - c. When reductions are made in the total land area under the jurisdiction of the Blacksburg Planning & Zoning Commission, provisions of this ordinance shall no longer apply to that land area.
  - d. In all cases, where additions or reductions in total land area require adjustments in the zoning district boundaries, such adjustments shall be made on the Official Zoning Map.

**Sec. 1.13 Establishment of districts.**

- A. For the purpose of this Ordinance, the areas under the jurisdiction of the Blacksburg Planning & Zoning Commission, Board of Zoning Appeals (BOZA), Historic Review Board (HRB), and Town Council (TC) are hereby divided into 22 districts:
- B. Within the Town of Blacksburg, certain residential districts shall be referred to as “Existing” residential districts and some as “New” residential districts ([Table 1](#)). The existing residential districts continue to exist in order to preserve the conforming status of existing or approved developments and to allow for consistency in the future development of areas zoned within these districts. Developments of vacant lots within the existing districts shall meet the requirements as set forth in [Art. II](#) “District Requirements” of this Zoning Ordinance.

<b>Table 1</b>				
<b>New/Existing</b>	<b>Attached / Detached</b>	<b>District Type</b>	<b>Zoning Districts</b>	<b>No. of Districts</b>
New	Detached	Single-family residential	R-08, R-07, R-06, R-05, R-04	5
Existing	Detached	Single-family residential	R-1A, R-1B, R-1C, and R-1D	4
New	Attached	Multi-family residential	R-04, R-08, R-12	3
Existing	Attached	Multi-family residential	MHP, MHD, Duplexes, Apts.	2
New		Mixed-use	PND and MUD	2
New		Commercial	CCD, TCD, HCD	3
New		Industrial	LID, GID	2
New		Resource conservation	<u>Water Resources, Institutional, Historic Preservation, Utilities &amp; Cellular Towers</u>	1
				<b>Total = 22</b>





**Sec. 1.14 Applicability of the regulations**

The various zoning district regulations established and set forth in this Ordinance are declared to be the min requirements necessary to carry out the purposes of this Ordinance. Therefore, except as hereinafter provided:

- A. No lot shall be reduced in size so that the total area, lot width, necessary yards or other open spaces, lot area per dwelling unit, or other requirements of this ordinance are not maintained.
- B. No new building shall hereafter be erected, altered, or moved to create narrower or smaller front yards, side yards, rear yards, or other open spaces than required by this ordinance for the zoning district in which such building will be located.
- C. No permit for the use of any lot which is smaller in total area than the min size permitted for the district within which it is located shall be issued unless such lot was legally and properly recorded prior to the passage of this ordinance; provided, that such a lot may be used as the location of a single-family dwelling with the related accessory buildings providing such lot is in separate ownership and is not of continuous frontage with another lot or lots of the same ownership. However, in all cases, construction on any such lots, after the passage of the ordinance, shall be required to meet all other requirements of the district within which it is located, including front yard setbacks, side yards, rear yards, and others.

---



---

**PART II  
GENERAL PROVISIONS**

---



---

**Sec. 2.0 General provisions.**

- A. Street access: Except as herein provided, no building shall hereafter be erected, constructed, moved, or relocated on a lot not located on a publicly dedicated, publicly accepted or publicly maintained street, or a private street approved by the Town of Blacksburg with a right-of-way of not less than 40 ft.
- B. Location of principal buildings on zoning lots and residential limitations: Every building or use hereafter erected or established, except as herein provided, shall be located on a zoning lot, and everyone- or two-family residential structure, except as herein provided, shall be located on an individual zoning lot. In all cases, every building on the lot shall be located within the buildable area formed by the building lines, as defined in this Ordinance, as outer boundaries. In no case shall such buildings infringe beyond the building lines into the respective front, side, rear yards, or other setbacks required for the district in which the lot is located.
- C. Corner lots: On lots having frontage on more than one street at an intersection, the min front yard requirement shall be provided for each street in accordance with the provisions of this Ordinance.
- D. Double frontage lots: On lots having frontage on more than one street, but not located on a corner, the min front yard shall be provided for each street in accordance with the provisions of this Ordinance.
- E. Front yard requirements: Where lots comprising 40% or more of the frontage on one side of a street between 2 street intersections in any district are improved with buildings that have observed an average front yard line with a variation in depth of not more than 6 ft, then the average front yard so established may be observed; provided, that this regulation shall not be interpreted as requiring a front yard of more than that which would be normally required by the terms of this ordinance for the district in which the lot is situated. In such cases, the setback on such a lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots.
- F. Home occupations: A home occupation, as defined in herein, shall be permitted in any residential district; provided that such occupation:
  - 1. Is conducted by no other person than members of the family residing on the premises;
  - 2. Is conducted entirely within the principal building;



## Town of Blacksburg, SC – Zoning Ordinance - Article I

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

Nothing contained herein shall be construed to limit the private enforcement of restrictive covenants limiting use of property subject to such covenants.

- G. Accessory uses: In addition to the principal uses which are designated herein as being permitted within the several zoning districts established by the ordinance, it is intended that certain uses customarily incidental or accessory to such principal uses shall also be permitted. Accessory uses shall not be converted to living space unless they meet the setback requirements of the principal structure for the zoning district in which they are located. For the purposes of this ordinance, therefore, each of the following uses is considered to be a customary accessory use, and, as such, may be situated on the same lot with the principal use or uses to which it serves as an accessory:

1. Uses customarily accessory to dwellings:
  - a. Private, unattached garages and carports,
  - b. Open storage space or parking area for non-commercial motor vehicles. Not more than 1 commercial vehicle may be housed or regularly parked on any lot,
  - c. Satellite dishes, provided they are restricted to the rear yard.
2. The following customary accessory uses must not be in front of the principal structure on a lot:
  - a. Unattached private garages or carports,
  - b. Shed or tool room for the storage of equipment used in grounds or building maintenance,
  - c. Children's playhouse and play equipment,
  - d. Private kennel for family pets, provided they are of the type authorized by Town Ordinance,
  - e. Private swimming pool and bath house or cabana,
  - f. Structures designed and used for purposes of shelter in the event of man-made or natural catastrophes,
  - g. Noncommercial flower, ornamental shrub, or vegetable garden greenhouse or slat house not over 8 ft in height.
3. Uses customarily accessory to church buildings:
  - a. Religious education buildings,
  - b. Parsonage, pastorium, or parish house, together with any use accessory to a dwelling, as listed under paragraph 1) of this subsection G.,
  - c. Off-street parking area for the use, without charge, to members and visitors to the church.
4. Uses customarily accessory to retail business, offices, and commercial recreation facilities:
  - a. Off-street parking or storage area for customer, client, or employee-owned vehicles,
  - b. Completely enclosed building for the storage of supplies, stock, or merchandise, and
  - c. Light manufacturing and/or repair facility incidental to the principal use, provided that dust, odor, smoke, noise, vibration, heat, or glare produced as a result of such manufacturing or repair operation shall not be perceptible from any boundary line of the lot on which such principal and



Town of Blacksburg, SC – Zoning Ordinance - Article I

accessory uses are located; and provided that such operation is not otherwise specifically prohibited in the district in which the principal use is located.

H. Setback and other yard requirements for accessory uses: In any district, all accessory uses operated in structures above ground level shall observe all setbacks, yards and other requirements set forth for the district within which they are located. In any district, an accessory drive to an accessory garage, parking area or truck loading space may be located within a required side yard.

I. Off-street parking and off-street loading requirements:

1. Parking: Off-street parking must be provided on every lot on which any of the following uses are hereafter established. The number of parking spaces provided will be at least as great as the number specified in this section of the Zoning Ordinance for the particular use(s). When application of the provision results in a fractional space requirement, the next larger requirements will prevail. The Zoning Administrator may vary this requirement resulting in a 10% decrease in the min number required. Up to 50% of the required parking spaces may be provided by on-street parking in conformance with [Subsection 11](#) of this section.

a. All uses and establishments commenced hereafter shall provide the min number of off-street parking spaces required in this section. Establishments shall provide parking spaces according to the schedule listed in [Table 2](#) below:

<b>Table 2</b>	
<b>Uses</b>	<b>Spaces Required</b>
<b>Residential Uses</b>	
Single-family	No requirement
Multi-family	1.5 per unit
Elderly housing (independent or assisted living)	0.5 per dwelling unit
Accessory dwelling unit (on residential lot)	No requirement
<b>Retail/service</b>	
General retail (not in shopping center)	3.5 per 1,000 sq ft of GLA
Grocery (freestanding)	5 per 1,000 sq ft of GLA
Shopping centers	4 per 1,000 sq. ft. of GLA
Vehicle sales and service	5.5 per 1,000 sq ft of interior sales
Funeral home	4.5 per 1,000 sq ft of GLA
Convenience store	.25 per 1,000 sq ft of GLA (Pump Bays included)
Hotel/motel	1 per room
Child day care (7 children or more)	1 per 4 persons of max fire rated capacity
Restaurant	1 per 3 persons of max fire rated capacity
<b>Office and business</b>	
General business office	3.25 per 1,000 sq ft of GLA
Bank (with drive through)	4.5 per 1,000 sq ft of GLA
Hospital/in-patient facility	2 per patient bed + 1 per every 300 sq ft of administrative area
Medical office	4.5 per 1,000 sq ft of GLA
Industrial/wholesale/utility	.5 per 1,000 sq. ft. add space as required for office, sales, or similar use when more than 10% GFA
Manufacturing/light industrial	
Industrial park	1 per 1,000 sq ft
Warehouse	.5 per 1,000 sq ft
Mini warehouse	.20 per 1,000 sq ft
<b>Government</b>	



Town of Blacksburg, SC – Zoning Ordinance - Article I

	As determined by Zoning Administrator
<b>Educational</b>	
Elementary/middle	1.10 per employee
High	.35 per student
<b>Cultural/recreation/entertainment</b>	
Public assembly	.25 per persons of max fire rated capacity
Museum	1.25 per 1,000 annual visitors
Library	4 per 1,000 sq ft GFA
Religious centers	.25 per persons of max fire rated capacity
Cinemas	.33 per seat
Theaters (live performance)	.33 per seat
Health clubs/recreational facilities	1 per 3.5 persons of max fire rated capacity
Golf course	3 per hole

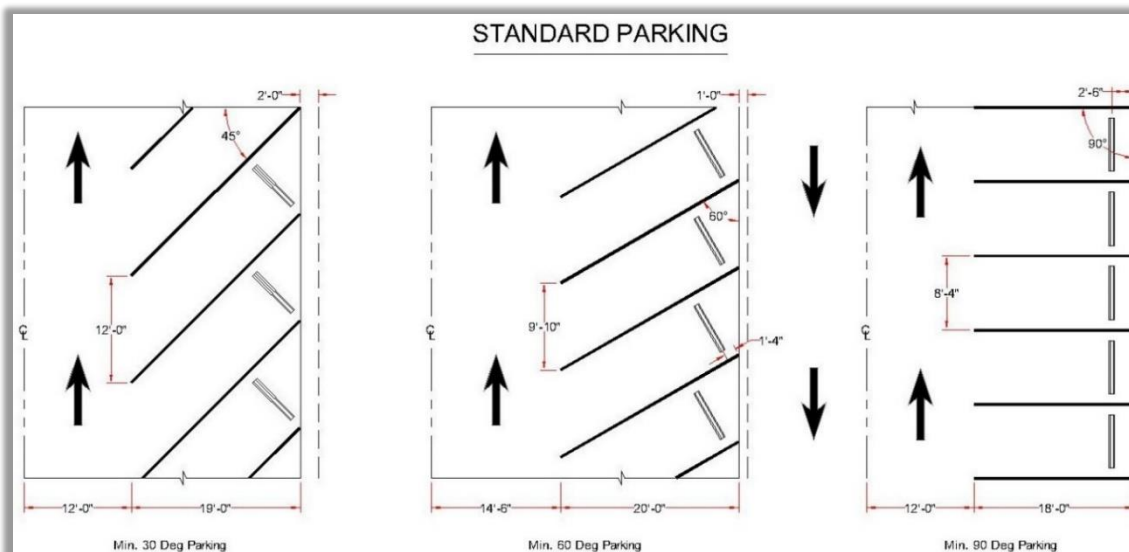
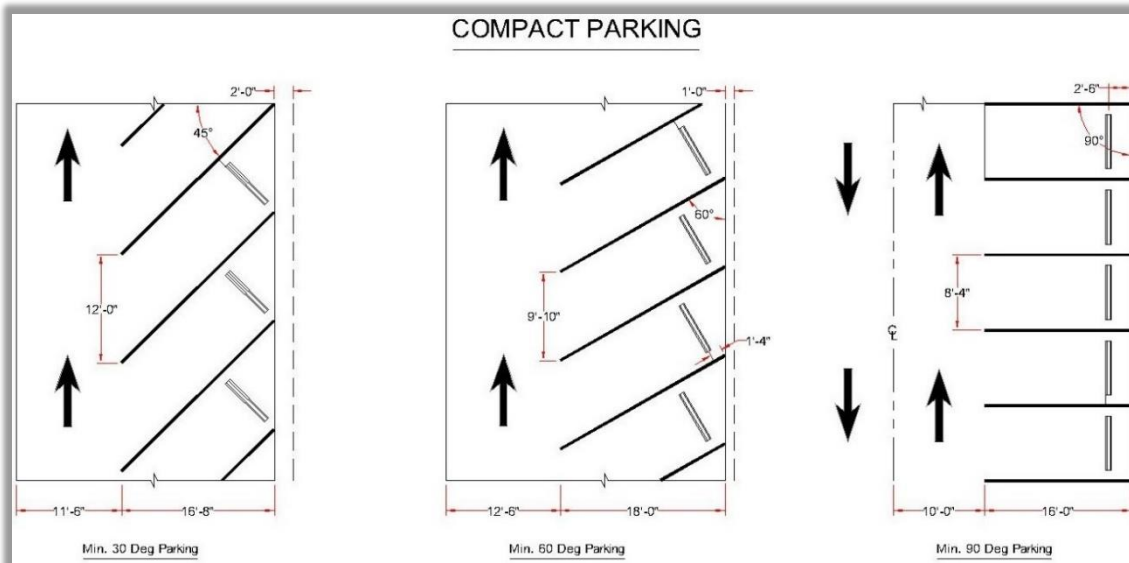
- b. The parking space requirements for a use not specifically listed will be the same as for a listed use of similar characteristics of parking demand.
- c. For uses having different parking requirements and occupying the same building or parcel, the min number of required spaces shall be the sum total of all the individual uses. For developments of portions of developments within the same mixed use development district designed as a single, coordinate project having at least 50,000 sq ft of gross floor area, the min number of required spaces shall be one space for every 250 sq ft of GFA designed for nonresidential use and occupancy.
- d. Shared parking is allowed and is encouraged in circumstances where the parking would be within 1,200 ft of each respective use.
- e. Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit a shared parking analysis to the Zoning Administrator that clearly demonstrates the feasibility of shared parking. The study must be provided in a form approved by the Zoning Administrator. It must address, at a min, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.
- f. A shared parking plan shall be enforced through written agreement among all owners of record and included in the development agreements filed with the Town. The owner of the shared parking area shall enter into a written agreement with the Town with enforcement running to the Town providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that the owner agrees to bear the expense of recording the agreement and such agreement shall bind his or her heirs, successors, and assigns. An attested copy of the agreement between the owners of record shall be submitted to the Zoning Administrator for recordation in a form established by the Town Attorney. Recordation of the agreement must take place before issuance of a building permit or CO for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided on-site. The Town shall void the written agreement if other off-street facilities are provided in accord with these zoning regulations.
  - 1. Handicap accessible parking (ADA): Handicap accessible parking spaces shall be provided in accordance with [Table 3](#).
  - 2. Min parking dimensions: See compact and standard figures below.



Town of Blacksburg, SC – Zoning Ordinance - Article I

- a. Compact spaces: In parking lots having 20 or more spaces, up to 25% of the total required spaces may be provided as compact spaces. Such spaces shall have min dimensions as follows:
  - b. Standard spaces: Shall have min dimensions as follows:
- Note: The # of ADA spaces shall be calculated based on the total # of required parking spaces.*
- 3. Parking lot landscaping: Landscaping islands within parking areas shall be no less than the min dimensions of a full-size parking space (measured from edge of pavement or back of curb, if such islands are defined by curb). Islands shall be installed every 25 spaces to

Total Spaces Required	Required # to be reserved for ADA
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
Over 1,000	20; plus 1 for each 100 over 1,000





Town of Blacksburg, SC – Zoning Ordinance - Article I

include a 2.5" caliper tree (min). No parking space shall be further than 110 ft from a landscape island.

- 4. On-street parking: A min of 50% of the required off-street parking must be provided on site. Where on-street parking is available or provided as part of the development, on-street parking spaces may account for up to 50% of the required spaces, provided:
  - a) A key map is provided that delineates the location of allocated on-street spaces for a designated parcel or use.
  - b) The on-street parking must be located within 1,200 ft of the primary entrance of a use.
  - c) On-street parallel parking spaces shall be 7 ft x 20 ft measured from the face of curb (or edge of pavement if curb does not exist).
  - d) On-street diagonal parking with a 60-deg angle or less shall have a min travel lane width of 11 ft.
- 5. Historic or downtown district parking: Business located in the historic or downtown district, regardless of type, shall not be required to meet the standards provided herein.
- 6. Off-street loading requirement: All establishments commenced hereafter which acquire or dispense goods shall provide the min number of off-street loading spaces required in this ordinance. Min dimensional requirements for such a space shall be 15 ft by 30 ft, and there shall be adequate access to such loading space from a public street. The following schedule in [Table 4](#) shall apply to all uses within the various district which are required to provide off-street loading facilities:

Table 4	
Gross Floor Area	Required No. of Berths
1—25,000	1
25,000—40,000	2
40,000—100,000	3
100,000—160,000	4
160,000—240,000	5
240,000—320,000	6
320,000—400,000	7
Each 90,000 above 400,000	1 additional berth

- J. Curb cuts: No driveway shall be located closer than 15 ft to the intersection of any public street, as measured along the right-of-way. Driveways shall be a max of 30 ft in width and shall be at least 21 ft apart, except in residential districts.
- K. Corner visibility: In all zoning districts established by this ordinance, except the core commercial (CCD) district, there shall be no obstruction to visibility on any corner lot within 25 ft of the intersection of any 2 right-of-way lines.
- L. Height limitation exceptions: The following uses are not controlled by height limitations of this ordinance: belfries, spires, cupolas, domes, chimneys, smokestacks, water towers, conveyors, flag poles, television and radio masts, aerials, towers, and similar structures.
- M. Fences:
  - 1. Permit requirements: Any person wishing to erect, alter, or relocate a fence must first obtain a fence permit from the Code Enforcement Officer. Fences not meeting the standards outlined in this section may be permitted by a Special Use Permit (SUP). The Code Enforcement Officer may exercise the power to impose reasonable conditions in granting an SUP under the requirements and guidelines of this ordinance.
  - 2. Fencing requirements:
    - a. Fences shall be limited to a max height of 6 ft for rear and side yards and cannot extend beyond the principal structure into the front yard. For the property owners' protection, a 6-inch setback from property lines shall be required.
    - b. Front yard fences shall not exceed 4 ft in height and must be approved by the Code Enforcement Officer. Front yard fences cannot be located in any right-of-way.



## Town of Blacksburg, SC – Zoning Ordinance - Article I

- c. Fences shall be constructed with quality material and workmanship and be maintained in good repair. Materials must be approved by the Code Enforcement Officer. Barbed wire, Constantine wire, razor wire, or poultry wire are strictly prohibited.
- d. The finished side of fences shall face adjoining property and shall blend with the landscape.
- e. On corner lots, fences may not be permitted beyond the principal structure inside yards facing the adjoining street.

The sides and rear fence shall conform to the above guidance; however, due to the potential visibility problem, the construction of fences within the front yard will be restricted. The Code Enforcement Officer may use the authority provided in this ordinance. to issue a SUP for front yards on a case-by-case basis for corner lots.

---

---

### PART III TRANSPORTATION IMPACT ANALYSIS

---

---

#### **Sec. 3.0 Traffic impact analysis - TIA**

Transportation impacts, and how to mitigate them, are an important consideration for our community when a development is proposed. Public policy makers, citizens, and developers all have a stake in understanding and responding to additional demands on the transportation system. A Transportation Impact Analysis (TIA) is a tool used to evaluate the incremental impacts on the surrounding transportation infrastructure and how to mitigate them to maintain safe traffic and transportation operations.

- A. TIA determination. The Town shall determine the need for a TIA upon receipt of any development application (by-right or rezoning) accompanied by a sketch or schematic plan. Types of development applications could include, but are not limited to, multi-family developments, single family developments, commercial developments, mixed-use projects, rezonings, or annexation requests. If warranted, the transportation consultant assigned by the Town shall prepare the TIA. At the discretion of the SC Department of Transportation (SCDOT) and the Town, a Transportation Technical Memorandum (TTM), in lieu of a full TIA report, may be allowed for some developments.
- B. Min thresholds for TIAs. A TIA will be required to accompany any development plan when expected gross trip generation is 400 total trips or more in a 24-hr period, and/or 100 total trips during either the AM or PM peak hrs. [prior to any trip reductions applied - see section 8.6.G.(10)]. The gross trip generation will be calculated by the Town, or its consultant based on information (proposed project summary and development plan) provided by the applicant, and the final determination for requiring the TIA will be made by the Town. The Town may also determine the need for a TIA based on special circumstances associated with the development, even if the gross trip generation falls below the identified threshold(s). This may be due to location, an intersection or thoroughfare nearby that is at or above capacity, the nature of the use, or one of the following:
  - 1. Traffic generated from a non-residential development that could potentially significantly impact adjacent residential neighborhoods.
  - 2. Traffic operation issues for current and/or future years on nearby streets are expected to be significantly worsened by traffic generated from the proposed new development.
  - 3. Arterials and/or collectors near the site are experiencing significant/unacceptable delays.
  - 4. Traffic safety issues exist at the intersection(s) or street(s) that would serve the proposed new development.
  - 5. The proposed land use differs significantly from the future land use designation of the Town's adopted Comprehensive Plan.
  - 6. The internal street or access system is not anticipated to accommodate the expected traffic generation.



## Town of Blacksburg, SC – Zoning Ordinance - Article I

7. The proposed development project includes a drive-through facility or other uses, such as schools, that require significant on-site circulation that may have an offsite impact to adjoining roads and/or intersections.
  8. The amount, behavior, and/or assignment of traffic is deemed by the Town as being significantly different from a previously approved TIA, or more than 24 months have passed since completion of a previous TIA for the site. A TTM will be required for any proposed development when the conditions above are not met. In this case, the Town and its consultant will determine what the TTM will address.
- C. Scoping meeting. A mandatory “scoping meeting” is required prior to beginning the TIA to discuss the requirements and strategies for a TIA specific to the site and the proposed development. Background information shall be submitted by the applicant and shall include a conceptual site plan showing proposed access points, access spacing/distances between one another and adjacent roads, proposed land uses and densities, structure, and parking envelopes. The Town, the transportation consultant assigned by the Town, and the applicant(s) are required to attend the mandatory scoping meeting, and representatives from the SCDOT District 4 office that is located at 1232 JA Cochran Bypass, Chester, SC 29706, will be invited and encouraged to attend as needed. The applicant may invite members of his/her development team as needed.
- D. Scoping document. A scoping document detailing the understood scope and parameters of the TIA shall be prepared by the transportation consultant assigned by the Town. The scoping document shall be signed by the applicant, the Town, and the SCDOT and/or Cherokee County (if access to a state or county road is involved) before the consultant can begin work on the TIA. Failure by the applicant to provide accurate information or failure by the assigned transportation consultant to follow the scoping document shall result in disapproval of the TIA. If significant changes are made to the parameters outlined in the scoping document, a revised scoping document will be required.
- E. Fees. Prior to the scoping meeting, the transportation consultant assigned by the Town shall submit a summary of consultant fees to the Town to perform the scoping portion of the TIA based upon the background information submitted by the applicant. The applicant shall agree to provide payment in full to the Town for these services prior to scheduling of the scoping meeting. After the scoping document is prepared, changes by the applicant which require updates to the scoping document, will result in additional services and must be paid for by the applicant prior to performance of the additional services. After the scoping meeting, the transportation consultant assigned by the Town shall submit a summary of consultant fees for preparing the TIA to the Town. Per the scoping document, the applicant shall agree to provide payment in full to the Town for preparation of the TIA so that the Town can release the work to the consultant. Any additional services incurred by the transportation consultant in addition to the scoping document must be approved by the Town and agreed to and paid for by the applicant prior to performance of the additional services.
- F. Transportation Mitigation Agreement (TMA). Upon completion of the TIA, certain on- or off-site transportation mitigation measures may be required as recommended by the TIA. If so, the transportation consultant assigned by the Town shall prepare a TMA which will summarize the following:
1. Development plan.
  2. Development phasing and timing (if applicable).
  3. Site access and points of ingress/egress.
  4. On- and off-site improvements required to adequately mitigate the project impacts to the Town's transportation system, including vehicular, pedestrian, and bicycle improvements.
  5. Trigger points and deadlines for construction and/or submittal of financial guarantees for any improvements.

The TMA must be signed by the applicant and Town following the approval of the TIA by all applicable parties. All required mitigation measures must be implemented as prescribed in the TMA. If the development program is planned to be phased, then a development phasing analysis shall be performed, either as part of the TIA or as an additional





## Town of Blacksburg, SC – Zoning Ordinance - Article I

service to the TIA, to determine the mitigation for each phase of development if mitigation phasing is desired by the applicant. The applicant shall provide a financial guarantee in a manner acceptable to the Town in the amount of 150% of all phased transportation improvements as prescribed in the TMA. A Planning-Level Opinion (PLO) of Probable Construction Cost (PCC) will be performed by the Town and its consultant as an additional service and submitted to the applicant to provide payment. The PCC will include costs for planning/design, utilities, permitting, construction, and right-of-way.

- G. TIA outline and contents. The outline and contents of what is required to be included in the TIA will be discussed at the scoping meeting and included in the scoping document. A detailed summary of the expected content and methodologies to be used in the TIA is discussed below:
1. Cover/signature page. Includes the project name, location, name of the applicant, contact information for the applicant, and date of the study. The name, contact information, registration number, signature, and seal of a duly qualified and registered professional engineer in the State of South Carolina are also required to appear on this page.
  2. Table of contents. Includes a list of all section headings, figures, tables, and appendices included in the TIA report. Page numbers shall denote the location of all information, excluding appendices, in the TIA report.
  3. Executive summary. Includes a description of the study findings, a general description of the project scope, study horizon years, expected transportation impacts of the project, and mitigation measure recommendations. Technical publications, calculations, documentation, data reporting, and detailed design shall not be included in this section.
  4. Project description. Includes a detailed description of the development, including the size of the parcel, development size, existing and proposed uses for the site, anticipated completion dates (including phasing if appropriate). It shall also include the sq ft of each use and/or the number and size of dwelling units proposed, and a map and copy of the site plan provided by the applicant.
  5. Site description. Includes a description of the project location within the Town and region, existing zoning, and use (and proposed use if applicable), and key physical characteristics of the site, including general terrain and environmentally sensitive or protected areas.
  6. Site access. A complete description of the ingress/egress of the site shall be explained and depicted. It shall include number of driveways, their locations, distances between driveways and intersections, access control (full-movement, leftover, right-in/right-out, etc.), types of driveways (two-way, one-way, etc.), traffic controls, etc. Internal streets (lanes, flow, and queuing), parking lots, pedestrian and bicycle facilities, and designated loading/unloading areas shall also be described. Similar information for adjacent properties, including topographic grade relationship, shall be provided to evaluate opportunities for internal and/or adjacent connectivity. The design, number, and location of access points to collector and arterial roadways immediately adjacent to the site must be fully analyzed. The number of access points shall be kept to a min and designed to be consistent with the type of roadway facility. Driveways serving the site from state roads shall be designed in accordance with the SCDOT's Access and Roadside Management Standards (ARMS) Manual and/or Town standards, as applicable.
  7. Study area. The limits of the study area shall be based on the location, size and extent of the proposed project, and an understanding of existing and future land uses and traffic conditions surrounding the site. The limits of the study area for the TIA shall be reviewed and approved by the Town and SCDOT staff at the mandatory scoping meeting. At a min, the study area shall include all streets and signalized intersections within a one-mile radius of the proposed site and/or where site traffic estimated for build-out of the project will constitute 10% or more of any signalized intersection approach during one or both peak hrs. During the scoping meeting, staff may reduce the radius due to conditions specific to the site based on request by applicant and supported with valid reasoning. Unsignalized intersections between the required signalized intersections will be added to the scope as directed by the Town. To



## Town of Blacksburg, SC – Zoning Ordinance - Article I

- initially determine the impacts, the Town will maintain a database of recent peak-hour intersection turning movement counts. The applicable intersection counts will be equated to current year baseline volumes. Based on the proposed development program submitted by the applicant, a preliminary trip generation analysis, distribution, and assignment will be performed within the area surrounding the site and compared to the current year base volumes. Related impacts or current operational problems may dictate that other intersections be included in the study area as determined by Town and/or SCDOT staff. A narrative describing the study area shall identify the location of the proposed project in relation to the existing transportation system and list the specific study intersections and/or segments. Any unique transportation plans or policies applicable to the area shall be mentioned. A site location map shall be provided and shall identify natural features, major and minor roadways within the study area, study intersections, and a boundary of the site under consideration.
8. Existing conditions. Shall include a narrative and map that represents AM and PM peak-hr. turning-movement volumes for all intersections within the study area. Traffic volumes shall represent 15-minute interval weekday turning movement counts (Tuesday through Thursday), include heavy-vehicle, pedestrian and bicycle counts, no more than 12 months old, and shall be collected during periods of the year when local schools are in session and during weeks that have no observed federal, state, or local holidays and periods unless otherwise approved by the Town. The required count timeframes are from 6:30 to 9:00 a.m. and 3:00 to 7:00 p.m. The PM count timeframe is expected to cover peaking characteristics caused by local Middle and High School dismissal times, as well as typical employment peaking characteristics; however, site-specific conditions may necessitate additional or different traffic counting hours. and/or days depending on the development program and location within the Town. These unique circumstances will be determined and directed by the Town. The Town will determine if modified peak hours. or weekend analyses shall be included in the TIA at the mandatory scoping meeting. For example, 8-, 12-, or 16-hr turning movement counts shall be required to complete the analysis if a full traffic signal warrant analysis is required as part of the TIA. The source of existing traffic volume information shall be explicitly stated (e.g., Town counts, new counts collected by the applicant, SCDOT counts, etc.). If previous counts were obtained, only counts collected within 1 year of TIA submittal for the proposed site will be deemed acceptable. Summary sheets for existing turning movement counts shall be included in the appendix of the TIA report. A separate narrative and map shall be prepared to describe the characteristics of surrounding major roadways, including functional classification, number of lanes, posted speed limit, existing average daily traffic volumes, typical cross section, intersection control, and lineal distance between major roadways. Field notes for the existing conditions observation may be included in the appendix of the TIA report.
  9. Future year conditions. Unless otherwise approved by the Town, future year conditions for a single-phase development shall be analyzed for the year the development is expected to be at full occupancy (build-out year). For multiple-phased developments, the scenarios shall be completed in order, with any improvements specified by development included in the subsequent build scenarios. Specific analysis periods to include in the study shall depend upon the development program, proposed project phasing plan, and significant improvements programmed for the surrounding transportation system. The approved offsite developments and transportation projects to be included in the base future-year background conditions for the transportation system within the study area shall be determined during the scoping meeting. Transportation improvements assumed in the future-year background conditions analysis may include those with an expected completion date concurrent with that of the development and funded either by the Town, SCDOT, or indicated as a required condition of approval from an offsite development application. Only projects approved by the Town at the scoping meeting may be included in the analysis as future existing infrastructure. Those improvements committed by other developments must be clearly identified in the report as approved offsite development road improvements. Adjacent development traffic information used in the development of the future year background traffic volumes shall be included in the appendix of the TIA report. Unfunded, planned infrastructure projects may be



## Town of Blacksburg, SC – Zoning Ordinance - Article I

- mentioned in the TIA, but the description shall specifically identify that these projects are not included in the background condition. Future year background traffic volumes shall be forecasted using historical growth rate information, regional models, and/or TIA reports for development(s) approved by the Town but not yet built. Additional future year scenarios may be applicable in the case that there are committed offsite approved development improvements. A narrative and map shall be prepared that presents turning movement volumes for each peak hr. for all intersections identified within the study area. Future year base (existing plus historical growth) traffic volumes, offsite approved development volumes, and site traffic volumes shall be clearly separated and combined in the map.
10. Trip generation. Base trip generation for the proposed land use(s) shall be calculated using data published in the latest version of the Institute of Transportation Engineers' (ITE) Trip Generation Manual. Data limitations, data age, choice of peak hour of adjacent street traffic, choice of independent variable, and choice of average rate versus equation shall be discussed at the mandatory scoping meeting. Local trip generation rates may be acceptable if appropriate validation is provided by the applicant to support them. Any deviation from ITE trip generation rates shall be discussed in the mandatory scoping meeting and documented in the scoping document if approved by the Town and SCDOT.
    - a. Internal capture. Base trip generation may be reduced by rate of internal capture when 2 or more land uses are proposed using methodology recommended in the most current Trip Generation Handbook published by ITE, or research published by the National Cooperative Highway Research Program (NCHRP) Transportation Research Board. Reductions for internal capture shall be applied to multi- or mixed-use sites only. The internal capture reduction shall be applied before pass-by trips are calculated.
    - b. Pass-by trips. Pass-by trips are those made as intermediate trips between an origin and primary destination (i.e., home to work, home to shopping, etc.). However, pass-by trips are not diverted from another roadway. Base trip generation may be reduced by rate of pass-by capture using methodology recommended in the most current Trip Generation Handbook published by the ITE. Pass-by trips associated with the development program may not exceed 10% of the peak-hour background volume reported for the adjacent public street network. This network shall include the streets that provide primary access to/from the site. For example, if a site access drive that connects to a low-volume local street, which its primary access is to a major collector road, the traffic on the major collector shall be used as the adjacent street for pass-by calculation purposes. Evaluation of diverted trips may apply depending on the specifics of each site. A trip generation table shall summarize all trip generation calculations for the project.
  11. Trip distribution. External trip distribution shall be determined on a project-by-project basis using one of several sources of information available to transportation and land planning professionals. Potential sources for determining project trip distribution may include the regional travel demand model, market analysis, existing traffic patterns, and/or professional judgment. At the Town's direction, multiple trip distributions may be required for differing land use types. Regardless of methodology, the procedures followed and logic for estimating trip distribution percentages must be well-documented in the TIA. Trip distribution percentages proposed for the surrounding transportation network shall be discussed during the scoping meeting and shall be approved by the Town and SCDOT before proceeding with the TIA. A map showing the % of site traffic on each street included in the study area shall be included in the TIA.
  12. Trip assignment. Site traffic shall be distributed to the surrounding transportation system based on the site's trip generation estimates and trip distribution percentages. Future year build-out traffic forecasts (i.e., future year background traffic plus site traffic) shall be represented in graphic formats for AM and PM peak-hour conditions at all intersections included in the study area. If the project will be built in phases, traffic assignments shall be reported for each phase. Pass-by traffic shall be included at the



## Town of Blacksburg, SC – Zoning Ordinance - Article I

driveways and access points for evaluating driveway volumes. Multiple assignment analyses may be required if the traffic control at the access drives varies (i.e., right-in/right-out vs. stop controlled vs. signalized).

13. Operations analysis. The TIA shall include multi-modal operations analyses including vehicular, pedestrian and bicycle, to allow for the safe and convenient travel for all modes. Level-of-service (LOS) and delay are the primary measures of effectiveness for impacts to the transportation system and are defined by the most current edition of the Highway Capacity Manual (HCM). Operations analyses shall be performed for the existing and all future year scenarios. Impacts from the proposed project shall be measured by comparing the future year background conditions to the future year build-out conditions.
  - a. Vehicular capacity analysis. Unless otherwise noted, Synchro level-of-service (LOS) and delay shall be reported for all signalized intersections and approaches identified in the study area. Based on HCM, LOS for unsignalized intersections is not defined as a whole; instead, only the individual approaches shall be reported as applicable based on the HCM reports determined through the Synchro analysis. Existing signalized intersections shall be modeled based on existing signal timing plans provided by either the Town or SCDOT. Existing signal timing plans shall be included in the appendix of the TIA report. Pedestrian movements must be considered in the evaluation and adequate pedestrian clearance provided in the signal cycle split assumptions. If a traffic signal is part of a coordinated system, it must be analyzed as such under all conditions. Other standard practices and default input values for evaluating signalized intersections shall be consistent with the most recent guidelines published by the SCDOT. The Town may also require safety, traffic simulation, gap and/or other analyses appropriate for evaluating a development application. Additional analyses and/or traffic capacity or simulation tools (such as VISSIM or Trans-modeler) required for the TIA shall be identified during the scoping meeting. All TIA reports submitted to the Town shall use Synchro, SimTraffic, VISSIM, and/or Trans-modeler analysis software for signalized and unsignalized intersections, or Sidra Software for roundabouts, consistent with SCDOT policies. A narrative, table, and map shall be prepared that summarizes the methodology and measured conditions at the intersections reported in LOS (LOS A—F), the intersection and approach signal delay for signalized intersections, the approach delay for unsignalized intersections, and 95th percentile queue lengths for all movements. Capacity analysis worksheets and SCDOT auxiliary turn-lane warrants for unsignalized intersections shall be included in the appendix of the TIA report.
  - b. Pedestrian operations analysis. Unless otherwise noted, methodology provided in the latest edition of the Highway Capacity Manual shall be used to evaluate pedestrian LOS for the intersections identified in the study area. The current methodology is based on geometric data, demand data, and signal control data including, but not limited to:
    - Number of lanes on the major street.
    - Crossing distance.
    - Traffic volumes.
    - Motorist yielding rates to pedestrians.
    - Cycle length.
    - Walk time.
    - Presence of pedestrian phase.
  - c. Bicycle operations analysis. The bicycle LOS at intersections identified in the study area shall be evaluated using locally accepted methodology. This current methodology assesses bicyclists' comfort based on geometric and traffic signal features including, but not limited to:
    - Number of lanes crossed.
    - Presence of conflicting turning movements.
    - Presence of bike lanes.



## Town of Blacksburg, SC – Zoning Ordinance - Article I

Under this methodology, intersection features are assigned points, where the LOS for each approach is calculated based on the accumulation of points for each geometric and traffic signal feature identified in the worksheet. Currently, this methodology does not consider demand volumes; therefore, the bicycle LOS would not differ between AM and PM peak hrs., and thus would not need to be reported for both under this methodology.

14. Queuing analysis. 95th percentile and simulation analysis of future year queues shall be consistent with SCDOT's current practices and published Capacity Analysis Guidelines, as applicable. Turn lanes and storage lengths for the major street (uncontrolled) approaches at unsignalized intersections shall be identified using volume thresholds published in the SCDOT's 2017 Roadway Design Manual (see Guidelines for Left- and Right-Turn Lanes Nomographs, section 9.5.1). Recommendations for left- and right-turn lanes serving the site shall be designed to account for both the SCDOT warrants described above and to meet future year capacity needs identified through the capacity analyses. For projects that include drive-through facilities, pick-up/drop-off areas, or entrance gates, a queuing analysis may be required by the Town to ensure that vehicle stacking will not adversely impact the public transportation system. The queuing analysis must be performed using accepted transportation engineering procedures approved by the Town. If a TIA is required for a new school site, the internal circulation and ingress/egress of the site shall be modeled using a "dummy signal" in the Synchro software as prescribed by NCDOT Municipal School Transportation Assistance (MSTA) department.
15. Crash analysis. A summary of crash data (type, number, and severity) for the most recent 3-yr period at each study location may be required. South Carolina Department of Public Safety reports will be requested by the Town's consultant and shall be included in the appendix of the TIA report if required. For locations with prevalent crash types and/or frequency, a discussion shall be included describing factors that may be contributing to the incidents. At a min, the proposed development features shall not contribute to factors potentially involved in the existing crash rates. If contributing factors are identified, recommendations to eliminate or mitigate these features shall be included.
16. Traffic signal warrants. Town staff and/or SCDOT may consider potential signal locations at the scoping meeting. However, traffic flow progression is of paramount importance when considering a new traffic signal location. A new traffic signal shall not cause an undesirable delay to the surrounding transportation system. Installation of a traffic signal at a new location shall be based on the application of warrant criteria contained in the most current edition of the Manual on Uniform Traffic Control Devices (MUTCD) and engineering judgment. Traffic signal warrants shall be included in the appendix of the TIA report. Additionally, spacing of traffic signals within the Town must adhere to SCDOT requirements. If a full signal warrant analysis is recommended in the TIA, then the consultant identified by the Town will perform the associated warrant analysis as an additional service if not performed as part of the TIA. The Town and/or SCDOT may decide to defer a signal warrant analysis until after the development has opened to allow use of actual turning movement counts at an intersection. As such, the TIA recommendations must clearly state that this analysis shall occur at a specified date following the opening of the development. The applicant shall provide a financial guarantee as outlined in TMA for the estimated cost of the signal warrant analysis and resulting signal prior to final approval of the TIA. The cost shall be established based on an engineer's estimate provided by the consultant identified by the Town.
17. Mitigation measure recommendations. This section of the TIA report shall provide a description of the study's findings regarding impacts of the proposed project on the existing and future transportation system and describe the location, nature, and extent of all mitigation measures recommended to the applicant to improve and/or maintain the future year background level-of-service (LOS) conditions through phasing and ultimate build-out of the project. This mitigation will be identified by measuring the impact between the future year background conditions and the future year build-out conditions. The applicant is required to mitigate transportation deficiencies caused solely by the projected impact



Town of Blacksburg, SC – Zoning Ordinance - Article I

of their proposed development, and not unacceptable background conditions or other deficiencies caused by offsite development within the defined study area.

The applicant shall be required to identify mitigation improvements to the transportation network if at least 1 of the following conditions exists when comparing the multimodal operations analyses of future year background conditions to future year build-out conditions:

- a. The total average delay at an intersection or individual approach increases by 25% or greater, while maintaining the same LOS,
b. The LOS degrades by at least 1 level,
c. Or the LOS does not meet the identified standard (as shown Table 5) in background conditions, and the proposed project shows a negative impact on the intersection or approach.

If the background LOS (intersection or approach) is inadequate, the applicant will be expected to mitigate only the impact caused by the proposed site. For

Table 5
Adopted LOS Standard
Intersection Type | LOS Threshold
Involving only collector or local streets | LOS C or better
Involving one or more or higher order streets | LOS D or better

example, if the background LOS of an intersection is LOS F with 85 seconds of delay, and the site traffic increases the delay to 95 seconds at LOS F, the applicant will be required to mitigate the added 10 seconds of delay, not the inadequate background delay. Town staff and SCDOT will review the recommendations in the unalterable version of the TIA and will have the ultimate determination in the scope of the required mitigation measures.

The applicant shall also be responsible for committed transportation improvements by approved offsite developments included in the background and build-out scenarios in the case that they are not completed prior to build-out of the proposed site, unless additional background and build-out analyses are performed without the approved offsite development traffic and associated committed improvements, and the analyses show that such committed improvements would not be caused by the proposed site.

A transportation mitigation agreement (TMA) may apply if there are mitigation requirements.

For multi-phase developments, the capacity analyses scenarios shall address the phasing of improvements for each phase of development. A narrative and table shall be prepared that summarizes the methodology and measured conditions at the intersections reported in LOS (LOS A-F) and average control delay for each intersection and approach.

A narrative and map shall also be prepared that describes and illustrates recommended improvements, by development phase, if necessary, for mitigating the projected impact of the proposed development.

- 18. Compliance with adopted transportation plans. All TIA reports must include a statement of compliance with plans, programs, and policies adopted by the Town of Blacksburg for maintaining a safe and efficient multi-modal transportation system.

PART IV
RENTAL HOUSING REGULATIONS

Sec. 4.1 Definitions.

Unless otherwise expressly stated, the following terms shall, for the purposes of this ordinance, have the meanings shown in this section. Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meaning such as the context implies. Citation means a charge or formal written



## Town of Blacksburg, SC – Zoning Ordinance - Article I

accusation of violation of a municipal, state or federal law, regulation or ordinance, including any violations of the International Property Maintenance Code as adopted by the Town of Blacksburg.

**Dwelling unit:** building or portion thereof, designed for occupancy for residential purposes and having individual cooking facilities and sanitary facilities for each leased space.

**Landlord:** any person who owns or controls a dwelling, dwelling unit, or rental unit and rents such unit, either personally or through a designated agent, to any person.

**Occupant:** a family as defined by the Town of Blacksburg Zoning Ordinance or an individual unrelated by blood to a second degree of consanguinity, marriage, adoption, or guardianship to any other occupant of the dwelling unit. A family of related persons shall be counted as one occupant.

**Offense:** any violation of local, state, or federal statutes or ordinances which results in a forfeiture of bond, plea of guilty, no contest, acceptance into pre-trial intervention, alcohol education program or a determination of guilt by a court or a jury. For purposes of this article, all violations for which charges are made during one response by law enforcement officers which result in a forfeiture of bond, acceptance into a pre-trial intervention program, alcohol education program, conviction, or a plea of guilty or no contest collectively shall be deemed one offense.

**Owner:** any person, firm or corporation having a legal or equitable title in the property; or recorded in the official records of the state, county or municipality as holding title.

**Owner-occupied rental unit:** a rental unit that is occupied in whole or in part by an individual whose name specifically appears on the deed for the property where the rental unit is located.

**Person:** any natural individual, firm, partnership, association, joint stock company, joint venture, public or Private Corporation or receiver, executor, personal representative, trust, trustee, conservator or other representative appointed by order of any court.

**Premises:** a lot, plot or parcel of land, including the buildings or structures thereon, which also includes dwelling units and dwellings.

**Professional Management Co.:** any company licensed by S.C. Department of Labor, Licensing and Regulation as a real estate broker or property manager and holding the appropriate current Town of Blacksburg Bus. License.

**Residential rental unit:** that portion of a dwelling for which payment or other consideration, including performance of general maintenance, payment of utilities or other fees, or similar in-kind services, is being made to an owner, agent, or manager for the use and occupancy of that portion as a living facility. For purposes of this article, the term "rental unit" is limited to single-household dwellings, townhouses, and multi-unit structures used for residential purposes. Whenever the words rental unit are stated in this Ordinance, they shall be construed as though they were followed by the words "or any part thereof". Exceptions shall be the following:

- 1) Dwellings occupied for residency for over 120 days by employees of that organization which are owned by a firm, corporation, religious organization or another incorporated organization;
- 2) Dwellings occupied by individuals who are under a written contract to purchase the residence after the contract has been reviewed for validity of purchase by the Town attorney and the Zoning administrator; or
- 3) Dwellings owned and operated by the U.S. of America, the State of S.C, or any agency thereof, including the Housing Authority of the Town of Blacksburg, or any institution of higher learning which operates housing for its faculty, staff or students.

**Responsible Local Representative:** a person having his or her place of residence or business office within 15 miles of the rental property and designated by the property owner as the agent responsible for operating such property in compliance with the ordinances adopted by the city. For the purposes of this article, the term "agent" shall refer to the Responsible Local Representative.

**Tenant:** any individual who has the temporary use and occupation of real property owned by another person in subordination to that other person's title and with that other person's consent; for ex: a person who rents or leases a dwelling, dwelling unit, or rental unit from a landlord.



**Townhouses:** dwelling units constructed in a series or group of attached units with property lines separating such units.

**Violation:** breach of law.

---

#### **Sec. 4.2 Rental permit required.**

- A. No owner, whether a person, firm or corporation, shall operate any residential rental unit as defined in [Sec. 4.1](#) unless that owner holds a current rental permit issued by the Town of Blacksburg for the residential rental unit named therein.
  - B. Before a rental permit can be granted owner or landlord shall certify that the subject property complies with the min code. This min standard shall be determined by the Town and available to all citizens upon request. If an owner or Responsible Local Representative is unsure if the property meets the minimum code, inspections by Town staff are available upon request.
  - C. Properties that fail to pass an inspection as outlined in this article within 30 days shall correct all defects noted on the inspection report and schedule a subsequent inspection of property.
  - D. Permits are not transferable from any owner to another.
  - E. The permitting year shall be for 12 months following the issuance of the permit.
  - F. Renewals of permits after 60 days of the expiration date will be assessed a late penalty fee of 5% of the unpaid fee per month.
  - G. If the permit fee is not paid after 120 days following the expiration of the permit and the property is occupied as a rental unit, then the Town of Blacksburg shall issue a uniform ordinance summons to the property owner for appearance in municipal court and charged with a violation of this article as provided in [Sec. 4.13](#).
  - H. The property owner will be susceptible to other code enforcement action depending upon the circumstance.
  - I. Each individual property requires a separate permit.
  - J. Professional management companies in good standing are exempt from the annual permit fee.
- 

#### **Sec. 4.3 Application.**

Application. Applications for a permit to operate residential rental units and for renewal thereof shall be on a form provided by the Town of Blacksburg. Such form shall set forth the owner's name, address, and telephone number, the residential rental unit address, the name of the person, firm, or corporation located within a 45-mile radius of the Town of Blacksburg responsible for the care and maintenance of the building and additional information as outlined on the application for rental housing. Multiple permits can be requested on one application when there are multiple units owned/managed by the same person or owner.

---

#### **Sec. 4.4 Issuance or refusal of rental permit.**

- A. The Town of Blacksburg shall issue a rental permit for rental housing to the applicant upon proof of the following: The property has either passed the rental housing inspection or the owner has submitted a certification the subject property complies with the min code; and,
  - B. All fees have been paid as required by [Sec. 4.15](#) of the rental housing ordinance.
- 

#### **Sec. 4.5 Property owner, responsible local representative, and occupant.**

- A. A permit will not be issued or renewed to a person, firm, or corporation who does not either reside in or have an office within a 15-mile radius of the Town of Blacksburg unless a Responsible Local Representative is designated. The Responsible Local Representative may be a Professional Management Company. The Zoning Administrator shall be notified in writing if there is a change of owner or Responsible Local Representative within 14 days of the change.





## Town of Blacksburg, SC – Zoning Ordinance - Article I

- B. Property owner, the person in charge, and occupants shall be liable for occupancy violations within rental residences of their control or in which they are located.
- C. For every residential rental unit, the owner or Responsible Local Representative shall be responsible for the repair and maintenance of the common areas of the dwelling and responding to service requests and emergency needs, including entry into units where an emergency appears to exist. Such person or persons shall be situated close enough to the dwelling as to be able to service tenant and emergency calls with reasonable dispatch. The owner shall advise the tenants individually of the names, addresses, and telephone numbers of such owner and/or Responsible Local Representative.

---

### **Sec. 4.6 Violations and assignment of violations.**

- A. For purposes of this section, violations shall include citations for any federal, state, or local ordinance.
- B. Violations; warnings; points. Rental units where there are citations, warnings of violation and/or adjudication of guilt, finding of guilt with adjudication withheld, waiver of right to contest the violation, or pleas of no contest (including, but not limited to, payment of fine) of the following Town Ordinances:
  - 1. Nuisance ordinances;
  - 2. Animal control ordinances;
  - 3. Solid waste ordinances;
  - 4. Zoning Ordinances;
  - 5. International Property Maintenance Code;
  - 6. Law Enforcement; or
  - 7. Licenses, Permits and Miscellaneous Business Regulations.
- C. Violations shall apply as points towards revocation of the rental permit for residential rental units as follows:
  - 1. Single-household dwellings and townhouses. Violations that occur anywhere on the premises shall apply to the permitted dwelling unit.
  - 2. Multi-unit structures.
    - a. Violations that occur within an individual unit shall apply to that unit.
    - b. Violations occurring outside of the units shall be assigned to the unit responsible as determined by the investigating party for the offense.
    - c. Violations committed by the property owner and/or Responsible Local Representative shall be assigned to all units.
    - d. In the event a citation or violation takes place at a unit regulated by this article, such citation shall be grounds for the accumulation of points as follows:
      - 1. For one or more written warnings given in any 24-hour period for violation of one or more of the ordinances listed above, points will be assessed on the landlord permit for that unit in accordance with this section:
        - a. 1<sup>st</sup> Offense – 1 point will be assessed for the first occurrence of citation, violation or offense.
        - b. 2<sup>nd</sup> Offense – 2 points will be assessed for a second occurrence of the same citation, violation or offense within the same permit year.
        - c. 3<sup>rd</sup> Offense or Each Offense Thereafter – 5 points will be assessed for a 3<sup>rd</sup> occurrence and each occurrence thereafter of the same citation, violation or offense within the same permit year.
        - d. Serious Offense – 10 points will be assessed for any serious violation or offense that could result in serious bodily injury or death to occupants as determined by the Chief of Police.
  - 2. After points are assessed on a landlord permit for a unit, the Police Chief or designee will send a written warning to the owner or agent. Each warning will specify which ordinance or ordinances have been violated and will state that further warnings or violations could lead to a revocation of the permit. Each warning will be sent by regular mail to the address of the owner or agent, as identified on the permit application, as well as a copy of the warning mailed to the property address of the subject property.



## Town of Blacksburg, SC – Zoning Ordinance - Article I

3. A fee of \$100 will be assessed per point for each point accumulated beyond 5 points due upon any renewal of the permit.
4. If a person is found not guilty, or the case against them for a violation is dismissed, then the point shall be removed from the permit as if it had not been assessed.

### **Sec. 4.7 Revocation of permit.**

- A. Accumulation of 15 or more points on a permit for a dwelling unit within 12 months shall constitute subject the owner to proceedings to revoke the permit.
- B. Upon the accumulation of 15 or more points or failure to comply with the requirements of this article, the following procedure shall be followed:
  1. The police chief or designee shall cause to be served written notice to show cause why the permit should not be revoked. Service shall be deemed complete if personally delivered upon the owner or agent by any officer authorized by law to serve process or a duly appointed law enforcement officer of the Town police department. The person serving process shall make proof of service within the time during which the person served must respond to the process. If service cannot be personally made within the Town, then service may be made by notice posted on the property and mailed certified return receipt to the last known address of record.
  2. The owner or agent shall have 15 days from the date of service to request a hearing to appeal the revocation of the permit. The request shall be sent to the police chief by certified mail, return receipt requested. If such request is not timely made, the revocation shall take effect on the 21st day after the date of service to show cause.
  3. Upon request for a hearing, the police chief or designee is authorized to schedule the appeal with the Property Maintenance Board of Appeals (PMBoA) at the next regularly scheduled meeting or special called meeting by the Board.
  4. Once the hearing is scheduled, the property should be posted to announce the hearing date to the general public.
  5. In conducting the hearing, the PMBoA shall have the power to administer oaths, issue subpoenas, compel the production of books, paper, and other documents, and receive evidence. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the PMBoA's recommended order, and to be represented by counsel or other qualified representative. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The lack of actual knowledge of, acquiescence to, participation in, or responsibility for, a public nuisance at common law or a noxious use of private property on the part of the owner or agent shall not be a defense by such owner or agent.
  6. If the PMBoA finds that the accumulation of 15 or more points and the existence of a public nuisance at common law or noxious use of private property exist, then PMBoA shall prepare a recommended order.
  7. If the PMBoA finds no public nuisance at common law or noxious use of private property exists, or that the owner has recovered possession of the dwelling unit, the PMBoA will prepare a recommended order to dismiss the revocation action and recommend which points, if any, should be rescinded from the permit based upon the actions taken by the landlord to seek compliance with the city's ordinances.
  8. The PMBoA's recommended order shall consist of findings of fact, conclusions of law and recommended relief. The police chief or designee shall transmit the recommended order to the Town Administrator and the owner or agent. The owner or agent shall have 15 days from the date of the hearing officer's order to submit written exceptions to the PMBoA's recommended order. The Town



## Town of Blacksburg, SC – Zoning Ordinance - Article I

- Administrator shall review such order and any written exceptions by the owner and may set forth any deficiencies he/she finds with respect to the order. Said deficiencies shall be limited to determinations that the findings were not based upon competent, substantial evidence, or that the proceedings on which the findings were based did not comply with the essential requirements of law. In reviewing such recommended order, the Town Administrator shall not have the power to receive or consider additional evidence and shall not have the power to reject or modify the findings of fact or conclusions of law contained in the recommended order. The Town Administrator may remand the recommended order along with the delineated deficiencies back to the PMBoA for consideration of the deficiencies. The PMBoA shall address the deficiencies in an addendum to the recommended order. The Town Administrator shall then either: (a) adopt the recommended order and addendum, if applicable, in its entirety; or (b) adopt the findings of fact and conclusions of law in the recommended order and addendum, if applicable, and reject or modify the recommended relief. The action of the Town Administrator shall be the final order of the Town.
9. The Town Administrator or designee shall provide notice of the final order within 5 days of the date of the final order.
  10. If the permit is revoked under these procedures, the owner or agent shall have 5 days from the date of the final order to commence recovering possession of the rental unit. If the tenants do not voluntarily agree to vacate the premises, the owner or agent shall diligently pursue the process of eviction to completion. The owner or agent shall provide copies of all documents provided to the tenants or filed with the court concerning the eviction process to the city manager or designee. If the owner collects any rent from the tenants following the revocation of the permit, fails to comply with these provisions, or fails to abide with the final order of the Town, the Town may seek criminal relief by citing the owner for violation of [Sec. 4.2](#) (rental permit required), or seek other available legal or equitable relief.
  11. In addition to the above-described procedures, the Town attorney is authorized to file for injunctive relief to abate the public nuisance at common law or noxious use of private property pursuant to law.
  12. The final order of the Town is subject to certiorari review in a court of competent jurisdiction in Cherokee County, South Carolina.

---

### **Sec. 4.8 Effect of revocation.**

Upon the commencement of revocation, no permit shall be granted nor any lease approved and no person, firm or corporation shall operate or rent/lease to another for residential occupancy any dwelling unit or rooming unit during such time that the rental housing permit for such unit is revoked; however any residential tenants under a lease in existence at the time of the commencement of revocation shall have all of the rights afforded to them under applicable state law.

---

### **Sec. 4.9 Notification exemption.**

Residential rental properties are exempt from the notification requirements, as given in the codes, when they have not obtained a valid permit for rental housing as required by this article. Properties operating without a valid rental permit shall receive one written warning and 20 working days to comply. If an owner is convicted of a violation of [Sec. 4.2](#) of the Town of Blacksburg Code of Ordinances, the property shall not be eligible for a rental housing permit for a period of 6 months after the conviction.

---

### **Sec. 4.10 Defenses.**

- A. When tenants are guilty of offenses resulting in a revocation notice, the property owner may request a suspension of revocation proceedings by providing written evidence of the initiation of eviction proceedings against the culpable tenants. If the tenants are evicted, the property owner may request termination of the revocation proceedings. If revocation has been suspended but the tenants are not evicted, revocation



## Town of Blacksburg, SC – Zoning Ordinance - Article I

proceedings will be reinstated by the Town. A remediation plan, as outlined in [Sec. 4.17](#), which addresses any future problems with the tenants, will also have the same effect as initiating eviction proceedings.

- B. If the permit accumulates points which are solely caused by the behavior of a tenant, the Landlord or permit holder may apply for removal of those tenant-related points at the conclusion of eviction proceedings which result in the eviction of those tenants or upon proof that the tenants have vacated the property. If the Town, by and through the Chief of Police, or his designee, agrees to remove the points after the Landlord or permit holder presents a valid order of eviction of those tenants, the points shall be removed as if never assessed. If the Chief of Police, or his designee, does not agree to remove those points from the permit as tenant related, then the Landlord or permit holder may apply for a review by the Town Administrator.

---

### **Sec. 4.11 Operating without a permit is a public nuisance. If a person operates as a landlord without a rental permit as set forth in this section, such shall constitute a public nuisance.**

---

### **Sec. 4.12 Inspections and complaints.**

- A. Inspections. By applying for a permit, the owner agrees to allow inspection of the unit for violations of this article, as well as violations of the International Property Maintenance Code at any reasonable time; however, this provision shall not be interpreted as authorizing the Town to conduct an inspection of an occupied rental unit without obtaining either the consent of an occupant or a warrant.
- B. Complaints. Each complainant shall be requested to state his/her name and addresses and give a statement of the facts giving rise to the complainant's belief that the provisions of this article are being violated. Such information may be obtained orally or in writing. A complainant may be subpoenaed to appear in a revocation or denial proceeding to provide evidence or testimony.

---

### **Sec. 4.13 Offenses.**

Any person violating any provision of this article shall be deemed guilty of a misdemeanor offense and shall be subject to the penalties. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for this article.

---

### **Sec. 4.14 Denial of permit.**

- A. The police chief or designee may deny issuance of any permits applied for under this section if it is determined either that the owner or agent has made material misrepresentations about the condition of his/her property or status of ownership, or that the occupancy of the property is in violation of the International Property Maintenance Code or Town Ordinances or that the owner has otherwise violated a provision of this article.
- B. If the police chief or designee determines there is reasonable cause to believe that there are grounds to deny a permit applied for the police chief or designee shall provide notice of the denial, including the grounds for the denial.
- C. Within 15 days of the date of the notice, the owner may request in writing to the police chief a hearing on the denial. The police chief or designee shall schedule the hearing to occur within 15 days after receiving the request for hearing and shall notify the owner at least 5 days in advance of the time and location for the hearing. The hearing may be postponed if mutually agreed upon by the police chief and the owner.
- D. The hearing shall be conducted informally and adherence to the rules of evidence normally followed by the courts shall not be required. Any person may present testimony, documents or other evidence as deemed relevant by the Town Administrator or designee. Any person may be represented by counsel.
- E. The police chief or designee shall consider all evidence presented, and if the preponderance of the evidence supports the allegation of violation the permit shall be denied. If the preponderance of the evidence does not support the allegation of violation, the permit shall be issued. The decision of the police



## Town of Blacksburg, SC – Zoning Ordinance - Article I

---

chief or designee may be appealed by a writ of certiorari to a court of competent jurisdiction in Cherokee County, South Carolina.

- F. The police chief or designee may waive the denial requirement as to any permit if it is determined that the owner has attempted in good faith to comply with this article. In determining asserted good faith as required for a waiver, the police chief or designee may consider, but not be limited to, the owner response to current violations and remedy of past violations.
  - G. If a permit is denied under this section, the owner whose permit was denied shall not be issued another permit on the same dwelling unit for a period of 6 months after the date of denial.
- 

### **Sec. 4.15 Permit fee.**

- A. The annual permit fee shall be \$25.00 for each permit, unless: (1) the applicant is a professional management company applying on behalf of an owner as a Responsible Local Party; or (2) the applicant is licensed by the Town of Blacksburg through the Business License Office to conduct the business of being a Landlord.
  - B. Upon determination that a rental property owner has failed to obtain a rental housing permit, a permit fee shall be assessed at \$400.00 for each year the unpermitted occupancy has occurred.
  - C. An inspection fee of \$50.00 shall be included in the permit fee for properties that fail to pass inspection after the second inspection.
  - D. All required fees shall be paid before a rental permit is issued, including any past due fees assessed for work abated by The Town.
- 

### **Sec. 4.16 Severability.**

The provisions of this article are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts, or provisions of this article. It is hereby declared that the intent of the council is that this article would have been adopted as if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

---

### **Sec. 4.17 Remediation plan.**

Whenever points are assessed to a permit, the responsible party may establish a remediation plan with the Town that outlines actions to be taken to remedy the violation of Town Ordinances. The plan must be approved by the Police Chief or his designee and include a timeline for implementation. Once the remediation plan is approved, the points against the permit will be suspended during the term of the remediation. When the remediation is completed successfully as agreed the points assessed prior to remediation will be removed. If the permit holder fails to adhere to the remediation plan, the plan will be withdrawn by the Town and the points will be re-assessed.

---

### **Sec. 4.18 Existing rights unaffected.**

Nothing contained in this section is intended to affect the rights and responsibilities of property owners or tenants under the law of the United States of America or the State of South Carolina as outlined by the SC Landlord Tenant Act, the Americans with Disabilities Act, the Violence Against Women Act, the Fair Housing Act or any other provision of Federal or State law regulating housing.

---



---

---

## PART V SEXUALLY ORIENTED BUSINESSES

---

---

### Sec. 5.1 Purpose and intent

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

---

### Sec. 5.2 Definitions.

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

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

1. Books, magazines, periodical or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or described "specified sexual activities" or "specified anatomical areas"; or
2. Instruments, devices, or paraphernalia which are designated for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others; or
3. Instruments, devices, or paraphernalia which are designated for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified anatomical areas" and still be categorized as adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes in the offering for sale or rental for consideration the specified materials which depict or described "specified sexual activities" or "specified anatomical areas".

An establishment will not be considered an adult bookstore or adult video store if the establishment demonstrates that the items of adult material offered for sale or rental comprise less than 10% of the inventory of stock used in trade and/or publicly displayed in the establishment and which are not accessible to minors.

Adult cabaret. A nightclub, bar, restaurant, "bottle club", or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

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

Adult car wash. A car wash where some or all of the employees are seminude or nude and/or where "specified anatomical areas" are exhibited.



## Town of Blacksburg, SC – Zoning Ordinance - Article I

**Adult health club or adult bath house.** A health club or bath house where some or all of the employees are nude or seminude, or in which "specified anatomical areas" are exhibited.

**Adult motel.** A hotel, motel or similar commercial establishment which:

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

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

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

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

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

**Escort agency.** A person or business association who furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**Establishment.** An establishment means and includes any of the following:

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

**Massage parlor.** Any place where, for any form of consideration of gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented business shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional, or professional athlete or athletic team or school athletic program.

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

**Nudity or state of nudity.** A state of dress which fails to cover the human buttocks opaquely and fully, anus, male or female genitals, pubic region or areola or nipple of the female breast.

**Operator.** The owner, permit holder, custodian, manager, operator, or person in charge of any permitted or licensed premises.



## Town of Blacksburg, SC – Zoning Ordinance - Article I

**Permitted or licensed premises.** Any premises that requires a license and/or permit and that is classified as a sexually oriented business.

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

**Person.** An individual, proprietorship, partnership, corporation, association, or other legal entity.

**Public building.** Any building owned, leased, or held by the United States, the state, the county, the town, any special district, the school district, or any other agency or political subdivision of the state of the United States, which building is used for governmental purposes.

**Public park or recreation area.** Public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the town which is under the control, operation, or management of the town or county park and recreation authorities.

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

**Residential district or use.** A single-family, duplex, townhouse, multifamily, or mobile home park, or subdivision, or campground as defined in the Official Zoning Ordinance of the Town of Blacksburg, South Carolina.

**School.** Any public or private educational facility including but not limited to child day care facilities, nursery schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds but does not include the facilities used primarily for other purposes and only incidentally as a school.

**Seminude.** A state of dress in which in which clothing covers no more than the genitals, pubic regions, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

**Sexual encounter establishment.** A business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity of seminude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

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

**Specified anatomical areas.** Specified anatomical areas as used in this chapter means and includes any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
- B. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

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

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated;
- C. Masturbation, actual or simulated;
- D. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- E. Excretory functions as part of or in connection with any of the activities set forth above.

**Substantial enlargement of a sexually oriented business.** The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on May 26, 1998.





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

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

---

### **Sec. 5.3 Classification.**

Sexually oriented businesses are classified as follows:

- Adult arcades;
- Adult bookstores or adult video stores;
- Adult cabarets;
- Adult motels;
- Adult motion picture theaters;
- Adult theaters;
- Adult car washes;
- Adult health clubs or adult bath houses;
- Escort agencies;
- Massage parlors;
- Nude model studios; and
- Sexual encounter centers.

---

### **Sec. 5.4 Permit and/or license required.**

- A. A person commits a misdemeanor if he operates a sexually oriented business without a valid permit and/or license issued by the town for the particular type of business.
- B. The town manager or his/her designees is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses. The town manager or his/her designees is also responsible for ascertaining whether a proposed sexually oriented business for which a permit is being applied for complies with all locational requirements of [Sec. 5.6](#) and [Sec. 5.15](#) of this article, all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this article in the town.
- C. The permit and/or license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit and/or license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- D. The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit and/or license.

---

### **Sec. 5.5 Procedures for application and review of permits and/or licenses.**

- A. An application for a permit and/or license must be made on a form provided by the town codes enforcement department. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.



## Town of Blacksburg, SC – Zoning Ordinance - Article I

- B. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the health department, fire department, and building official shall complete their inspections and certify same to the building official within 21 days of receipt of the application by the code enforcement department.
- C. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit and/or license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has ten percent or greater interest in the business must sign the application for a permit and/or license as applicant.
- D. The police department is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time period set forth.
- E. The town's code enforcement office is responsible for inspecting a proposed, permitted, or nonpermitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.
- F. Upon receipt of an application properly filed with the town and upon payment of the nonrefundable application fee, the town manager or his/her designee, shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the police department and any other town agencies responsible for enforcement of health, fire and building codes and laws. Each department or agency shall promptly investigate the applicant, application, and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this article. Said investigation shall be completed within 20 days of receipt of the application by the town or its designee. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons therefor. The police department shall only be required to certify the NCIC records request check mentioned at [Sec. 5.6](#). The police department shall not be required to approve or disapprove applications.
- G. A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the town. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the town manager or his/her designee.

---

### **Sec. 5.6 Issuance of permit and/or license.**

- A. The town manager or his/her designee shall approve the issuance of a permit and/or license to an applicant within 30 days after receipt of an application unless he finds one or more of the following to be true:
  - 1. An applicant is under 18 years of age.
  - 2. An applicant or an applicant's spouse is overdue in his payment to the town of taxes, fees, fines, or penalties assessed against him or imposed upon him in relations to a **sexually oriented business**.
  - 3. An applicant has failed to provide information reasonably necessary for issuance of the permit and/or license or has falsely answered a question or request for information on the applicant form.
  - 4. An applicant is residing with a person who has been denied a permit and/or license by the town to operate a **sexually oriented business** within the preceding 12 months, or residing with a person whose license to operate a **sexually oriented business** has been revoked within the preceding 12 months.
  - 5. The premises to be used for the **sexually oriented business** have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
  - 6. The granting of the application would violate a statute, ordinance, or court order.
  - 7. The application has a permit under this article which has been suspended or revoked.
  - 8. An applicant has been convicted of a "specified criminal" act for which:



## Town of Blacksburg, SC – Zoning Ordinance - Article I

---

9. Less than 2 years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering or tax violation;
10. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;
11. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses for "specified criminal" acts which are sexual acts against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations; offenses occurring within any 24-month period;
12. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;
13. An applicant who has been convicted of the above described "specified criminal acts" may qualify for sexually oriented business permit only when the time period required above in [Sec. 5.6.A.8](#) has elapsed.
14. An applicant knowingly had in his or her employ, an employee who does not have a valid license as required in [Sec. 5.14](#) of this article.
15. The permit and/or license fee required by this article has not been paid.
16. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.
17. If the town manager or his/her designee, denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial.
18. If a person applies for a permit for a particular location within a period of 12 months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

---

### **Sec. 5.7 Fees.**

The annual fee for a sexually oriented business permit and/or license is \$50.00.

---

### **Sec. 5.8 Inspection.**

- A. An applicant or permittee and/or licensee shall permit representatives of the police department, health department, fire department, codes enforcement department, or other town departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
  - B. A person who operated a sexually oriented business for his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.
-



---

**Sec. 5.9 Expiration of permit and/or license.**

- A. Each permit and/or license shall expire one year from the date of issuance and may be renewed only by making application as provided in [Sec. 5.44](#). Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the permit and/or license will not be affected.
- B. When the building official denies renewal of a license, the applicant shall not be issued a permit and/or license for one year from the date of denial. If, subsequent to denial, the building official finds that the basis for denial of the renewal permit and/or license has been correct or abated, the applicant may be granted a permit and/or license if at least 90 days have elapsed since the date denial became final.

---

**Sec. 5.10 Suspension.**

- A. The town manager or his/her designee shall suspend a permit and/or licensee for a period not to exceed 30 days if he/she determines that a permittee and/or license or an employee of a permittee and/or licensee has:
  - B. Violated or is not in compliance with any section of this article; or
  - C. Been under the influence of alcoholic beverages while working in the sexually oriented business premises; or
  - D. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter; or
  - E. Knowingly permitted gambling by any person on the sexually oriented business premises; or
  - F. Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance, or regulation, whether federal, state, or local, said determination being based on investigation by the division, department, or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance, or regulation violation, the town or its designee, shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven-day period, the town or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension; or
  - G. Engaged in permit transfer contrary to [Sec. 5.13](#) of this article. In the event that the town or its designee, suspends a permit on the ground that a permit transfer contrary to [Sec. 5.13](#) of this article, the town manager or his/her designee shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this article has been satisfied.
  - H. Operated the sexually-oriented business in violation of the hours of operation [Sec. 5.19](#).
  - I. Knowingly employs a person who does not have a valid license as required in [Sec. 5.14](#) of this article.
- J. The suspension shall remain in effect until the violation of the statute, code, ordinance, or regulation in question has been corrected.

---

**Sec. 5-11 Revocation.**

- A. The town manager or his/her designee shall revoke a permit and/or license if a cause of suspension in section 8-146 occurs and the permit and/or license has been suspended within the preceding 12 months.
- B. The town manager or his/her designee shall revoke a permit and/or license if he determines that:
- C. A permittee and/or licensee gave false or misleading information in the material submitted to the code enforcement department during the application process; or
- D. A permittee and/or licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises; or
- E. A permittee and/or licensee or an employee has knowingly allowed prostitution on the premises.



- F. A permittee and/or licensee or an employee knowingly operated the **sexually oriented business** during a period of time when the permittee's and/or licensee's permit and/or license was suspended.
- G. A permittee has been convicted of a "specified criminal act" for which the time period required in section 8-146 of this article has not elapsed; or
- H. On two or more occasions within a twelve-month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the **sexually oriented business** at the time the offenses were committed. The fact a conviction is being appealed shall have no effect on the revocation of the permit; or
- I. A permittee has been operating more than one **sexually oriented business** under a single roof; or
- J. A permittee and/or licensee or an employee has knowingly allowed any act of **sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct** to occur in or on the permitted and/or licensed premises; or
- K. A permittee and/or licensee is delinquent in payment to the county or state for any taxes for fees past due.
- L. When the town manager or his/her designee revokes a permit and/or license, the revocation shall continue for one year, and the permittee and/or licensee shall not be issued a **sexually oriented permit and/or license** for one year from the date revocation became effective. If, subsequent to revocation the town manager or his/her designee filed that the basis for the revocation has been corrected or abated, the applicant may be granted a permit and/or license if at least 90 days have elapsed since the date the revocation became effective.

---

**Sec. 5.12 Judicial review of permit denial, suspension, or revocation.**

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek prompt review of such administrative action through the zoning board of appeals. The request for such review shall be filed within 30 days of the date of the ruling from which the appeal is taken. If the denial, suspension, or revocation is affirmed upon review, the administrative action shall be promptly reviewed by the court.

---

**Sec. 5.13 Transfer of permit and/or license.**

- A. A permittee and/or licensee shall not transfer his permit and/or license to another, nor shall a permittee and/or licensee operate a **sexually oriented business** under the authority of a permit and/or license, at any place other than the address designated in the application.
- B. A permittee shall not transfer his/her permit to another person unless and until such other person satisfies the following requirements:
  - 1. Obtains an amendment to the permit from the town manager or his/her designee, which provides that he/she is not the permittee, which amendment may be obtained only, if he/she has completed and properly filed an application with the town manager or his/her designee, setting forth the information called for under [Sec. 5.6](#) of this article in the application; and
  - 2. Pays a transfer fee of 20 percent of the annual permit fee set by this article.
- C. No permit may be transferred when the town manager or his/her designee has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.
- D. A permittee shall not transfer his/her permit to another location.
- E. A permittee shall not transfer a permit either directly or indirectly in violation of this section is hereby declared void and the permit shall be deemed revoked.



**Sec. 5.14 Sexually oriented business employee license.**

- A. Each individual to be employed in a sexually oriented business, as defined in [Sec. 5.2](#) of this article, who engages in the services rendered by a nude model studio, escort or escort agency, sexual encounter establishment, massage parlor, or a live performer or entertainer shall be required to obtain a sexually oriented business employee license. Each applicant shall pay a permit fee of \$25.00. Said fee is to cover reasonable administrative costs of the licensing application process.
- B. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the town manager or his/her designee the following information:
  - 1. The applicant's name or any other names (including "stage" names) or aliases used by the individual.
  - 2. Age, date, and place of birth;
  - 3. Height, weight, hair, and eye color;
  - 4. Present residence address and telephone number;
  - 5. Present business address and telephone number;
  - 6. State driver's license or identification number;
  - 7. Social Security number; and
  - 8. Acceptable written proof that the individual is at least 18 years of age.
  - 9. Attached to the application form as provided above, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
  - 10. A statement detailing the license or permit history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, town, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
  - 11. Whether the applicant has been convicted of a "specified criminal act" as defined in [Sec. 5.6](#) of this article. This information shall include date, place, nature of each conviction or plea of nolo contendere and identifying the convicting jurisdiction.
  - 12. The town manager or his/her designee shall refer the sexually oriented business employee license application to the police department for an investigation to be made of such information as is contained on the application. The application process shall be completed within ten days from the date the completed application is filed. After the investigation, the town manager or his or her designee shall issue a license unless the report from the sheriff's department finds that one or more of the following findings is true:
    - a) That the applicant has knowingly made any false, misleading, or fraudulent statement of a material facts in the application for a license, or in any report or record required to be filed with the police department or other department of the town;
    - b) That the applicant is under 18 years of age;
    - c) That the applicant has been convicted of a "specified criminal act" as defined in [Sec. 5.6.A.8](#) of this article.
    - d) That the sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this article;
    - e) That the applicant has had a sexually oriented business employee license revoked by the town within town two years of the date of the current application.



- C. A license granted pursuant to this section shall be subject to annual to annual renewal by the town manager or his/her designee upon the written application of the applicant and a finding by the town manager or his/her designee and the police department that the applicant has not been convicted of any "specified criminal act" as define in [Sec. 5.6.A.8](#) if this article or committed any act during the existence of the previous license period which would be grounds to deny the initial shall be subject to payment of a fee as set by a resolution of the town council.

---

**Sec. 5.15 Location of sexually oriented businesses.**

- A. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business outside of a designated general industrial (GI) district. All sexually oriented businesses shall be located within a GI district.
- B. A person who commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 500 ft of:
1. Any religious institution;
  2. Any school;
  3. The boundary of any residential district;
  4. A public park or recreation area;
  5. A youth activity center; or
  6. The property line of a lot devoted to residential use.
- C. A person commits a misdemeanor if he causes or permits the operation, establishment, substantial enlargement, or transfer or ownership or control of a sexually oriented business within 500 ft of another sexually oriented business.
- D. For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, residential lot, or day care facility.
- E. The person commits a misdemeanor, if he operates or causes to be operated as sexually oriented business except as provided for in this section.
- F. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 500 ft of another such business, which will include, any adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment, except as provided in subsection (g) of this section.
- G. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, of a church, public or private elementary or secondary school, day care center, public park, residential district, or residential lot within 500 ft of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license has expired or has been revoked.

---

**Sec. 5.16 Additional regulations for adult motels.**

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.
- B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented permit and/or license, he rents or sub-



rents a sleeping room to a person and, within ten hours from the time the room is rented, he rents or sub-rents the same sleeping room again.

- C. For purposes of subsection (b) of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

---

**Sec. 5.17 Regulations pertaining to exhibition of sexually explicit films or videos.**

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





## Town of Blacksburg, SC – Zoning Ordinance - Article I

9. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above, is maintained at all times that any patron is present in the premises.
- B. A person having a duty under subsections (1) through (9) of subsection (a) above commits a misdemeanor if he knowingly fails to fulfill that duty.

---

### **Sec. 5.18 Prohibitions regarding minors and sexually oriented businesses.**

A person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article, and knowingly or with reasonable cause to know, permit, suffer, or allow:

- A. Admittance of a person under 18 years of age to the business premises unless accompanied by a parent or guardian;
- B. A person under 18 years of age to remain at the business premises unless accompanied by a parent or guardian.
- C. A person under 18 years of age to purchase goods or services at the business premises without the specific consent of a parent or guardian; or
- D. A person who is under 18 years of age to work at the business premises as an employee.

---

### **Sec. 5.19 Advertising and lighting regulations.**

- A. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article and advertises the presentation of any applicable state statute or local ordinance.
- B. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article and displays or otherwise exhibits the materials and/or performances at such sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.
- C. The permittee shall not allow any portion of the interior premises to be visible from outside the premises.
- D. All off-street parking areas shall be located in front of the building for safety reasons. All off-street parking and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1.0) footcandle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.
- E. Nothing contained in this section shall relieve the operator(s) of a sexually oriented business from complying with the requirements of the Official Zoning Ordinance of the Town of Fort Mill, South Carolina, commonly known as the Sexually Oriented Business Ordinance, as it may be amended from time to time, or any subsequently enacted town ordinances or regulations.

---

### **Sec. 5.20 Hours of operation.**

- A. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article, and allows such business to remain open for business, or to permit any employee to engage in



## Town of Blacksburg, SC – Zoning Ordinance - Article I

a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 1:00 a.m. and 9:00 a.m. of any particular day and between 12:01 a.m. Sunday and 9:00 a.m. Monday.

- B. It shall be unlawful and a person commits a misdemeanor if, working as an employee of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article, said employee engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service or solicits a service between the hours of 1:00 a.m. and 9:00 a.m. of any particular day and between 12:01 a.m. Sunday and 9:00 a.m. Monday.

---

### **Sec. 5.21 Nudity at sexually oriented businesses.**

- A. The United States Supreme Court decision in *Barnes v. Glen Theater, Inc.*, 501 U.S. 560, 111 (1991) which upheld the rights of cities to prohibit live public exposure of a person(s) private parts, specifically applies to sexually oriented businesses (regardless of whether or not a permit has been issued to said business under this article) where no alcoholic beverages are sold, served, or consumed at the premises.
- B. Public nudity is prohibited within the town, including any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its permit suspended pursuant to the provisions of [Sec. 5.10](#)

---

### **Sec. 5.22 Regulations pertaining to live entertainment.**

- A. For purposes of this section, "live entertainment" is defined as a person who appears nude, seminude, or a performance which is characterized by the exposure of "specified sexual activities".
- B. No person shall perform live entertainment for patron(s) of a sexually oriented business established except upon a stage of a least 18 inches above the level of the floor which is separated by a distance of at least ten feet from the nearest area occupied by a performer.
- C. The sexually oriented business establishment shall provide access for performers between the stage and the dressing room facilities for female and male performers which shall not be occupied or used in any way by anyone other than performers.
- D. The sexually oriented business establishment shall provide access for performers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the establishment shall provide a minimum 4-ft wide walk aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers which prevents any physical contact between patrons and performers.
- E. No entertainer, either before, during, or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during, or after a performance. This subsection shall only apply to physical contact while in or on the premises of the establishment.
- F. Fixed rail(s) at least 30 inches in height shall be maintained establishing the separations between performers and patrons required by this section.
- G. No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and a performer shall solicit any gratuity from any patron.
- H. No operator of a sexually oriented business established shall cause or allow a performer to contract or engage in any entertainment such as a "couch" or a "straddle" dance with a patron while in or on the establishment premises. No performer shall contract to or engage in a "couch" or "straddle" dance with patron while in or on the establishment premises. For purposes of this subsection, "couch" or "straddle" dance is defined as a employee of the establishment intentionally touching or coming within ten feet of any



## Town of Blacksburg, SC – Zoning Ordinance - Article I

patron while engaged in the display or exposure of any "specified anatomical area", or any "specified sexual activity". For purposes of this subsection, employee is defined as it is in [Sec. 4.1](#).

- I. This section shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bar tender, comes within ten feet of a patron. No employee shall engage in any "specified anatomical area" while acting as a waiter, waitress, host, hostess or bartender.
- J. Compliance with this section:
  1. For purposes of this section, establishment is defined as it is in [Sec. 4.1](#) of this article. No establishment shall be in compliance with this section until the town's designated agent(s) have inspected and approved of the establishment's compliance. The town shall have ten days from the date it received written notice from the operator that the establishment is ready for inspection to approve to disapprove of compliance required by this section. Failure to approve or disapprove within ten days shall constitute a finding of compliance under this section.
  2. The operator of an establishment, that has been providing live entertainment under a valid sexually oriented business permit, shall have the time periods listed below in which to bring the establishment into compliance with this section. Failure to do so while continuing to provide live entertainment shall cause the establishment's permit to be suspended under [Sec. 4.1](#) of this article. The permit shall remain suspended until the establishment is approved by the town's designated agent(s) as being in full compliance with this section.
  3. The operator of establishment, that has been operating under a valid permit for another classification of sexually oriented business and who wishes to provide live entertainment at that establishment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided at that establishment. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this section and all other applicable requirements of this article.
  4. The applicant for a permit to operate a new establishment, who wishes to provide live entertainment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this section and all other applicable requirements of this article.

---

### **[Sec. 5.23](#) Additional criminal prohibitions for the operation of sexually oriented business without a valid permit.**

- A. In addition to the criminal provisions found at other sections of this article, the following additional criminal provisions shall also apply to sexually oriented business.
- B. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article, and said person knows or should know that:
  1. The business does not have a sexually oriented business permit under this article for any applicable classification; or
  2. The business has a permit which is under suspension; or
  3. The business has a permit which has been revoked; or
  4. The business has a permit which has expired.

---

### **[Sec. 5.24](#) Exemptions.**

- A. It is defense to prosecution under [Sec. 5.6](#) and [Sec. 5.15](#) that a person appearing in a state of nudity did so in a modeling or dance class or dance troupe operated or wholly sponsored:



1. By a proprietary school, licensed by the State of South Carolina, a college, junior college, or university supported entirely or partly by taxation;
2. by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. In a structure:
  - a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - b) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and
  - c) Where no more than one nude model is on the premises at any one time.
  - d) It is a defense to prosecution for a violation of this article that an employee of a sexually oriented business, regardless of whether or not is permitted under this article, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

---

**Sec. 5.25 Criminal penalties and additional legal, equitable, and injunctive relief.**

- A. A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license or in violation of [Sec. 5.5](#) of this article is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of \$500.00 or 30 days imprisonment.
  - B. In addition to whatever penalties are applicable under the South Carolina Penal Code, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this article, such person upon conviction of such offense, shall be guilty a misdemeanor and shall be punished by a fine not exceed \$500.00 or by imprisonment not to exceed 30 days in jail, or both, in the discretion of the court. Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation or noncompliance shall be considered as a separate offense.
  - C. Nothing herein contained shall prevent or restrict the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include, but not be limited to, an equitable action for injunctive relief or an action at law for damages.
  - D. Further, nothing in this section shall be construed to prohibit the town from prosecuting any violation of this article by means of the town's code enforcement division.
  - E. All remedies and penalties provided for in this section shall be cumulative and independently available to the town and the town shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.
-