

CHAPTER 1 | INTRODUCTORY PROVISIONS

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CHAPTER 1 | INTRODUCTORY PROVISIONS

ARTICLE 1.1 TITLE

This Ordinance shall be officially known and cited as the Zoning and Land Development Regulations of Charleston County, South Carolina. It may be referred to in this document simply as "this Ordinance."

ARTICLE 1.2 AUTHORITY

This Ordinance is adopted pursuant to the statutory authority conferred by Title 4, Chapter 9 and Title 6, Chapter 29 of the Code of Laws of South Carolina, as amended.

ARTICLE 1.3 EFFECTIVE DATE

This Ordinance shall take effect on July 19, 2006.

ARTICLE 1.4 APPLICABILITY AND JURISDICTION

§1.4.1 GENERALLY

This Ordinance shall apply to all development, public and private, within the unincorporated areas of Charleston County. All structures and land uses constructed or commenced hereafter, and all enlargements of, additions to, changes in and relocations of existing structures and uses occurring hereafter shall be subject to this Ordinance and all other authorities pursuant to Title 6, Chapter 29 of the Code of Laws of South Carolina, as amended.

[Commentary—These Zoning and Land Development Regulations contain zoning, subdivision and other land development regulations (LDRs) that help implement Charleston County's *Comprehensive Plan*.]

§1.4.2 NEW OR MOVED STRUCTURES

All structures built hereafter shall comply with all of the regulations of this Ordinance. Any structure moved from one site to another site, including movement within a zoning lot, shall be considered to be a structure built hereafter.

§1.4.3 REMODELING

If any structure is hereafter remodeled:

- A. The entire structure as remodeled shall comply with the use regulations of this Ordinance.
- B. Any alterations, enlargements, or additions to the structure shall comply with all applicable density/intensity and dimensional standards of the underlying zoning district.
- C. Off-street parking facilities shall not be reduced below (or if already less than, shall not be further reduced below) the requirements of this Ordinance applicable to a similar new structure or use.

§1.4.4 CHANGE IN LAND USE OR LAND CLASSIFICATION

If a use of any structure is hereafter changed to another use, then the new use must comply with the use regulations in Chapter 6 of this Ordinance, but the mere establishment of the new use does not require the existing structure to comply with the density, intensity and dimensional standards of the underlying zoning district.

ARTICLE 1.5 PURPOSE AND INTENT

This Ordinance is intended to protect the health, safety, and general welfare of existing and future residents of Charleston County by:

- A. Implementing the goals, objectives and policies of the *Comprehensive Plan*;
- B. Providing for adequate light, air, and open space;
- C. Preventing overcrowding of land, to avoid undue concentration of population, and to lessen congestion in the streets;
- D. Protecting and preserving scenic, historic, or ecologically sensitive areas;
- E. Regulating the density and distributions of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes;
- F. Facilitating the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements;
- G. Securing from fire, flood, and other dangers;
- H. Furthering the public welfare in any other regard specified by a local governing body;
- I. Facilitating the creation of a convenient, attractive and harmonious community;
- J. Encouraging the development of economically sound and stable municipalities and counties;
- K. Assuring the timely provision of required streets, utilities, and other facilities and services to new land developments;
- L. Assuring the provision of needed public open spaces, building sites and new land developments through the dedication or reservation of land for recreational, educational, transportation, and other public purposes; and
- M. Assuring, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the *Comprehensive Plan*; and
- N. Fostering growth and development, and preserving our natural and cultural resources, always respecting the rights of the individual, including private property rights.

ARTICLE 1.6 COMMENTARY

Commentaries may be included in this Ordinance whenever a provision requires additional explanation to clarify its intent. Commentaries have no regulatory effect, but rather are intended solely as a guide for administrative officials and the public to use in understanding and interpreting provisions of the Zoning and Land Development Regulations.

[Commentary—"Commentaries" are used as a guide for administrative officials and the public to use in interpreting and understanding the rationale behind this Ordinance's regulations.]

ARTICLE 1.7 WORD USAGE AND CONSTRUCTION OF LANGUAGE**§1.7.1 MEANINGS AND INTENT**

All provisions, terms, phrases and expressions contained in this Ordinance shall be construed according to the Purpose and Intent set out in Article 1.5.

§1.7.2 HEADINGS, ILLUSTRATIONS AND TEXT

In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, figure, or illustration, the text shall control.

§1.7.3 LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms such as "including," "such as," or similar language are intended to provide examples; not to be exhaustive lists of all possibilities.

§1.7.4 COMPUTATION OF TIME

All references to "days" are to Charleston County Government work days unless otherwise expressly stated. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by Charleston County Government, that day shall be excluded.

§1.7.5 REFERENCES TO OTHER REGULATIONS, PUBLICATIONS AND DOCUMENTS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent editions of such regulation (as amended), resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.

§1.7.6 DELEGATION OF AUTHORITY

Authority to enforce the provisions of this Ordinance falls to the Director of the Planning Department or the designee of the Director, or to the head of the department (or that department head's designee) to which the responsibility of executing the provision falls. Any reference to the "Planning Department" shall mean the Director of the Charleston County Planning Department or their designee.

§1.7.7 TECHNICAL AND NONTECHNICAL TERMS

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning. Certain words and phrases are defined in Chapter 12 of this Ordinance; those words and phrases shall be construed in accordance with their definitions in Chapter 12.

§1.7.8 PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of Charleston County, unless otherwise expressly provided. Whenever reference is made to a public official's title or name of a public agency, that reference shall be construed as referring to the most up-to-date title or agency name, or to the relevant successor official or agency.

§1.7.9 MANDATORY AND DISCRETIONARY TERMS

The words "shall," "will," and "must" are mandatory. The words "may" and "should" are advisory and discretionary terms.

§1.7.10 CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

"And" indicates that all connected items, conditions, provisions, or events apply; and

"Or" indicates that one or more of the connected items, conditions, provisions, or events may apply.

§1.7.11 TENSES AND PLURALS

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

ARTICLE 1.8 MINIMUM REQUIREMENTS

The standards of this Ordinance are minimum requirements. The issuance of any permit, certificate or approval in accordance with the standards and requirements of this Ordinance shall not relieve the recipient of responsibility for complying with all other applicable requirements of any other county, state or federal agency.

ARTICLE 1.9 CONFLICTING PROVISIONS**§1.9.1 CONFLICT WITH STATE OR FEDERAL REGULATIONS**

If the provisions of this Ordinance are inconsistent with those of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

§1.9.2 CONFLICT WITH OTHER COUNTY REGULATIONS

If the provisions of this Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the County, the more restrictive provision will control. No text amendment, zoning variance or condition of approval attached to any form of development approval under this Ordinance shall have the effect of nullifying, abrogating or diminishing the provisions of any other County ordinance.

§1.9.3 CONFLICT WITH PRIVATE EASEMENTS, AGREEMENTS OR COVENANTS

This Ordinance is not intended to abrogate, annul, or otherwise interfere with any private easement, agreement, covenant, restriction or other private legal relationship. The County is responsible for enforcing this Ordinance; it does not enforce private agreements, easements, covenants or restrictions to which the County is not a party. Restrictive covenant affidavit(s) shall be signed by the applicant or current property owner(s) for all permit applications including but not limited to zoning variance applications, applications for rezoning, special exception

applications, site plan review applications, subdivision applications and home occupation permits in compliance with State law, "Section 6-29-1145 that states:

- A. In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.
- B. If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:
 - 1. In the application for the permit;
 - 2. From materials or information submitted by the person or persons requesting the permit; or
 - 3. From any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.
- C. As used in this section:
 - 1. 'actual notice' is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;
 - 2. 'permit' does not mean an authorization to build or place a structure on a tract or parcel of land; and
 - 3. 'restrictive covenant' does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land."

ARTICLE 1.10 ZONING MAP

§1.10.1 ADOPTION

Charleston County is hereby divided into zoning districts as shown on the Charleston County Official Zoning Map (also known as the Digital Zoning Database or Zoning Map) which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

§1.10.2 FORMAT

The Official Zoning Map is maintained in the form of a machine-readable representation of a geographic phenomenon stored for display or analysis by a digital computer. The digital zoning database stored in the Geographical Information System (GIS) is hereby designated, established, and incorporated as a part of these regulations and the originals thereof, which are on file at the offices of the Planning Department, shall be as much a part of these regulations as if they were fully described in these regulations. Upon adoption of this Ordinance and any amendment thereto, the Planning Department may produce a paper version of the Official Zoning Map.

§1.10.3 AMENDMENTS

If amendments are made in zoning district boundaries in accordance with the procedures of Article 3.4, such amendments shall be effective upon final approval of the Ordinance by County Council and shall be updated by the Planning Department on the Zoning Database promptly after the amendment has been approved by County Council.

§1.10.4 LOCATION

The original paper version of the Official Zoning Map shall be stored in the office of the Planning Department. The official Zoning Map shall be updated at least annually. In case of any dispute regarding the zoning classification of property subject to this Ordinance, the Official Zoning Map maintained by the Planning Department shall control.

§1.10.5 CORRECTIONS AND REPLACEMENT

In the event that the Official Zoning Map becomes damaged, destroyed, or lost, the County Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting and other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map, as amended. The new Official Zoning Map shall be marked, "This Official Zoning Map, adopted by resolution of The County Council of The County of Charleston, S.C., on (date) supersedes the Official Zoning Map adopted (date) of the Charleston County," which statement shall be signed by the Chairman of County Council, attested by The County Clerk, and bear the seal of Charleston County, S.C. Unless the prior Official Zoning Map is lost or has been totally destroyed, the map or any significant parts thereof remaining after partial destruction shall be preserved, together with all records of Charleston County regarding its adoption and amendment.

§1.10.6 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundary of any zoning district shown on the zoning map the following rules shall apply:

- A. Unless otherwise indicated, district boundaries follow lot lines; center lines of streets, highways, alleys or railroads; center lines of water courses or impoundments of streams, reservoirs, or other bodies of water.
- B. Where so indicated, district boundaries are parallel to the center lines of streets, highways, or railroads, or rights-of-way of same, or the center lines of streams, reservoirs, or other bodies of water, or said lines extended as such distances therefrom as indicated on the zoning map. If no distance is given, distance shall be determined by the use of the scale on the zoning map.
- C. Where any district boundary is indicated on the zoning map as approximately following the Charleston County boundary line or the corporate limits line of any incorporated place within Charleston County, then such County boundary line or corporate limits line shall be construed to be the actual district boundary.

§1.10.7 MARSH BOUNDARIES

With the exception of lands within the ownership of national forests, swampland, wildlife refuges, and any other publicly designated areas, the Office of Coastal Resource Management shall determine the boundaries and have jurisdiction over critical areas. Fresh water wetlands shall have boundaries set by the Army Corps of Engineers.

§1.10.8 ZONING OF ADDITIONAL LAND AREAS

It is the intent of this Ordinance that every part of the land area of unincorporated Charleston County be included in one of the zoning districts established by this Ordinance. Any land area that comes under the jurisdiction of this Ordinance or does not appear to be included in a zoning district shall be classified in the RM district unless an alternative classification is approved by the Charleston County Council in accordance with the Zoning Map Amendment procedures of Chapter 3.

ARTICLE 1.11 TRANSITIONAL PROVISIONS**§1.11.1 VIOLATIONS CONTINUE**

Any violation of the previous Zoning Ordinance or Subdivision Ordinance will continue to be a violation under this Ordinance and be subject to penalties and enforcement under Chapter 11, unless the use, development, construction, or other activity complies with the provisions of this Ordinance, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before April 21, 1999.

§1.11.2 LEGAL NONCONFORMITIES UNDER PRIOR ORDINANCE

Any legal nonconformity under the previous Zoning Ordinance will also be a legal nonconformity under this Ordinance, as long as the situation that resulted in the nonconforming status under the previous Zoning Ordinance continues to exist. If a nonconformity under the previous Zoning Ordinance becomes conforming because of the adoption of this Ordinance, then the situation will no longer be considered a nonconformity.

§1.11.3 APPROVED PROJECTS

- A. Variances and preliminary subdivision plats that have received approval by April 20, 1999, shall remain valid until their expiration date. Construction pursuant to such approval may be carried out in accordance with the development standards in effect at the time that approval was granted, provided that the permit or approval remains valid and has not lapsed. Construction pursuant to conditional use permits, variances, preliminary subdivision plats, and planned developments that were approved without an expiration date may be carried out in accordance with the development standards in effect at the time that approval was granted, provided that permits for such construction are issued prior to April 20, 2001. As of April 20, 2001, all construction shall be subject to strict compliance with the regulations of this Ordinance.
- B. No provision of this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a zoning permit or building permit has been issued prior to April 21, 1999, provided that permit does not lapse and remains valid.
- C. No previously approved lot shall be deemed an unusable lot under the provisions of this Ordinance.

§1.11.4 SPECIAL EXCEPTION USES

- A. Any use that was legally established before April 21, 1999, without Special Exception approval and which after April 21, 1999, is located in a zoning district that requires Special Exception approval for the subject use and which presently continues as an allowable use, shall not be considered a nonconforming use and shall not require a Special Exception. Such uses shall be deemed Uses Permitted by Right, as defined in Chapter 12 of this Ordinance.
- B. Any use that was legally established before April 21, 1999, with a Conditional Use Permit and which after April 21, 1999, is located in a zoning district that requires Special Exception approval for the subject use and which presently continues as an allowable use, shall not be considered a nonconforming use and shall not require a Special Exception. Such uses shall be deemed Uses Permitted by Right, as defined in Chapter 12 of this Ordinance.

ARTICLE 1.12 SEVERABILITY

If any Court of competent jurisdiction rules any provision of this Ordinance invalid, that ruling shall not affect any not specifically included in the judgment. If any Court of competent jurisdiction rules invalid the application of any provision of this Ordinance to a particular property, building, or other structure, or use, that ruling shall not affect the application of the Ordinance provisions to any property, building, other structure, or use not specifically included in the judgment.

The provisions of this Ordinance are hereby declared to be valid and enforceable, notwithstanding inadvertent and/or clerical error(s); such error(s) as may exist shall not affect the validity or intent of the associated provisions, nor that of the remainder of the Ordinance provisions hereunder.