

AN ORDINANCE PROVIDING FOR THE  
ESTABLISHMENT OF A VESTED RIGHT  
TO DEVELOP PROPERTY IN CHARLESTON COUNTY.

WHEREAS, the General Assembly in Act 287 of 2004 provided that local governments may establish a procedure providing for a vesting of rights in certain site specific development plans; and

WHEREAS, the Act called for Local Governments to enact land development ordinances or regulations implementing the provisions of the legislation on or before July 1, 2005; and

WHEREAS, Charleston County desires to implement the provisions of Act 287 of 2004 on or before July 1, 2005.

NOW THEREFORE BE IT ORDAINED BY THE COUNTY COUNCIL FOR CHARLESTON COUNTY, SOUTH CAROLINA DULY ASSEMBLED THAT THE FOLLOWING ORDINANCE IS HEREBY ADOPTED:

1. TITLE/INCORPORATION OF FINDINGS. This ordinance shall be known as the VESTED RIGHTS ORDINANCE. The recitals above are hereby incorporated herein as findings of fact for the adoption of this ordinance.

2. DEFINITIONS:

A. County shall mean the unincorporated area of the county.

B. Approved means a final review and approval in accordance with its established procedures by Charleston County of a site specific development plan. Phased development plans remain subject to review of all phases prior to being vested.

C. Landowner means an owner of a legal or equitable interest in real property including heirs, devisees, successors and assigns and personal representatives of the owner. It may include a person holding a valid option to purchase real property pursuant to a contract with the owner to act as his agent or representative for purposes of submitting a proposed development plan.

D. Land development ordinances are those ordinances which address the development of land and may include, but are not limited to, the Charleston County Zoning and Land Development Regulations Ordinance.

E. Phased development plan means an approved development plan submitted to the County by a landowner that shows the types and density or intensity of uses for a specific property or properties to be developed in stages.

F. Site specific development plan means an application approved by the appropriate governing body which describes with reasonable certainty the types and density or intensity of uses for specific property.

G. Vested right means the right to undertake and complete the development of property arising under the terms and conditions of a site specific development plan in conjunction with this ordinance and in conformity with the Charleston County Zoning and Land Development Regulations Ordinance and upon final approval by the county.

### 3. VESTED RIGHTS:

A. A vested right is established for two years upon the final approval of a site specific development plan. Such vested right shall receive five one year extensions upon proper application submitted as specified in "C" below by the landowner in each year that an extension is desired.

B. A vested right in a site specific development plan shall not attach until all plans have been received, approved and all fees paid in accordance with the procedure outlined in the Charleston County Zoning and Land Development Regulations Ordinance, as amended. All administrative appeals must be resolved in favor of the applicant before a vested right attaches. Upon approval, such vested right must attach prior to the issuance of a building permit but not later than authorization to proceed with investments in infrastructure.

C. A complete application consistent with the provisions of Section 3.1.4 of the Charleston County Zoning and Land Development Regulations Ordinance, as amended, shall be submitted to the Planning Director on forms available at the Planning Department at least 15 days prior to the expiration of the established vested right as described in "A" above, and any extensions of the vested right

as described in “A” above. Upon receipt of a complete application for an extension of the two year vested right the Planning Director shall grant a one year extension, up to a maximum of five annual extensions, to the vested right in a site specific development plan.

D. No vested rights are established for phased development plans, including approved or conditionally approved phased development plans. An approved or conditionally approved site specific development plan is required prior to approval with respect to each phase of a phased development plan.

E. A vested site specific development plan may be amended if the amendment conforms to, or does not cause greater nonconformity with, the then current provisions of the county zoning, planning and land development ordinances, county code sections, or regulations. Approval or conditional approval of an amendment does not re-set or re-start the expiration period of a previously vested right.

F. The Charleston County Board of Zoning Appeals does not have the authority to grant a vested right and no such right shall accrue as a result of their decisions.

G. For purposes of this section, the landowner's rights are considered vested in the types of land use and density or intensity of uses defined in the development plan and the vesting is not affected by later amendment to a zoning ordinance or land-use or development regulation if the landowner:

(1) Obtains, or is the beneficiary of, a significant affirmative government action that remains in effect allowing development of a specific project;

(2) Relies in good faith on the significant affirmative government action; and

(3) Incurs significant obligations and expenses in diligent pursuit of the specific project in reliance on the significant affirmative government action.

H. For the purposes of this section, the following are significant affirmative governmental actions allowing development of a specific project:

(1) County Council has accepted exactions or issued conditions that specify a use related to a zoning amendment consistent with the provisions contained in the Charleston

County Zoning and Land Development Regulations, as amended;

(2) County Council has approved an application for a rezoning for a specific use consistent with the provisions contained in the Charleston County Zoning and Land Development Regulations, as amended;

(3) County Council has approved an application for a density or intensity of use consistent with the provisions contained in the Charleston County Zoning and Land Development Regulations, as amended;

(4) the Board of Zoning Appeals has granted a special exception or use permit with conditions consistent with the provisions contained in the Charleston County Zoning and Land Development Regulations, as amended;

(5) the Board of Zoning Appeals has approved a variance consistent with the provisions contained in the Charleston County Zoning and Land Development Regulations, as amended;

(6) the Planning Commission has approved a preliminary subdivision plat, site plan, or plan of phased development for the landowner's property and the applicant diligently pursues approval of the final plat or plan consistent with the provisions contained in the Charleston County Zoning and Land Development Regulations, as amended; or

(7) the Planning Director has approved a final subdivision plat, site plan, or plan of phased development for the landowner's property consistent with the provisions contained in the Charleston County Zoning and Land Development Regulations, as amended.

#### 4. EFFECTIVE DATE

A. This ordinance shall take effect on June 30, 2005.