

#2273

Adopted: 12/21/2023

AN ORDINANCE

AMENDING THE CHARLESTON COUNTY ZONING AND LAND DEVELOPMENT REGULATIONS ORDINANCE, NUMBER 1202, AS AMENDED, TO EXEMPT SMALL SCALE EXCAVATION AND GRADING ACTIVITIES FOR RESIDENTIAL AND AGRICULTURAL USES FROM THE CONDITIONS FOR LARGE SCALE COMMERCIAL RESOURCE EXTRACTION AT THE FOLLOWING DOCUMENT LOCATIONS: CHAPTER 6, USE REGULATIONS

WHEREAS, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, Section 6-29-310 et seq., of the South Carolina Code of Laws, 1976, as amended, authorizes the County of Charleston to enact or amend its zoning and land development regulations to guide development in accordance with existing and future needs and in order to protect, promote and improve the public health, safety, and general welfare; and

WHEREAS, the Charleston County Planning Commission ("Planning Commission") has reviewed the proposed amendment to Chapter 9, Development Standards, of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), in accordance with the procedures established in South Carolina law and the ZLDR and has recommended that the Charleston County Council ("County Council") adopt the proposed amendment of the ZLDR as set forth herein; and

WHEREAS, upon receipt of the recommendation of the Planning Commission, County Council held at least one public hearing, and after close of the public hearing, County Council approved the proposed map amendment based on the Approval Criteria of Section 3.3.6 of Article 3.3 of the ZLDR; and

WHEREAS, County Council has determined the proposed ZLDR amendment meets the following criteria:

- A. The proposed amendment corrects an error or inconsistency or meets the challenge of a changing condition; and
- B. The proposed amendment is consistent with the adopted Charleston County Comprehensive Plan and goals as stated in Article 1.5; and
- C. The proposed amendment is to further the public welfare in any other regard specified by County Council.

NOW, THEREFORE, be ordained it by the Charleston County Council of Charleston, in meeting duly assembled, as follows:

SECTION I. FINDINGS INCORPORATED

The above recitals and findings are incorporated herein by reference and made a part of this Ordinance.

SECTION II. AMENDMENT OF THE ZONING AND LAND DEVELOPMENT REGULATIONS ORDINANCE

The Charleston County Zoning and Land Development Regulations Ordinance is hereby amended to include the amendment attached hereto as Exhibit "A" and made part of this Ordinance by reference.

SECTION III. SEVERABILITY

If, for any reason, any part of this Ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

SECTION IV. EFFECTIVE DATE

This Ordinance shall become effective immediately following third reading by County Council.

ADOPTED and APPROVED in meeting duly assembled this 21st day of December 2023.

CHARLESTON COUNTY COUNCIL

By: _____
Herbert R. Sass, III
Chairman of Charleston County Council

ATTEST:

By: _____
Kristen L. Salisbury
Clerk to Charleston County Council

First Reading: November 30, 2023
Second Reading: December 12, 2023
Third Reading: December 21, 2023

EXHIBIT "A"

Small Scale Resource Extraction

CHAPTER 6 | USE REGULATIONS

ARTICLE 6.4 USE CONDITIONS

The following use conditions shall apply to Principal Uses in any Zoning District where these uses are allowed as "Conditional Uses" or "Special Exceptions" as shown in Table 6.1-1, *Use Table*.

Sec. 6.4.14 Resource Extraction

- A. **Applications.** All uses involving Resource Extraction shall complete the Site Plan Review process and obtain a Zoning Permit. Prior to Site Plan Review approval, the applicant shall receive approval or written documentation of exemption from the South Carolina Department of Health and Environmental Control (SCDHEC).
- B. **Requirements.**
1. A Resource Extraction use shall not be allowed on a Lot located within 2.5 miles of another Lot for which a Site Plan Review or Zoning Permit application for a Resource Extraction use has been submitted or approved, or for which a Resource Extraction use has been permitted or is currently in operation, whether located in the unincorporated County or within a municipality. Distances shall be measured as a radius from the nearest property line of the subject Lot to the nearest property line of a Lot containing another Resource Extraction use as described above. Subdivision-related Resource Extraction uses required for compliance with Charleston County Stormwater regulations shall be exempt from this requirement provided that only the minimum amount of material required for compliance with the County's Stormwater regulations is removed. Removal of material beyond the minimum amount required for compliance with the County's Stormwater regulations shall be subject to the 2.5-mile radius requirement described above and all other applicable requirements of this Ordinance.
 2. There shall be direct access to a public Arterial Street.
 3. A sign listing the name and phone number of a local contact for the Resource Extraction use shall be posted at the haul road entrance.
 4. The Resource Extraction operation shall not be located within 50 feet of any property boundary, within 250 feet of a public Street, and/or within 250 feet of any Building intended for human occupancy existing at the time of permit application.
 5. A berm located within the required buffer may be required to mitigate noise at the discretion of the Zoning and Planning Director.
 6. The hours of operation for Resource Extraction operations shall be limited to Mondays through Saturdays from 7:00 am to 6:00 pm. The Board of Zoning Appeals shall have the authority to modify the days and hours of operation to make them either more or less restrictive on a case-by-case basis.
- C. **Special Exceptions.** Resource Extraction uses that do not meet the conditions of Sec. 6.4.14.D below shall comply with the Special Exception procedures of this Ordinance and all requirements of sub-sections A and B above. The Applicant shall receive Special Exception approval and approval from SCDHEC, prior to Site Plan Review approval.

The Board of Zoning Appeals may, on a case-by-case basis, also require conditions of approval, including but not limited to: restricting days and hours of operation; requiring documentation from a South Carolina Registered Professional Geologist regarding potential impacts on wells, groundwater, and surface water; and requiring that the excavation area be screened and that a drainage plan be submitted and approved for the restoration of the site when excavation has been completed. All owners of property located within 500 feet of the Subject Property shall be notified of Special Exception applications in accordance with the "Neighbor Notice" requirements of Sec. 3.1.6.B of this Ordinance.

D. **Special Exception Exemptions for Residential and Bona Fide Agricultural Uses.** Excavation or grading activities solely for residential use, recreational use, or Bona Fide Agricultural Use shall be exempt from the Special Exception procedures *and Sec. 6.4.14.B.* of this Ordinance if the use complies with all of the following conditions:

1. The Resource Extraction operation shall be limited to one year;
2. The Resource Extraction operation shall not be located within 50 feet of any property boundary and/or within 250 feet of any Building intended for human occupancy existing at the time of permit application. No vegetated buffers are required;
3. The Resource Extraction operation shall be two acres or less, provided that the total accumulated area(s) dedicated to Resource Extraction uses on a Parcel is less than five acres. The Special Exception procedures *and Sec. 6.4.14.B.* of this Ordinance shall apply if the total accumulated Resource Extraction area is greater than five acres; ~~and~~
4. No more than one Resource Extraction use shall be permitted on the same property within one year from the date of Zoning Permit approval for a previous Resource Extraction use=;
5. *A sign listing the name and phone number of a local contact for the Resource Extraction use shall be posted at the haul road entrance; and*
6. *The hours of operation for Resource Extraction operations shall be limited to Mondays through Saturdays from 7:00 am to 6:00 pm.*