

ARTICLE 6 ADMINISTRATION

6:1 ADMINISTRATION OF ORDINANCE

6:1.1 Planning Official

The County Administrator shall appoint the Planning Official who is hereby charged with the administration of this Ordinance subject to the provisions of the South Carolina *Home Rule Act*. Planning Official means the Kershaw County Planning and Zoning Director or his designated Building Official or other Planning and Zoning Department official designated by the Planning and Zoning Director to administer the provisions of this Ordinance. As of the effective date of this Ordinance, the following shall apply:

- A. No plat for the subdivision of land within the unincorporated area of Kershaw County shall be filed with or recorded by the Kershaw County Register of Deeds until such plat shall have first been submitted to and approved by the Planning Official of Kershaw County, according to procedures set forth in this Ordinance.
- B. No permit to develop, construct, or otherwise change land characteristics in the unincorporated area of Kershaw County shall be issued except in compliance with all applicable provisions of this Ordinance and the current and applicable building codes.
- C. No street or other public way or land shall be accepted or maintained, nor shall any water lines, sewerage, street lighting, or similar improvements be extended or connected, nor shall any permit be issued by any department of the County for construction of any building or other improvement in any subdivision established hereafter which has not been approved by the Planning and Zoning Commission or the Planning Official, as applicable, per the provisions of this Ordinance.
- D. No building, structure, or sign or any part thereof shall be erected, added to or structurally altered, nor shall any excavation or grading be commenced until the required permits have been issued.
- E. No building, structure, or land shall be used or occupied; nor shall any building, structure, or land be converted, wholly or in part to any other use, until all applicable and appropriate permits, registrations, and certifications have been issued certifying compliance with the requirements of this Ordinance.
- F. No permits inconsistent with the provisions of this Ordinance shall be issued unless accompanied by an approved variance or exception as provided by this Article. Refusal by the Planning Official to issue a required permit shall be stated in writing with cause.

6:1.2 Board of Zoning Appeals

The Board of Zoning Appeals was established under Article 9, Section 9-9 of the Zoning Ordinance of Kershaw County as amended, and is hereby continued as follows:

Said Board shall consist of five (5) members each, who shall be citizens of Kershaw County, and appointed by the Kershaw County Council for overlapping terms of four (4) years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment, and any member may be removed by the County Council for cause after a public hearing. Members shall serve without pay, but may be reimbursed for any expenses incurred

while representing the Board. Members cannot hold any other public office or position in the appointing local government (Kershaw County).

6:1.2-1 Proceedings of the Board of Zoning Appeals

The Board of Zoning Appeals shall elect a Chairperson and a Vice-Chairperson from its members, who shall serve for one year, or until re-elected. The Board shall appoint a Secretary, who may be a governmental officer or a member of the Board of Zoning Appeals. The Board shall adopt rules of procedure in accordance with SC Code of Laws §6-29-790. Meetings of the Board shall be held at the call of the respective Chairperson and at such other times as the Board may determine. All meetings shall be open to the public. A quorum shall be required to take any official action, with three members present constituting a quorum.

6:1.2-2 Appeals to the Board of Zoning Appeals; Hearings and Notices

The purpose of an appeal of administrative action is to allege that there is an error, requirement, decision, or determination made by the Planning Official that is in contradiction to a provision or regulation of Article 3, Zoning Regulations, of this Ordinance. The petitioner shall state the specific provision or regulation of Article 3 of this Ordinance upon which the appeal of administrative action is based. Appeals of administrative action to the Board shall be taken within thirty (30) days of the date of the action which is appealed, by filing notice of appeal with the Planning Official, who shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Planning Official from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Planning Official, and on due cause shown. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give at least fifteen (15) days public notice thereof in a newspaper of general circulation in the community, as well as due notice to the parties of interest, and decide the same within a reasonable time. Normally, all petitions to the Board for a hearing should be filed at least thirty (30) days from the next regularly scheduled meeting of the Board to allow Staff adequate time to prepare the case and to give public notice. At the hearing any party may appear in person or by agent or by attorney. A sign shall be erected on the property stating the nature of the appeal or variance.

6:1.2-3 Powers and Duties of the Board of Zoning Appeals

The Board of Zoning Appeals shall have the following powers and duties:

- G. **To Hear and Decide Appeals, Generally** - To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Planning Official in the enforcement of Article 3 of this Ordinance.
- H. **To Grant Variances, Generally** - To authorize upon appeal in specific cases a variance from the terms of Article 3 of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of Article 3 of this Ordinance will, in an individual case, result in the unnecessary hardship so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice

done. Such variance may be granted in such individual case of unnecessary hardship if the Board makes and explains in writing all the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property; and
 2. these conditions do not generally apply to other property in the vicinity; and
 3. because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
 4. the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
- I. The Board may not grant a variance, the effect of which would allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.
- J. To grant variances in the Airport Overlay District(s) (AOD). Any person desiring to erect or increase the height or size of any structure not in accordance with the regulations prescribed in the airport overlay district regulations in Article 3 of this Ordinance may apply for a variance from such regulations. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

Additionally, no application for an AOD variance may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Chairman of the Kershaw County Airport Commission for advice as to the aeronautical effects of the variance. If the Airport Commission does not respond to the application within fifteen (15) days after receipt, the Board of Appeals may act on its own to grant or deny the application for a variance.

Any permit or variance granted, if such action is deemed advisable to effectuate the purpose of this Ordinance and is reasonable in the circumstances, may be so conditioned as to require the owner of the structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the Federal Aviation Administration, the South Carolina Aeronautics Commission, or the Kershaw County Airport Commission.

6:1.2-4 Decisions of the Board of Zoning Appeals

In exercising the above powers, the concurring vote of two-thirds of the members present and voting shall be required to reverse or affirm, wholly or in part, or modify any order, requirement, decision, or determination of the Planning Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, and to that end, shall have the powers of the officer from whom the appeal is taken and may direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and, in case of contempt, may certify such fact to the Circuit Court having jurisdiction.

All final decisions and orders of the Board must be in writing and be permanently filed in the Planning and Zoning Department as public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board, which must be delivered to parties of interest by certified mail.

6:1.3 Right of Appeal

An appeal of a decision of a Planning Official who is not the Planning and Zoning Director shall be made to the Planning and Zoning Director.

6:1.3-1 Appeal to the Board of Zoning Appeals

An appeal of a decision of the Planning and Zoning Director made under a provision of Article 3, Zoning District Regulations, shall be made to the Board of Zoning Appeals as provided above.

6:1.3-2 Appeal to Circuit Court and Pre-Litigation Mediation

A person who may have a substantial interest in any decision of the Board of Zoning Appeals or an officer or agent of the County, as the case may be, may appeal from a decision of the Board of Zoning Appeals provided by SC Code of Laws §6-29-820 et sec. The appeal must be filed within 30 days after the decision of the Board is mailed (date of postmark).

6:1.3-3 Appeal to the Building Codes Board of Adjustments and Appeals

An appeal of a decision of the Building Official made under Article 4, Buildings and Building Regulations, shall be made to the Planning and Zoning Director. An appeal of a decision of the Planning and Zoning Director shall be made to the Building Codes Board of Adjustment and Appeals per Appendix A, Article VI of the Code of Ordinances of Kershaw County.

6:1.3-4 Appeal to the Planning and Zoning Commission

An appeal of a decision of the Planning and Zoning Director, County Engineer, or other County official made under a provision or regulation of Article 5, Land Development Regulations, shall be made to the Planning and Zoning Commission. The appeal must be filed within sixty (60) days after actual notice of the administrative decision, and shall be heard at the next regular Planning and Zoning Commission meeting scheduled at least thirty (30) days after the appeal is filed.

6:1.3-5 Appeal to County Council

An appeal of an action of the Planning and Zoning Commission shall be made to County Council per Chapter 4, Article VI of the Code of Ordinances of Kershaw County.

6:1.3-6 Exceptions Granted by the Planning and Zoning Commission

The Planning and Zoning Commission shall have the power to grant exceptions from the requirements for site plan or sketch plan approvals, and other projects under the review authority of the Planning and Zoning Commission as may be reasonable and within the general purpose and intent of the provisions of this Ordinance if the literal enforcement of one or more of the provisions of this Ordinance is not applicable to the specific project and/or is impractical or will exact undue hardship because of peculiar conditions pertaining to the site in question.

6:2 AMENDMENTS

From time to time the provisions of this Ordinance may be amended by the Kershaw County Council. The procedures for amending the various articles of this Ordinance shall be as proscribed by SC Code of Laws §6-29-760 and §6-29-1130.

6:2.1 Zoning Map Amendments

The following procedures apply to amending the Official Zoning Map through the process of re-zoning a parcel, a portion of a parcel, or multiple parcels from one zoning classification to another.

6:2.1-1 Initiation of Map Amendment

A zoning map amendment may be initiated by a property owner, the property owner's agent, the Planning and Zoning Commission, or the County Council. The Planning Official shall develop map amendment application forms and guidelines for petitions initiated by the property owner or his agent. If the petitioner is not the property owner or owners, the property owner or owners shall complete and have notarized a form designating the petitioner as his agent. Action shall not be initiated for an amendment to re-zone the same parcel or parcels of property or any part thereof to the same zoning classification by a property owner or owners or owner's agent more often than once every twelve (12) months. An application for a zoning map amendment withdrawn after the public notice has been published is subject to the twelve (12) month waiting period.

6:2.1-2 Application Procedure

Application forms for amendments shall be obtained from the Planning and Zoning Department. Completed forms, together with the required application fee to cover administrative costs, plus any additional information the applicant feels to be pertinent, shall be filed with the Planning Official.

Applications for zoning map amendments must be received in proper form, at least forty-five (45) days prior to the Planning and Zoning Commission meeting at which the amendment request will be heard, in order to schedule the public hearing.

6:2.1-3 Review by the Planning and Zoning Commission

- A. All papers and other data submitted by the applicant on behalf of the map amendment request shall be transmitted by the Planning Official in a map amendment (re-zoning) staff report to the Planning and Zoning Commission.
- B. The Planning and Zoning Commission shall conduct the public hearing. All meetings of the Planning and Zoning Commission shall be open to the public. At the public hearing and other meetings of the Planning and Zoning Commission, any party may appear in person, by agent, or by attorney.

6:2.1-4 Report of Planning and Zoning Commission

Following review of the proposed amendment and the advertised public hearing, the Planning and Zoning Commission shall reach a decision regarding said amendment and report its findings and recommendations to County Council for final action.

The Planning and Zoning Commission shall have thirty (30) days within which to submit its report. If the Planning and Zoning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment. No change in or departure from the recommendations by the Planning and Zoning Commission made pursuant to the public hearing shall be transmitted to the County Council unless the change or departure is first submitted to the Planning and Zoning Commission for review and recommendation.

6:2.1-5 Notice of Public Hearing

- A. In scheduling a public hearing for a proposed zoning map amendment, notice of the time and place shall be published in a newspaper of general circulation in the area at least fifteen (15) days in advance of the scheduled public hearing.
- B. In cases involving re-zoning, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. Such notice shall be posted at least ten (10) days prior to the announced hearing, indicating the nature of the proposed change, identification of the affected property, and time, date, and place of the hearing.
- C. The property owner and adjacent property owners shall be mailed a copy of the notice of public hearing at least ten (10) days prior to the public hearing.

6:2.1-6 Action by County Council

The County Council shall take action on the proposed amendment within sixty (60) days of receipt of the Planning and Zoning Commission's recommendation on an application. If no action is taken by the Council within such time, the proposed amendment shall be considered denied unless otherwise specified by Council. The County Council's decision may reverse the Planning and Zoning Commission's recommendations. All amendments to this Ordinance shall be made through the adoption of an ordinance.

Following final action by County Council, any necessary changes shall be made to the Official Zoning Map and/or text. A written record of the type and date of such change shall be maintained by the Planning Official.

6:2.2 Ordinance Text Amendments

This section shall apply to all text and other amendments to this Ordinance other than amendments to the zoning map.

6:2.2-1 Referral to Planning and Zoning Commission

Proposed text amendments to this Ordinance must be referred to the Planning and Zoning Commission for deliberation and recommendation. The Planning and Zoning Commission's recommendations shall be received by the County Council prior to County Council action on the proposed text amendment.

6:2.2-2 Public Hearing

The County Council shall hold a public hearing on the proposed text amendment. The public hearing shall be held prior to the third reading of the amendment ordinance. In scheduling a public hearing for a proposed ordinance text amendment, notice of the time and place shall be

published in a newspaper of general circulation in the area at least thirty (30) days in advance of the scheduled public hearing.

6:2.2-3 Action by County Council

The County Council shall take action on the proposed amendment within sixty (60) days of receipt of the Planning and Zoning Commission's recommendation on an application. If no action is taken by the Council within such time, the proposed amendment shall be considered denied unless otherwise specified by the Council. County Council may approve of the Planning and Zoning Commission's recommendations on the proposed text amendment, amend the Planning and Zoning Commission's recommendations on the proposed text amendment, or deny the Planning and Zoning Commission's recommendations on the proposed text amendment. All amendments to this Ordinance shall be made through the adoption of an ordinance.

6:3 ADMINISTRATIVE FEES

The Kershaw County Council shall set fees for the processing and administration of the provisions of this Ordinance. Fees to be levied shall include, but are not limited to the following services:

- A. Plans review fees for building (architectural) plans, engineering and construction plans, zoning and land development site plans, sketch plans, preliminary plans, planned development district (PDD) site plans, shared parking plans, phased clearing plans, buffer restoration plans, and other development plans as may be required to process a land development or building application.
- B. Permit fees for building construction, moving and demolition permits; grading permits; sign permits and registrations; communications towers; electrical, gas, plumbing, and other specialty permits; manufactured housing and park model home moving and installation permits; use permits; and swimming pool permits.
- C. Inspection fees.
- D. Retirement of title processing fees for the conversion of manufactured housing to real property.
- E. Development agreement fees for the drafting, processing, and administration of the agreements.
- F. Written zoning verification and compliance determinations.
- G. Plat approval fees for re-surveys, minor subdivisions, major subdivisions (final plats), lot reconfigurations, and other plats requiring Planning and Zoning Department approval prior to recording with the Register of Deeds.
- H. Board of Zoning Appeals fees for petitions for appeal of administrative zoning decisions and variance requests.
- I. Planning and Zoning Commission fees for petitions for appeals of administrative land development decisions and applications for exceptions to land development standards, required improvements, or submittal requirements.
- J. Map amendment petitions for re-zoning.
- K. Publications and duplication fees.

6:3.1 Continuance of Fees

All Fees that have been set by County Council in previous ordinances shall continue and remain in effect under this Ordinance.

6:4 VIOLATIONS AND PENALTIES

Any person, firm, or corporation in violation of any provision of this Ordinance shall, upon conviction, be guilty of a misdemeanor and fined per the provisions of this Article.

6:4.1 Processing of Violations

As of the effective date of this Ordinance, the following procedures shall be taken regarding violations and alleged violations of this Ordinance.

- A. **Actions Regarding Violations** - Whenever a violation of this Ordinance occurs or a complaint is received that a violation is alleged to have occurred, the Code Enforcement Officer shall record and investigate such complaint, and take such action as provided by this Ordinance. Complaints may be filed in writing or verbally, stating fully the cause and basis thereof.
- B. **Ordinance Summons** - Upon determination of the Code Enforcement Officer that a violation of this Ordinance has occurred, the Code Enforcement Officer may issue an ordinance summons to appear in Magistrate's Court. The ordinance summons shall state the penalty fine if convicted and the date and time of the court hearing.
- C. **Notice of Violation** - Upon a determination of the Code Enforcement Officer that a violation has occurred, the Code Enforcement Officer may, in his or her discretion, issue a written notice of violation stating the nature of the violation; citing the section of the Ordinance being violated; and may give the violator up to thirty (30) days to remedy the violation. If the violation has not been corrected within the discretionary notice period, the Code Enforcement Officer may make a determination if any substantive remedial action towards correcting the violation has occurred. Upon the determination by the Code Enforcement Officer that no substantive remedial action towards correcting the violation has occurred during the discretionary notice period, the Code Enforcement Officer may issue an ordinance summons to appear in Magistrate's Court. The ordinance summons shall state the penalty fine if convicted and the date and time of the court hearing.

6:4.2 Penalties for Violations

- A. **First Offense** - The penalty for a convicted first offense in Magistrate's Court shall be a fine not to exceed two hundred fifty dollar (\$250) or thirty (30) days in jail as determined by the Magistrate plus court fees and assessments.
- B. **Continuing and Repeated Offenses** - The penalty for a second and subsequent convictions for continuing or repeated offenses in Magistrate's Court shall be a fine not to exceed five hundred dollars (\$500) or thirty (30) days in jail as determined by the Magistrate plus court fees and assessments.
- C. **Injunctive Relief** - The County Attorney may seek injunctive relief with the Court of Common Pleas for continued or repeated violations.

6:5 INTERPRETATION AND CONFLICT

The provisions of this Ordinance shall be held to be minimum requirements. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than any other applicable statute, the more restrictive statute, imposing higher standards or requirements shall govern.