

## **ARTICLE 5 LAND DEVELOPMENT REGULATIONS**

### **5:1 REGULATIONS FOR THE SUBDIVISION OF LAND AND THE CREATION OF LOTS**

#### **5:1.1 Definition of Subdivision, SC Code of Laws 6-29-1110**

According to SC Code of Laws 6-29-1110, the term *subdivision* means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record.

##### **5:1.1-1 Exemptions (under SC Code of Laws 6-29-1110)**

The following are exempt from the definition of a subdivision and, as such, are not governed by the regulations for subdivisions of this Ordinance; however, exempt subdivisions are subject to applicable zoning district regulations. These exceptions are included within this definition only for the purpose of requiring that the Planning and Zoning Department be informed and have a record of the subdivisions:

- A. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of this Ordinance and other applicable regulations.
- B. The division of land into parcels of five acres or more where no new street is involved. Plats of these exceptions must be received as information by the Planning and Zoning Department, which shall indicate that fact on the plats.
- C. The combination or recombination of entire lots of record where no new street or change in existing streets is involved.

##### **5:1.1-2 Kershaw County Exemptions**

The following exemptions from the definition of a subdivision are hereby established by Kershaw County and are included within this definition only for the purpose of requiring that the Planning and Zoning Department be informed and have a record of the subdivisions:

- A. The division of land to create a cemetery lot.
- B. The division of land by will or inheritance under the statute of descent and distribution as long as no new street is involved.
- C. The division of land by gift conveyed by deed as long as no new street is involved. Such exemption shall be limited to the conveyance of land from one member to another member of the same immediate family i.e. (husband, wife, mother, father, children, grandchildren, brothers, sisters). Land so divided may not be further transferred by sale or gift to any party other than a member of the same immediate family for a period of eighteen (18) months from the date the plat is approved for recording and shall be so notated on the plat. The Planning Official may waive the eighteen (18) month waiting period if the property owner can

establish legitimate and compelling cause. The eighteen (18) month waiting period shall also be waived in the event of a judicial foreclosure.

## **5:1.2 Lots**

Lots include existing lots of record and lots created by the subdivision of a tract or parcel of land. The word *lot* includes the words *parcel*, *plot*, *property*, and *tract*.

### **5:1.2-1 Applicability**

As of the effective date of this Ordinance, the following regulations apply to the creation of all new lots of record including lots exempt for the definition of subdivision.

### **5:1.2-2 Definitions**

**Street** - Any publicly or privately maintained thoroughfare (street, road, drive, avenue, circle, way, lane, boulevard, etc.) or space which has been dedicated, deeded, designed, or used for vehicular traffic that provides access to more than three (3) parcels of land. Multiple parcel group developments are excluded from the three parcel restriction. Streets constructed after the effective date of this Ordinance shall be constructed to all applicable Kershaw County engineering specifications. The terms *street* and *road* shall be used interchangeably in this section.

**Driveway** - A paved or unpaved area used for ingress or egress of vehicles, and allowing access from a street to a building, lot, structure, or facility that provides access to no more than three (3) parcels of land. Access to multiple parcel group developments is excluded from the three parcel restriction.

**Easement** - A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structures. Access easements providing vehicular access to no more than three (3) parcels of land or access easements to multiple parcel group developments shall be classified as driveways for the purpose of this Ordinance. Access easements providing vehicular access to more than three (3) parcels of land shall be classified as streets for the purpose of this Ordinance.

**Lot** - A parcel of land considered as a unit. The terms *lot*, *property*, *plot*, *parcel*, or *tract* whenever used in this Ordinance, are interchangeable.

**Lot of Record** - A lot that is recorded by plat or deed with the Kershaw County Register of Deeds.

### **5:1.2-3 Accessibility**

Notwithstanding the exemptions from the definition of a subdivision, no lot may be created without vehicular and pedestrian access. Unless specifically allowed by these regulations, all lots must have direct access to a publicly dedicated street or an approved private street as provided for in this Ordinance. All publicly dedicated and approved private streets must be constructed to the Kershaw County street standards of this Article.

### **5:1.2-4 Dimensions**

Notwithstanding the exemptions from the definition of a subdivision, all lots shall meet the minimum lot area, yard, setback, height, density, floor area, and impervious surface requirements of the zoning district regulations in which they are located.

### **5:1.2-5 Design**

The lot size, width, depth, shape, grade, and orientation shall be in proper relation to street and block design, to existing and proposed topographical conditions, and for the type of development and use contemplated. Unless specifically allowed by these regulations, all lots shall have street frontage no less than the minimum width requirements of the zoning district regulations in which they are located, except for lots located on cul-de-sacs or curves less than ninety (90) degrees. All lots shall have a configuration so that the depth of the lot shall not exceed the frontage of the lot by a ratio greater than six (6) to one (1) (6 depth/1 frontage). The frontage of the lot shall be determined by the frontage that abuts a public or approved private street. Consideration for irregularly shaped lots may be given to overcome unusual topographic conditions in new subdivisions and to allow for subdivision of existing irregularly shaped lots of record provided that zoning dimensional requirements can be met.

### **5:1.2-6 Flag Lots and Access Easements**

The Planning Official shall approve a flag lot only upon a determination that it:

- A. Will not be detrimental to public health, safety, or general welfare;
- B. will not adversely affect the reasonable development of adjacent property;
- C. is justified because of topographic or other special conditions unique to the property involved, in distinction to mere inconvenience or financial disadvantage;
- D. is consistent with the objectives of this Ordinance;
- E. will not have the effect of nullifying the intent or purpose of this Ordinance or the Comprehensive Plan; and
- F. will not conflict with applicable requirements of the zoning district regulations.

Access easements shall not be permitted in new subdivisions.

### **5:1.2-7 Conditions for Allowing Flag Lots and Access Easements**

The creation of flag lots or access easements shall not be allowed except under the following conditions:

- A. To permit full use of a lot of record (existing lot) created and existing prior to the adoption of this Ordinance that does not meet the minimum street frontage requirements of the zoning district in which the lot is located. When meeting the above, as determined by the Planning Official, flag lots may be created and access easements may be permitted in accordance with the following development standards:
  - 1. The other lot of record meets all zoning requirements specified for the respective zone in which it is located, both before and after the subdivision to create the access easement or flag lot.
  - 2. The “flag” section of an existing flag lot or an existing lot accessed by the access easement shall meet or exceed the requirements other than the minimum street frontage specified for the respective zone. The area of the access driveway of the flag lot or access easement shall not be included in computing minimum lot area requirements. Title to the access driveway must be conveyed by general warranty deed in the same manner as title to the “flag” portion of the lot, or in the case of an easement, recorded with the deed to the accessed lot.
  - 3. The driveway section of the flag lot or access easement shall be not less than 30 feet wide. Flag lot access driveways shall be separated from other driveways by the required

- minimum lot width for the zoning district in which the flag lot is to be created, measured from the front property line unless shared driveways are provided.
4. Once subdivided to include a flag lot or access easement, the other lot of record shall not be further subdivided for a period of twelve (12) months after the creation and recording of the flag lot.
  5. Flag lots created under this section may not be further subdivided.
- B. Creation of flag lots to overcome unusual natural or topographic conditions in new subdivisions. Flag lots may be created in new subdivisions where natural or topographic conditions create access problems, provided:
1. Access driveways shall be not less than thirty (30) feet wide, and shall front for at least thirty (30) feet on a public street.
  2. Flag lot access driveways shall be separated from other driveways by the required minimum lot width for the zoning district in which the flag lot is to be created, measured from the front property line unless shared drives are provided as per below.
  3. Use of flag lot driveways by adjoining lots on either side of the driveway is encouraged as a means of limiting curb cuts, but a flag lot driveway shall not be used to access a second flag lot.
  4. The area of an access driveway shall not be counted when computing the minimum area of a lot as required by the zoning district regulations of this Ordinance.
  5. Flag lots shall access public streets or approved private streets constructed to Kershaw County engineering specifications.
  6. Flag lots created under this section may not be further subdivided.
- C. Creation of a flag lot or an access easement to access lots created under the definition of exempt subdivisions. The Planning Official shall approve a flag lot or an access easement in exempt subdivisions only upon a determination that it:
1. Will not be detrimental to public health, safety, or general welfare;
  2. will not adversely affect the reasonable development of adjacent property;
  3. is consistent with the objectives of this Ordinance and will not have the effect of nullifying the intent or purpose of this Ordinance or the Comprehensive Plan; and;
  4. will not conflict with applicable requirements of the zoning district regulations.
  5. The area of an access driveway shall not be counted when computing the minimum area of a lot as required by zoning district regulations.
  6. Access driveways shall be not less than thirty (30) feet wide, and shall front for at least thirty (30) feet on a public street or previously recorded private street.
  7. Flag lot access driveways shall be separated from other driveways by the required minimum lot width for the zoning district in which the flag lot is to be created, measured from the front property line unless shared driveways are provided as per below.
  8. Use of access driveways by adjoining lots on either side of the driveway is encouraged as a means of limiting curb cuts, but a flag lot driveway shall not be used to access a second flag lot.

#### **5:1.2-8 Appeal to Planning and Zoning Commission**

The decision of the Planning Official concerning flag lots or access easements may be appealed 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 fifteen (15) days after the appeal is filed.

**5:1.2-9 Subdivision of Lots, Parcels, and Tracts on Existing County Unimproved (Dirt) Roads**

Existing lots, parcels, and tracts of record (recorded with the Register of Deeds) fronting on an unimproved (dirt) County-maintained road that does not meet the Kershaw County dirt road engineering specifications may nonetheless be subdivided; provided no more than three (3) additional lots shall be created from each existing lot, parcel, or tract. The lots created on the dirt road that does not meet the dirt road standards as set forth in the engineering specifications including the lot, parcel, or tract from which the lots were created, shall not again be subdivided unless and until the dirt road on which the lots front is improved to Kershaw County dirt road standards or an approved private road alternate design.

**5:1.2-10 Residential Major Subdivision Reverse Frontage Lots**

Residential major subdivisions, where proposed for areas adjacent to arterial streets and roads, shall be denied direct access to and shall be separated from such streets and roads by reverse frontage lots. Elsewhere, double frontage lots shall be prohibited.

Residential reverse frontage lots shall have a minimum rear yard of fifty (50) feet next to the arterial street, measured from the shortest distance of the proposed back building line to the street right-of-way and shall within such rear yard, and immediately adjacent to the right-of-way, have a non-access planting screen easement of at least thirty (30) feet in depth planted to Type "D" Buffer requirements per this Ordinance.

**5:1.2-11 Alignment**

Side lot lines shall be aligned at approximately right angles to straight street lines and radial to curved street lines.

**5:1.2-12 Subdivision of Lots Requiring a Water Quality Buffer**

Where a subdivision of a parcel is proposed in which a water quality buffer plat is required per the provisions of this Article, the water quality buffer plat must be prepared and approved for the entire parcel prior to approval of the subdivision.

### **5:1.3 Areas Subject to Flooding**

#### **5:1.3-1 General**

If the area being developed, or any part thereof, is located within the boundary of a designated floodplain as delineated on Federal Emergency Management Agency (FEMA) Maps for Kershaw County, adequate plans and specifications for protection from flooding shall be provided as required by the Kershaw County Flood Damage Prevention Ordinance.

#### **5:1.3-2 Plat of Flood Hazard Areas**

Any plat which contains land subject to flooding shall be accompanied by evidence that no appreciable expansion of the area subject to flooding would result from the proposed land development, and that the proposed development will be adequately protected from inundation without appreciable interference with the flow of any watercourse or into an impounding basin.

All such evidence including surveys and specifications shall be submitted with the final plat, and no final plat shall be approved in the absence thereof.

#### **5:1.3-3 Prevention of Expansion of Flood Hazard Areas**

In no case shall any fill, levee, or other protective works be approved unless sufficient compensating adjustments of waterways, ditches, or impounding basins are made to prevent any appreciable expansion of flood hazard areas.

The county will not accept any street built below the 100-year flood elevation.

## **5:1.4 Water Supply**

### **5:1.4-1 SCDHEC Approval Required**

All developments and subdivisions shall be provided with water supplies and systems conforming to the requirements, rules, and policies of the South Carolina Department of Health and Environmental Control (SCDHEC), and approved by said agency.

### **5:1.4-2 When Required to Connect to Community Water Supply System**

Subdivisions shall be required to connect to a public water supply system if public service is reasonably available within the following distances:

<b>Table 5-1 COMMUNITY WATER SUPPLY SYSTEM CONNECTION REQUIREMENTS</b>	
<b>Size of Subdivision</b>	<b>Distance</b>
2 lots	400 feet
3-10 lots	1,000 feet
11 or more lots	2,000 feet

### **5:1.4-3 System Requirements**

The internal water supply system of the subdivision at build-out shall be adequate to handle domestic demand including fire flow, provided that the existing infrastructure of the available public water system supplying water to the entrance of the subdivision is capable of sustaining fire flow.

### **5:1.4-4 System Approval Required**

Improvement plans and specifications for all water supply systems for which the developer is responsible shall be submitted for approval with the preliminary plan.

### **5:1.4-5 System to Include Fire Hydrants**

Where existing infrastructure of the available public water system supplying water to the entrance of the subdivision is capable of sustaining fire flow, fire hydrants will be installed internally by the developer. Fire hydrants shall be installed and spaced internally throughout each subdivision to maintain a 500-foot radius between hydrants.

### 5:1.5 Sanitary Sewer Facilities

#### 5:1.5-1 SCDHEC Approval Required

All land developments and lots within subdivisions shall be provided with sanitary sewerage facilities conforming to requirements, rules, and policies of the South Carolina Department of Health and Environmental Control (SCDHEC), and approved by said agency. Said facilities shall be "stubbed out" prior to road surfacing.

#### 5:1.5-2 When Required to Connect to Public Community Sewerage System

Subdivisions shall be connected to a public sanitary sewer system if public service is available within the following parameters:

<b>Table 5-2 COMMUNITY SEWERAGE SYSTEM CONNECTION REQUIREMENTS</b>		
<b>Size of Subdivision</b>	<b>Applicable System Type</b>	<b>Distance *</b>
10-29 lots	Gravity Flow	500 feet
30 or more lots	Gravity Flow	750 feet
	Forced Main	750 feet
* The Planning and Zoning Commission may issue a variance to this requirement based on extremely unusual engineering/construction requirements.		

If a public system is not in place or cannot be reasonably extended, the developer must assure there will be in place individual subsurface disposal systems where appropriate, given site density, soil, slope, and other conditions, and subject to applicable SCDHEC regulations.

#### 5:1.5-3 System Requirements

The sanitary sewer system shall be adequate to handle the necessary flow based on complete development.

#### 5:1.5-4 System Approval Required

Improvement plans and specifications for all disposal systems for which the developer is responsible shall be submitted for approval with the preliminary plan.

#### 5:1.5-5 Kershaw County Requirements for Community Onsite Sewage Treatment and Disposal Systems

- A. The system must obtain a Permit to Construct and an Approval to Place in Operation from SCDHEC.
- B. The system plan shall be reviewed and approved by Kershaw County Planning and Zoning and Kershaw County Engineering. Kershaw County may impose conditions in addition to SCDHEC permit conditions based upon its professional engineering assessments.
- C. The project owners, a homeowners' association, or other responsible party shall enforce covenants and restrictions as to the maximum number of lots, maximum number of bedrooms per dwelling unit, maintenance and inspection agreements, and other conditions of approval of the community onsite sewage treatment and disposal systems imposed by SCDHEC and Kershaw County.

### **5:1.6 Street Lighting**

Street lighting shall be required in all major residential subdivisions. Street lighting shall be properly shielded so as not to create a hazard to drivers or a nuisance to residents. The residential lighting plans shall demonstrate that the proposed street lighting is adequate to provide for safe motorist, cyclist, and pedestrian street usage. Light spacing shall take into consideration the diameter and intensity of the light projection, lot size, road curves, hills, and other visibility restrictions. Flood lighting shall not be allowed for street light fixtures. Lighting must be provided for dead-end alleys.

### **5:1.7 New Subdivision and Land Development Names**

The Planning and Zoning Commission requires that new subdivision and development names shall be subject to the approval of the Kershaw County 911 Addressing and shall not duplicate the name of any recorded subdivision or development.

### 5:1.8 Utility Easements and Rights-of-Way

- A. **Utility Easements** - Adequate areas of suitable size and location shall be allocated for utility easements. The location and size of such easements shall be coordinated with the public and private utilities involved.

Where provided along side or rear lot lines, utility easements shall be not less than twenty (20) feet in width. No vegetative screening or fencing required by the buffering, screening, open space, and landscaping regulations of this Ordinance shall be planted or installed inside utility and drainage easements, excluding overhead easements, without the consent of the Planning Official and the easement holder. If plantings or fences inside utility or drainage easement areas are allowed, these plantings and fences shall be maintained in accordance with the terms of consent and any applicable maintenance provisions of this section. Any tree planted within the right-of-way of overhead utility lines shall be a small-maturing tree of a mature height of no greater than fifteen (15) feet.

- B. **Kershaw County Sewer Easements and Rights-of Way**

1. **Dedication of Right-of-Way** - The developer may dedicate sewer line rights-of-way to Kershaw County. The proposed locations of Kershaw County public sewer rights-of-way shall be approved by the Kershaw County Utility Director. Where provided along side or rear lot lines, utility easements shall be not less than twenty (20) feet in width. The sewer line right-of-way shall be shown on the construction plans, as built plans, and on the final plat. The sewer line and right-of-way shall be dedicated to Kershaw County through the Certification of Ownership and Dedication per the final plat submittal requirements of this Article and is repeated herein:

- a. **Certificate of Ownership and Dedication**

It is hereby certified that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby dedicate said streets; walks; parks; rights-of-way; sewer lines to include manholes and manhole castings, fittings and other components, and service lines to the right-of-way boundaries; and other sites to public use as specifically noted hereon. It being understood that I (we) hereby warrant said facilities and agree to bear any costs associated with correcting any defects in said facilities for a period of one (1) year from the date of final plat approval.

_____	_____
Date	Owner
_____	_____
Date	Owner

- b. **Use of Right-of-Way** - The right-of-way shall be for the exclusive use of Kershaw County. No vegetative screening or fencing required by the buffering, screening, open space, and landscaping regulations of this Ordinance shall be planted or installed inside the Kershaw County public sewer right-of-way without the consent of the Planning Official and the Utilities Director. The Planning and Zoning Commission or Planning Official, as applicable, may approve the installation of sidewalks, trails, and greenways as required in this Article within the Kershaw County public sewer rights-of-way. All proposed sidewalks, trails, and greenways including any proposed hardscaping shall have approval from the Utilities Director

prior to sketch plan or site plan submittal to the Planning Official or Planning and Zoning Commission, as applicable. However, the County reserves the right to dig up, remove, or destroy any buildings, fences, sidewalks, driveways, entranceways, and other structures allowed within the right-of-way for the purpose of maintaining, inspecting, and operating the sewer facilities. The County shall, in connection with such action, take reasonable precaution not to damage or move said structures, but shall not be held liable for damages.

2. **Sewer Line Easements** - The developer (grantor) may grant sewer line easements to Kershaw County. Where provided along side or rear lot lines, utility easements shall be not less than twenty (20) feet in width. Ownership of the easement shall remain with the property holder. However, no construction within the sewer easement, including buildings, fences, sidewalks, driveways, entranceways, and other structures shall be allowed within the boundaries of the easement without prior approval of the Utilities Director.

The sewer facilities installed within the easement shall remain the property of Kershaw County. The County shall have the right to maintain, inspect, rebuild, remove, repair, improve, and relocate within the easement, and to make such changes, alterations, substitutions, additions to or extensions of its facilities, including the right to increase the size and number of pipes and manholes. However, the County shall, in connection with such action, take reasonable precaution not to damage or move the facilities of the easement grantor.

All rights reserved to the grantor of the easement shall be subject at all times to the paramount right of the County to dig up, remove, or destroy any buildings, fences, sidewalks, driveways, entranceways, and other structures belonging to the grantor for the purpose of maintaining, inspecting, and operating the sewer facilities. Any shrubbery, fence, or other structure placed in the sewer easement shall be done at the risk of the property owner and the County shall not be held responsible for damages done to any structure, shrubbery, or fence resulting from the utility having to make excavations or openings in the utility easement.

In addition to the grant of easement, the grantors shall grant to the County during the period of construction and during any subsequent period in which maintenance, inspection, repairs, or reconstruction of the sewer system may be necessary, the right of using land abutting the easement as may be necessary for the placement of materials excavated from the easement and to bring in lines and equipment. The County shall restore damages resulting from said uses of land abutting the easement.

- a. **Sewer Easement Certification** - The following certification, as applicable, shall be included on all construction plans and final plats submitted for approval:

The Party of the First Part, hereinafter called "Grantor," does hereby grant, bargain, sell, release and convey unto Kershaw County, hereinafter called "Grantee," its successors and assigns, sewer lines and appurtenances incidental thereto including but not limited to pipes, manholes and fittings and other components comprising the sewer system as shown on hereon, in fee simple, together with an exclusive easement, twenty (20) feet in width together with the right during the course of operation, construction, and/or maintenance to use such additional width as may be necessary on

either side of the aforesaid right-of-way herein granted, for the purpose of operation, construction, and/or maintenance of said sewer lines and appurtenances through and under the lands hereon described, together with the right of ingress and egress across said property at all times, and the right to excavate and refill ditches and/or trenches, and the further right to remove trees, bushes, undergrowth, crops and/or other obstructions interfering with the operation, construction and/or maintenance of said sewer lines and appurtenances. The grantor hereby agrees that no construction (including, but not limited to, buildings, paving, pipe lines or other utilities) will be allowed within the limits of this easement without the prior approval of Kershaw County.

\_\_\_\_\_ Date \_\_\_\_\_ Owner (Grantor)

\_\_\_\_\_ Date \_\_\_\_\_ Owner (Grantor)

- C. **Storm Drainage Pipe Easements**- Storm drainage pipe easements shall provide adequate area for maintenance equipment to operate. Some typical easements are listed below:

<b>Table 5-3 DRAINAGE EASEMENT WIDTH PER PIPE SIZE AND DEPTH</b>		
<b>Maximum Pipe Size</b>	<b>Maximum Depth to Invert</b>	<b>Width of Easement</b>
18"	3.5'	20'
24"	5.0'	24'
36"	6.0'	30'
54"	7.0'	36'

- D. **Stormwater Open Channels Easements** - The minimum easement width for an open channel/ditch is twenty-four (24) feet. For channels in excess of four (4) feet in width and/or four (4) feet in depth, the easement width shall be increased by two (2) feet for each additional foot of width and/or depth or width of the channel plus twenty (20) feet, whichever is wider.
- E. **Detention Pond Easements** - An access easement of twenty (20) feet minimum shall be provided to the pond access gate. The entire pond and sufficient access on the top of the circumference of the pond shall be included as part of the drainage easement.

**5:1.8-1 Maintenance of Easements and Rights-of-Way**

- A. **Maintenance of Easements** - Easements shall be maintained by the property owner(s) and may be used to satisfy yard requirements unless specifically accepted for public maintenance by the County or utility with lines in such easement.

Covenant restrictions placed in the deed of a lot which contains a utility easement shall stipulate that the County, municipal, or other utility provider with lines in such easement shall have full right of access.

- B. **Maintenance of Kershaw County Sewer Rights-of-Way** - Public sewer rights-of-way dedicated to Kershaw County shall be maintained by Kershaw County.
- C. **Maintenance of Sewer Easements Granted to Kershaw County** - The easement grantor shall grant to Kershaw County the right of maintenance of the easement and sewer facilities as stated above.

### **5:1.9 Surveys and Markings**

All land developments within the jurisdiction of this Ordinance shall be surveyed, platted, and marked in accord with the *Minimum Standards Manual for the Practice of Land Surveying in South Carolina*, as promulgated by the Code of Laws of South Carolina, 1976, Title 40, Chapter 21. This manual is hereby adopted by reference and is as much a part of this Ordinance as if contained herein.