

# ARTICLE 3: ZONING AND LAND DEVELOPMENT REVIEW AND ADMINISTRATION

## Section

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### § 3:1 GENERAL PROVISIONS.

This Section sets forth the procedures required for obtaining Letters of Zoning Determination, Building Permits, Grading Permits, Sign Permits, and Certificates of Use and Occupancy, and also establishes procedures for processing land development applications. The general provisions of this Section apply to all development applications and procedures under this article unless otherwise stated.

#### **3:1.1 Responsibility.**

All requests for permits and licenses required by this Ordinance, and legislative change of relief from the terms of this Ordinance shall be in the form of an application. The provisions of this Article shall govern the basic requirements for processing different types of applications from initiation to final action and issuance of a permit.

The **Development Services Representatives (DSR)** shall be authorized to administer the requirements for processing applications and issuing permits according with the provisions of this Ordinance.

The applicant shall be responsible to provide the required information to process a permit application, secure or renew a license, and present facts about circumstances which

would justify a proposed change or modification to the terms and/or application of this Ordinance.

All applications shall be submitted to the DSR on forms provided by the County and contain or be accompanied by the information required by the applicable Checklists and fees. All completed applications and associated checklists shall be submitted to the DSR for processing and record keeping.

For the purposes of this Article, **parties in interest** shall include the applicant and other persons who have submitted a written statement to the Commission or DSR indicating their interest in the matter before the Commission.

### **3:1.2 Administrative Adjustment.**

1. Purpose: Administrative adjustments are specified deviations from otherwise applicable development standards where development is proposed that would be:
  - a. Compatible with surrounding land uses;
  - b. Harmonious with public interest; and
  - c. Consistent with the purposes of this Zoning Ordinance.
2. Applicability: The DSR shall have authority to authorize an adjustment of up to ten (10) percent of any numerical standard set forth in Section 7:3 Yard and Setback Requirements or Article 12 Development Standards. No administrative adjustment shall increase the overall density or intensity of the development.
3. Review and Action by the DSR: The DSR shall review the application and approve or disapprove the application based upon the criteria below. A written decision including affirmative findings on the criteria set forth below shall be mailed to the applicant and each member of the Planning Commission.
4. Administrative Adjustment Criteria: To approve an application for an administrative adjustment, the DSR shall make an affirmative finding that the following criteria are met:
  - a. That granting the administrative adjustment serves a conspicuously obvious and needed purpose;
  - b. That granting the administrative adjustment will ensure an equal or better level of land use compatibility as the otherwise applicable standards;
  - c. That granting the administrative adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate

vicinity of the proposed development because of inadequate buffer, screening, setbacks and other land use considerations;

- d. That granting the administrative adjustment will not adversely affect property values in any material way; and
- e. That granting the administrative adjustment shall be generally consistent with the purposes and intent of this Ordinance.

### **3:1.3 Application Completeness.**

Applications required under this Ordinance shall be considered complete only if they are submitted in the required format, including all mandatory information as required by Article 2 of the Land Development Regulations the appropriate Land Development Regulations Checklist, and are accompanied by the appropriate fee. Any application that is determined to be incomplete shall, within thirty (30) days of its submittal, be returned to the applicant along with an explanation of the application's deficiencies. Fees shall not be refunded. No further processing of the application shall occur until the deficiencies are corrected. Once the deficiencies are corrected, the application may be resubmitted without the payment of additional fees, provided that it is resubmitted by the application deadline date within ninety (90) days of the date that the application was returned to the applicant.

### **3:1.4 Filing Fees.**

Applications shall be accompanied by the fee amount that has been established by the County Council and as amended by Resolution from time to time for the respective type of application. Fees shall not be required for applications initiated by authorized review or decision-making bodies.

### **3:1.5 Complaints Regarding Violations.**

Any authorized action or decision made by the DSR may be appealed to the BZA within 30 days. A complete application for appeal will be scheduled for a BZA hearing.

An appeal from the decision of the BZA may be made pursuant to the provisions of Title 6, Chapter 29 and taken to Circuit Court within thirty (30) days after actual notice of the decision.

Any person aggrieved by a decision of the BZA rendered after the hearing may within thirty (30) days after notice thereof file an appeal in Circuit Court for a review of the decision of the BZA pursuant to Section 6-29-1150 of the South Carolina Local Government Comprehensive Planning Enabling Act of 1994.

## **§ 3:2 ZONING ORDINANCE TEXT & MAP AMENDMENTS (REZONING).**

The regulations, restrictions, and boundaries set forth in this Zoning Ordinance may from time to time be amended, supplemented, changed, or repealed by the County Council. Prior to final action by County Council under this article, the Planning Commission shall review the amendment and offer any comments or recommendations as appropriate. All actions taken under this article shall be done in accordance with the procedures outlined below and consistent with applicable State laws.

Any proposed zoning text amendment and/or zoning map amendment must be made in compliance with the latest edition of the Jasper County Comprehensive Plan.

### **3:2.1 Zoning Change by Application.**

An application for any change or amendment to the zoning text or map of this Ordinance shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be changed and the names and addresses of the owner or owners of the property. Such application shall be filed with the DSR in accordance with the current schedule of submittal dates as designated by the Planning Commission. In order for an application to be processed by the DSR, all required information and forms must be completed. The DSR may return any incomplete forms to the applicant.

### **3:2.2 Initiation of Amendments.**

County Council, County Planning Commission, Board of Zoning Appeals, or property owners may initiate proposed changes or amendments to the Ordinance text and/or map. Petitions for text and/or map changes or amendments must first be presented to the DSR.

### **3:2.3 Review and Recommendation by the Planning Commission.**

The DSR shall, upon receipt of a request for an amendment to the Zoning Ordinance text or map, review and make written recommendations to the Jasper County Planning Commission concerning the request. The Planning Commission shall act on an application within thirty (30) days after receipt of certification of completeness of the application from the DSR, by either 1) deferring up to one (1) meeting, or 2) recommending denial or approval and submitting its report and recommendation to County Council. If the Planning Commission fails to submit a report within the prescribed time period, the request shall be forwarded to the County Council for consideration, and the Planning Commission shall be deemed to have forwarded the application without a favorable or negative recommendation.

### **3:2.4 Public Hearing.**

Upon receipt of the Planning Commission recommendation(s) for an amendment to the Zoning Ordinance text or map, County Council shall schedule a public hearing in accordance with Section 3:5.3.

### **3:2.5 Action by County Council.**

County Council shall receive the report and recommendation from the Planning Commission, and if material changes or departures from the text or maps as recommended by the Jasper County Planning Commission are to be made pursuant to the public hearing as detailed hereafter, such change or departure shall be submitted to the Planning Commission for review and recommendation, and the Planning Commission must within thirty (30) days of the submission, submit its report on the change to the County Council, and if the Planning Commission fails to submit a report within this prescribed time limit, it is deemed to have approved the change or departure.

After conducting a duly advertised public hearing, County Council shall consider information presented at the hearing along with the recommendation(s) received from the Jasper County Planning Commission. When applicable, the County Council will require input from the Southern Jasper/Hardeeville Joint Planning Commission or the Central Jasper/Ridgeland Joint Planning Commission.

Before County Council approves any map amendment, the Planning Commission and County Council shall be informed of the relation of the application to the provisions of the County's Comprehensive Plan or, in the absence of such information, that one (1) or more of the following should be considered:

1. That the original zoning classification given the property was improper or inappropriate.
2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the County's Comprehensive Plan and which have substantially altered the basic character of such area .

### **3:2.6 Reconsideration of Request for Amendment.**

When County Council shall have denied a request for an amendment, it shall not consider the same or a less intensive reclassification for an amendment affecting the same property until one (1) year from the date of the previous denial.

### **3:2.7 Effective Date of Changes in Zoning or Map Ordinances.**

Any ordinance affecting a change in the text of the Zoning Ordinance or zoning maps shall become immediately effective upon County Council approval.

### **3:2.8 Rezoning Fees.**

When a proposed amendment to the ordinance text or map is initiated by individuals or parties other than County Council, Planning Commission, or Board of Zoning Appeals, a

fee shall be paid for each application for administrative and advertising expenses as established by the County Council and as amended by Resolution from time to time.

### § 3:3 VARIANCES.

#### 3:3.1 Consideration of Variances.

The Jasper County Board of Zoning Appeals is authorized to hear and decide appeals for Variance from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship. A Variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings: **The fact that the property may be utilized more profitably (economic hardship), should a Variance be granted, may not be considered grounds for a Variance. The Board may not grant a Variance, the effect of which would be to 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 in accordance with all requirements as prescribed by the Zoning Ordinance.**

The Board of Zoning Appeals may authorize upon written appeal in specific cases such Variance from the terms of this Ordinance as will not be contrary to the public interest where the variance meets all of the following criteria:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
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.

**In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare. Violation of such conditions and safeguards shall be a violation of this Ordinance and punishable under Article 19.**

The DSR shall notify owner of the property for which the Variance is requested, or his agent, as well as adjacent property owners by mail.

The DSR shall provide for posting of the property in accordance with Section 3:5.3.

### **§ 3:4 SPECIAL EXCEPTIONS**

#### **3:4.1 Uses Permitted by Special Exception.**

The Board of Zoning Appeals may hear and decide upon Uses by Special Exception specifically authorized by the terms of this Ordinance. The Board shall not authorize a Use by Special Exception unless the following conditions are met:

1. A written application is submitted.
2. Notice shall be given at least fifteen (15) days in advance of a public hearing in a newspaper of general circulation in Jasper County.
3. A public hearing shall be held.
4. The Board shall make written findings indicating compliance with the regulations governing the special use, and any conditions placed on the approval by the Board.

#### **3:4.2 Notice of Hearing.**

When an applicant requests a Use by Special Exception under the terms of this Ordinance, Notice of a public hearing shall be published in a newspaper of general circulation in Jasper County at least fifteen (15) days prior to the hearing. The notice shall carry an appropriate descriptive title, and shall state the time, date, and place of the hearing in accordance with Section 3:5.3.

### **§ 3:5 APPEALS & HEARINGS**

#### **3:5.1 Duties of the Development Services Representative (DSR), Board of Zoning Appeals and Courts on Matters of Appeal.**

All questions of interpretation and enforcement shall be first presented to the DSR and such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the DSR, and that recourse from the decision of the Board of Zoning Appeals shall be as provided by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, S.C. Code, Title 6, Chapter 29. The BZA shall be the only authorized body to render decisions on the Zoning Appeal Applications at the County level.

### **3:5.2 Appeals to the Board.**

The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the DSR in the enforcement of this Ordinance.

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer, department, board, or bureau of the County. Appeal must be taken within thirty (30) days from the date of the decision notice or letter, by filing with the DSR a notice of appeal specifying the grounds of such appeal. The DSR shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for hearing the appeal, give due notice of the hearing at least fifteen (15) days prior to the hearing date, to the parties of interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by designated agent or attorney. The Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirements, decision, or determination and to that end shall have all the powers of the DSR and may issue or direct the issuance of a permit.

### **3:5.3 Notice of Hearing.**

Notice of a public hearing shall be published in a newspaper of general circulation in Jasper County at least fifteen (15) days prior to the hearing. The notice shall carry an appropriate descriptive title, and shall state the time, date, and place of the hearing.

Notice of a public hearing shall be sent by first class mail to the last known address of all property owners within a minimum of 500 feet from all property lines of the subject property (unless the Review and Decision Making Body, after receiving a recommendation from the DSR, directs a larger area to be notified) at least fifteen (15) days prior to the date of the public hearing. The notice shall carry an appropriate descriptive title, and shall state the time, date, and place of the hearing.

In addition, the DSR shall properly post a County Notice Sign at least fifteen (15) days prior to the date of the public hearing. Such signs shall be placed in a conspicuous place or places on the affected premises.

Comprehensive amendments to the zoning map includes cases which it would be unduly burdensome, such as map amendments for more than 20 properties. Posting in these cases shall be by publicizing in a newspaper of general circulation in Jasper County at least 15 days prior to the date of the public hearing, and by placing one (1) sign on each road frontage abutting the affected properties.



### **3:5.3.1 Constructive Notice**

Minor defects in a notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the date, time and place of a hearing and the location of the subject property shall be strictly construed. If questions arise regarding the adequacy of notice, Review and Decision Making Body shall make formal findings regarding whether there was substantial compliance with the notice requirements of this Ordinance.

### **3:5.4 Stay of Proceedings.**

An appeal, which requests Board action stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken, certifies to the Board, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In which case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction.

### **3:5.5 Decisions.**

The concurring vote of the majority of the members of the Board of Zoning Appeals in attendance at the hearing shall be necessary to reverse any order, requirement, decision, or determination of the DSR charged with the enforcement of this Ordinance, to decide in favor of the applicant any matter upon which it is required to pass under this Ordinance, or to grant a Variance or Special Exception from the provisions of this Ordinance. In all final decisions or orders, the Board must specifically state that it is ordering, modifying or denying the particular matter presented to it for decision.

All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Planning Department as a 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.

### **3:5.6 Appeals.**

Every decision of the Board of Zoning Appeals may be appealed in the manner provided by the laws of the State of South Carolina and particularly by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, S.C. Code, Title 6, and Chapter 29.

### **3:5.7 Board of Zoning Appeals Fees.**

An Administrative Fee as established by County Council and as amended by Resolution from time to time shall be paid to the DSR for each application to the Board of Zoning Appeals.

### **§ 3:6 REQUIRED PERMITS & CERTIFICATES.**

No building, structure or sign requiring a permit or any part thereof shall be erected, added to or structurally altered, nor shall any excavation or grading be commenced until the required zoning and related permits have been issued by the DSR.

No building, structure or land shall be used; nor shall any building, structure or land be converted, wholly or in part to any other use, until all applicable and appropriate licenses, certificates and permits have been issued certifying compliance with the requirements of this Ordinance.

No permits inconsistent with the provisions of this Ordinance shall be issued unless accompanied by a Special Exception or Variance or as approved by the BZA.

The provisions of this Section shall not apply to the necessary construction, replacement or maintenance by a public utility of its outside plant facilities, including such items as poles, cross-arms, guys, wire, cable and drops.

#### **3:6.1 Types of Required Permits/Certificates and Fees.**

Fees for all permits and certificates shall be in accordance with the current Jasper County Fee Schedule as amended from time to time.

##### **3:6.1.1 Zoning Certificate (ZC)**

A Zoning Certificate shall be required in advance of the following:

1. The issuance of a Building Permit.
2. Grading or filling of a lot or parcel.
3. Changing the use of any part of a structure or lot, including any increase in the number of families or dwelling units occupying a building or lot.
4. The installation of a manufacturing or other industrial process whose operation may generate effects of the types and magnitudes limited by performance standards as set forth in this Ordinance.
5. Installation of any sign for which a permit is required.
6. The establishment of a temporary use.
7. Electric or gas utility companies and/or cooperatives extending service or utilities to a given site.
8. The issuance of a Business License

When the DSR receives an application for a Zoning Certificate whose proposed improvement and use described and illustrated conforms to all requirements of this Ordinance, he/she shall issue a Zoning Certificate and return a signed copy to the applicant within fifteen (15) days of receipt of the application.

When the DSR receives an application for a Zoning Certificate whose proposed improvement and use described and illustrated does not conform to this Ordinance, he/she shall deny the issuance of a Zoning Certificate, and so advise the applicant within fifteen (15) days, citing the particular sections of this Ordinance with which the application does not comply.

The Zoning Certificate shall remain in full effect unless/until the applicable zoning criteria is changed by an amendment to the Jasper County Zoning Ordinance.

### **3:6.1.2 Grading Permit.**

A Grading Permit shall be required prior to any land disturbing activity not exempt by this Ordinance. No Grading Permit shall be issued unless and until a Zoning Certificate has first been issued. Where required the excavation ordinance shall be enforced in conjunction with the issuance of a grading permit. In these instances a grading permit shall not be issued until the applicant demonstrates compliance with all code regulations and the submission of the necessary fees.

### **3:6.1.2A Excavation Permit.**

An excavation permit shall be required for excavation activities as described in Article 14.

### **3:6.1.3 Building Permit.**

A Building Permit shall be required of all proposed building and/or development activity unless expressly exempted by the County Building Code.

### **3:6.1.4 Sign Permit.**

Where a Sign Permit is required by this Ordinance, the permit application shall be in accordance with the Zoning Ordinance and shall be accompanied by the following:

1. A common signage plan.
2. Identification of landowner and/or leaseholder of property on which the sign is to be erected, including street address.
3. Name and address of owner of the sign.

4. Site plan sketch with dimensions (non-professionally drafted plan is acceptable) showing the location of the sign with respect to the property and right-of-way lines, building and setback lines, and buildings, parking areas, existing free-standing signs, and buffer areas.
5. Correct size, shape, configuration, face area, height, nature, number, and type of sign to be erected, including the size of letters and graphics.
6. The value of the sign and sign structure.

Signs exceeding thirty-six (36) square feet in area shall be accompanied by a drawing and written certification from a registered South Carolina engineer or architect that the sign is structurally sound and safe, does not constitute a hazard to persons or property on the premises, on adjoining property, or in the vicinity, and that the sign is in compliance with all building or other construction codes and the requirements of this Ordinance.

#### **3:6.1.5 Certificate of Use and Occupancy.**

It shall be unlawful to use, occupy, or permit the use of any building or premises, or both, or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use of structure until a Certificate of Use and Occupancy has been issued by the DSR which states that the proposed use of the building or land conforms to the provisions and the requirements of this Ordinance.

The DSR shall retain a record of all Certificates of Use and Occupancy issued. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance, and punishable under Article 19.

#### **3:6.1.6 Application Procedures.**

Application for a Zoning Certificate shall be made concurrently with the application for a Building Permit where applicable. The Certificate of Use and Occupancy shall be issued within fifteen (15) days after the successful completion of all the final inspections related to the project.

#### **3:6.1.7 Temporary Certificate of Use and Occupancy.**

The DSR may issue a Temporary Certificate of Use and Occupancy for a period as determined by the DSR, but not to exceed six (6) months for alterations, or for use of a building pending completion, or for bazaars, carnivals, and other temporary activities. The Temporary Certificate of Use may require conditions and safeguards to protect the occupants and the general public.

### **3:6.1.8 Failure to Obtain Certificate of Use and Occupancy.**

Failure to obtain a Certificate of Use and Occupancy shall be a violation of this Ordinance and punishable under Article 19 of this Ordinance.

### **3:6.1.9 Conformance of Construction and Use.**

Zoning Certificates are issued on the basis of approved construction documents and applications approved by the DSR. Certificates of Use authorize only the use, arrangement, and construction set forth in such approved construction documents and applications.

Use, arrangement, or construction that differs from approved construction documents and applications is a violation of the Ordinance and punishable under Article 19 of this Ordinance.

### **3:6.1.10 Right of Appeal.**

Should the applicant disagree with the administrative decision of the DSR regarding the requested Zoning Certificate, the applicant may appeal the action of the DSR to the Board of Zoning Appeals.

### **3:6.2 Refund of Zoning and Building Permit Fees for Affordable Housing.**

Any person to whom a zoning certificate or permit is issued pursuant to Section 3:6.1.1 hereof and/or a building permit issued pursuant to Section 3:6.1.3 hereof, and qualified pursuant to the criteria below shall be entitled to refund of fees for permits.

In order to qualify for refund of fees, the applicant must meet the following criteria:

1. The permit(s) must have been issued subsequent to the date of this ordinance; and
2. For building and zoning permit fee reimbursement for housing units to be sold, there must have been constructed one or more dwelling units, and:
  - a. Each dwelling unit subject to the permit must have been sold by the applicant, and, each such sale of affordable housing as defined in Article 4.
  - b. Each such sale must be made as an arms length transaction; and
3. For building and zoning permit fee reimbursement for housing units to be occupied by the landowner:
  - a. The family income shall be no more than eighty percent of the area median income after adjustments for family size.

- b. Housing cost shall constitute no more than twenty-eight percent of the annual family income adjusted for family size.
  - c. The landowner must be the applicant for building and zoning permits.
4. Each applicant requesting refund must provide the DSR with proof that he/she meets the criteria set forth above.