

# **ARTICLE ONE ADMINISTRATION**

## **SECTION A: AUTHORITY**

**1.a.1.** This ordinance is adopted pursuant to the authority delegated to cities and counties in *South Carolina Code of Laws Title 6, Chapter 29 S.C. 6-29-710*.

**1.a.2.** The purpose of this ordinance is to protect the health, safety, and general welfare, while allowing for the cost saving efficiencies, through the proper subdivision of land and the creation of zoning districts of such number, shape, and size the Sumter County determines to be best suited to carry out the purposes of this ordinance.

**1.a.3.** The purpose of this ordinance will be to regulate:

- a. Use of buildings, structures, and land.
- b. Size, location, height, bulk, orientation, number of stories.
- c. Erection, construction, recreation, alteration, demolition.
- d. Removal in whole or in part of buildings and other structures.
- e. Area and dimensions of land, water, and air space to be occupied by buildings and structures.
- f. The effects of aircraft noise and maximize the safety of land use in and around Shaw Air Force Base and the Poinsett Electronic Combat Range.

**1.a.4.** The provisions of this ordinance shall be administered to ensure orderly growth and development and shall supplement and facilitate the provisions in the comprehensive plan.

## **SECTION B: JURISDICTION**

**1.b.1.** The provisions in this ordinance shall be applicable within the unincorporated portions of the County of Sumter, South Carolina.

**1.b.2.** When necessary to further its provisions, this ordinance shall be amended by the Sumter County Council.

## **SECTION C: FEES**

**1.c.1.** Reasonable fees sufficient to recover incurred costs shall be set by Sumter County Council for the following:

- a. Rezoning Application;
- b. Zoning Board of Appeals Application (Special Exception, Variance, Appeal of Administrative Decision);
- c. Historic Preservation Design Review Application;
- d. Copies of Comprehensive Plan Map;
- e. Copies of Zoning Map;
- f. GIS Maps;
- g. GIS Maps and relevant database;
- h. Copies of the Sumter County Zoning and Development Standards Ordinance;
- i. Planned Development/General Development Plan Review;
- j. Site Plan Review;
- k. Preliminary Subdivision Plat Approval;
- l. Final Subdivision Plat Approval;
- m. Temporary Use Approval;
- n. Mobile Home Certification;
- o. Conditional Use Application;
- p. Subdivision Variances;
- q. Text Amendment;
- r. Street Name Change.

## **SECTION D: ENFORCEMENT AND PENALTIES**

**1.d.1.** It shall be the duty of the Zoning Administrator to enforce the provisions of this ordinance and bring to the attention of the appropriate court any violation or lack of compliance.

**1.d.2.** Violations of the provisions of this ordinance shall be deemed a misdemeanor, punishable as provided by law and with each day such violation continues constituting a separate offense. The

Zoning Administrator shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provision of these regulations.

## **SECTION E: INTERPRETATION, CONFLICT AND SEPARABILITY**

**1.e.1.** In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements. The Sumter City-County Planning Commission or the Sumter City-County Zoning Board of Appeals may impose more stringent standards if it is demonstrated that different standards are necessary to promote the health, safety, and welfare of the public.

**1.e.2.** The provisions of this ordinance are separable. If a section, sentence, clause, or phrase of this ordinance is determined by a court of competent jurisdiction to be invalid, the decision shall not affect remaining portions of this ordinance.

## **SECTION F: PLANNING COMMISSION, ESTABLISHMENT AND PURPOSE**

**1.f.1.** The Sumter City-County Planning Commission is hereby established pursuant to *S.C. Code of Laws, Title 6, and Chapter 29*.

**1.f.2.** These rules of procedure are adopted pursuant to *S.C. Code 6-29-360* for the Sumter City-County Planning Commission, which consists of 9 members appointed by the City and County Councils of Sumter.

**1.f.3.** The members of the Sumter City-County Planning Commission, upon appointment, shall serve 4-year terms, or until successors are appointed, whichever is later. Upon a vacancy created by a resignation of any member, the vacancy shall be filled for the unexpired term in the manner as are original appointments.

**1.f.4.** Jurisdiction of the Sumter City-County Planning Commission is established pursuant to *S.C. Code 6-29-1110*, wherein, approval of subdivision plats by the Sumter City-County Planning Commission is hereby required as a condition for the filing of such plats with the Sumter County Register of Deeds. (See definition of Exempt Subdivisions in *Article 10*).

**1.f.5.** The approval of site plans is hereby required as a condition for the issuance of a building permit, except that individual lot applications for detached one or two dwelling unit buildings shall be exempt from site plan review approval.

**1.f.6.** The decision of the Sumter City-County Zoning Board of Appeals shall substitute for that of the Sumter City-County Planning Commission wherever the Sumter City-County Zoning Board of Appeals has jurisdiction over a subdivision or site plan pursuant to *S.C. 6-29-800*.

**1.f.7.** Waiver of the Site Plan Application:

- a. The Sumter City-County Planning Commission may waive the requirement for site plan approval where there is a use or occupancy and no extensive construction or improvements is sought. The waiver may be granted only upon a resolution by the Sumter City-County Planning Commission finding that the use will not affect existing drainage, traffic, circulation, relationship of buildings to each other, landscaping, buffering, lighting, and other considerations of site plan approval, and that the existing facilities do not require upgrade or additional site improvements. The application for waiver of the site plan shall include a discussion of the prior use of the site, the proposed use, and its impact.
- b. Exception of Specific Subdivision and Site Plan Requirements: The Sumter City-County Planning Commission shall have the power to grant exceptions from the requirements for subdivision and/or site plan approval 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 provisions of this ordinance is impractical or will exact undue hardship because of peculiar conditions pertaining to the land in question.

## **SECTION G: PLANNING COMMISSION, RULES OF PROCEDURE**

**1.g.1. Officers:** The officers of the Sumter City-County Planning Commission shall be a chairman and vice-chairman elected for 1 year terms at the first meeting of the Sumter City-County Planning Commission in each calendar year. The officers of the Sumter City-County Planning Commission may serve consecutive terms. The Planning Director or his/her designee shall serve as secretary to the Sumter City-County Planning Commission.

- a. **Chairman:** The chairman shall be a voting member of the Sumter City-County Planning Commission and shall:
  - 1. Call meetings of the Sumter City-County Planning Commission;
  - 2. Preside at meetings and hearings;
  - 3. Act as spokesperson for the Sumter City-County Planning Commission;
  - 4. Sign documents for the Sumter City-County Planning Commission;
  - 5. Transmit reports and recommendations to Sumter County Council, and any other applicable entity;
  - 6. Perform other duties approved by the Sumter City-County Planning Commission.
- b. **Vice-Chairman:** The vice-chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the absence of the chairman and vice-chairman, the members present shall elect an acting chairman.

- c. **Secretary to the Planning Commission:** The Secretary shall:
1. Provide notice of meetings;
  2. Assist the chairman in preparation of agendas;
  3. Keep minutes of meetings and hearings;
  4. Maintain Sumter City-County Planning Commission records as public records;
  5. Attend to Sumter City-County Planning Commission correspondence;
  6. Perform other duties normally carried out by a secretary.

**1.g.2. Meetings:**

- a. Applications for Sumter City-County Planning Commission review shall be submitted through the office of the Zoning Administrator. Prior to the placement of an item on the agenda of the Sumter City-County Planning Commission an application must be **“complete”** as determined by the Zoning Administrator, and must be submitted in its complete form 22 days prior to a meeting of the Sumter City-County Planning Commission. The Sumter City-County Planning Commission shall act on a complete application within 30 days of receipt of the complete application.
- b. **Time and Place:** An annual schedule of regular meetings shall be adopted, published and posted at the Sumter County Administration Building in January of each year. The chairman, upon 24 hour notice that is posted and delivered to all Sumter City-County Planning Commission members and the local news media, may call special meetings. Meetings shall be held at the place stated in the notices, and shall be open to the public.
- c. **Agenda:** A written agenda shall be furnished by the Secretary to each member of the Sumter City-County Planning Commission and the news media, and shall be posted at least 4 days prior to each regular meeting and at least 24 hours prior to a special meeting. Items may be added to the agenda at a meeting by majority vote.
- d. **Quorum:** A majority of the members of the Sumter City-County Planning Commission shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling a meeting.
- e. **Voting:** A member must be present to vote. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member(s) affected, who shall announce the reasons for disqualification, have it placed in the minutes, and refrain from deliberation or voting on the question.

- f. **Public Input:** Except for public input sought by the Sumter City-County Planning Commission, no person shall speak at a Sumter City-County Planning Commission meeting unless invited to do so by the Sumter City-County Planning Commission. The Chairman or the Vice-chairman presiding at a Sumter City-County Planning Commission meeting reserves the unilateral right to gauge the amount of public input desired.
- g. **Conduct:** No member of the Sumter City-County Planning Commission shall participate in a matter in which he or she has a pecuniary or special interest.

### 1.g.3. Public Hearings:

- a. **Notice:** The Secretary to the Sumter City-County Planning Commission shall give the notice required by statute or ordinance for all public hearings conducted by Sumter County Council.
- b. **Procedure:** Before enacting an amendment to this ordinance, Sumter County Council shall hold a public hearing thereon. The time and location of this public hearing shall be published in a newspaper of general circulation within Sumter County at least 15 days prior to the date of the hearing.

### 1.g.4. Records:

- a. **Minutes:** The Secretary to the Sumter City-County Planning Commission shall record all meetings and hearings of the Sumter City-County Planning Commission on tape which shall be preserved until final action on all matters presented. The Secretary shall prepare minutes of each meeting for approval by the Sumter City-County Planning Commission at the next regular meeting. Minutes shall be maintained as a public record.
- b. **Reports:** The Secretary shall assist in the preparation and the forwarding of all reports and recommendations of the Sumter City-County Planning Commission in appropriate form. Copies of all notices, correspondence, reports, and forms shall be maintained as public records.
- c. **Attendance:** The minutes shall show the members in attendance at each meeting and the reasons for absence submitted by any member. The Sumter City-County Planning Commission shall recommend to Sumter County Council the removal for cause of any member who is absent from 3 consecutive meetings without adequate reason.

### 1.g.5. Review Procedures:

- a. **Zoning Amendments:** Proposed zoning text and/or map amendments shall be considered and recommendations shall be forwarded to the Sumter County Council within 60 days after receipt of the proposed amendments. 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.

- b. **Plats:** All plats shall be subject to review of the Sumter City-County Planning Commission with the exception of the following which may be reviewed by the staff of the Sumter City-County Planning Commission for approval and recording.
  - 1. Plats of existing lots of record;
  - 2. Minor subdivisions of land which meet all zoning requirements;
  - 3. Subdivisions which are exempt from regulation pursuant to *S.C. Code 6-29-1110(2)*.

Note: The Sumter City-County Planning Commission shall be informed at the next regular meeting following all staff approvals and the facts shall be included in the minutes thereof.

- c. **Comprehensive Plan:** All zoning and land development regulation amendments shall be reviewed first for conformity with the comprehensive plan. Conflicts with the Comprehensive Plan shall be noted in any report to the Sumter County Council.
- d. **Reconsideration:** The Sumter City-County Planning Commission may reconsider any review when so requested by Sumter County Council.
- e. **Appeals:**
  - 1. Staff Action, if authorized, to approve or disapprove a land development plan, may be appealed to the Sumter City-County Planning Commission by any party in interest. The Sumter City-County Planning Commission must act on the appeal within 60 days, and the action of the Sumter City-County Planning Commission is final.
  - 2. a. An appeal from the decision of the Sumter City-County Planning Commission must be taken to the circuit court within 30 days after actual notice of the decision.
    - b. A property owner whose land is the subject of a decision of the Sumter City-County Planning Commission may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with *Article 1.g.5.f*.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the planning commission is mailed.

- c. Any filing of an appeal from a particular Sumter City-County Planning Commission decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to *SC Code Section 8-21-310(11)*.
- d. When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the planning commission, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.
- f. **Pre-litigation mediation;** notice; settlement approval; effect on real property; unsuccessful mediation.
  - 1. If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the Sumter City-County Planning Commission.

The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (1) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

- 2. Within 5 working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.
- 3. Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:
  - a. the local legislative governing body in public session; and
  - b. the circuit court as provided in subsection (7).
- 4. Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.



5. If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:
  - a. the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or
  - b. the failure to approve the settlement by the local governing body.
7. The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:
  - a. in the same manner as provided by law for appeals from other judgments of the circuit court; or
  - b. by filing an appeal pursuant to subsection (6).

## **SECTION H: ZONING BOARD OF APPEALS: ESTABLISHMENT - PURPOSE**

**1.h.1.** A Zoning Board of Appeals is hereby established pursuant to *South Carolina Code of Laws, Section 6-29-780*.

**1.h.2.** These rules of procedure are adopted pursuant to *S.C. Code 6-29-790* for the Sumter City-County Zoning Board of Appeals which consists of 9 members appointed by the Sumter City and County Councils.

**1.h.3.** The members of the Sumter City-County Zoning Board of Appeals, upon appointment, shall serve 4 year terms, or until successors are appointed, whichever is later. Upon a vacancy created by a resignation of any member, the vacancy should be filled for the unexpired term in the manner as are original appointments.

**1.h.4. Powers of the Zoning Board of Appeals:** It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Administrator and that such question shall be presented to the Sumter City-County Zoning Board of Appeals only on appeal from the Zoning Administrator.

The Sumter City-County Zoning Board of Appeals shall have the following powers and duties:

a. **Appeals from administrative interpretation:** To hear and decide appeals where it is alleged there is an error in an order, requirement, decision, or determination made by an administrative official of the Sumter City-County Planning Commission in the enforcement of the Zoning Ordinance.

1. An appeal shall be taken within 30 days from the date of the decision rendered by the Zoning Administrator by filing with his or her office a written notice of appeal specifying the grounds thereof.
2. Appeals shall be submitted on application forms obtained from the Zoning Administrator.
3. All papers constituting the record upon which the appeal action was taken shall forthwith be transmitted to the Sumter City-County Zoning Board of Appeals.
4. An application fee to be utilized for the incidental costs of administration and advertisement shall accompany appeal applications.
5. Any communication purporting to be an application for an appeal shall be regarded as mere notice to seek relief until it is made in the form required.

b. **Variances:**

1. To hear and decide appeals for variances 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 Sumter City-County Zoning Board of Appeals makes and explains all of the following:
  - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
  - b. These conditions do not generally apply to other property in the vicinity.
  - c. 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.
  - d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.
2. The Sumter City-County Zoning Board of Appeals may not grant a variance the effect of which would be to:

- a. Allow the establishment of a use not otherwise permitted in a zoning district.
  - b. Extend physically a nonconforming use of land.
  - c. Change zoning district boundaries shown on the Sumter County Official Zoning Map.
  - d. Provide relief from any special design review criterium outlined in *Article 5.b.3.* for certain hazardous and/or potentially disruptive land development activities.
3. The fact that property may be utilized more profitably, should a variance be granted, shall not be considered grounds for a variance.
  4. In granting a variance, the Sumter City-County Zoning Board of Appeals may attach to it such conditions regarding location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to promote the public health, safety, or general welfare.

**c. Special Exception:**

1. Special exceptions are subject to the terms and conditions for the use set forth for such uses in the Zoning Ordinance.
2. Permits for Special Exceptions shall be evaluated by the Sumter City-County Zoning Board of Appeals on the basis of the following criteria:
  - a. That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.
  - b. That the special exception will be in substantial harmony with the area in which it is located.
  - c. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.
3. In granting a special exception, the Sumter City-County Zoning Board of Appeals may modify the application by imposing such additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the special exception. At the conclusion of the review, the Sumter City-County Zoning Board of Appeals shall approve the application as submitted or as specifically modified, or disapprove the application. If approved, the Sumter City-County Zoning Board of Appeals shall instruct the Zoning Administrator to issue such permits contingent on any specific modification imposed. If

disapproved, the Sumter City-County Zoning Board of Appeals shall notify the applicant, in writing, of the action disapproving the application, with the reasons therefore.

## **SECTION I: ZONING BOARD OF APPEALS: RULES OF PROCEDURE**

**1.i.1. Officers:** The officers of the Board shall be a chairman and vice-chairman elected for one year terms at the first meeting of the Board in each calendar year. The Planning Director or his/her designee shall serve as secretary to the Sumter City-County Zoning Board of Appeals.

a. **Chairman:** The chairman shall be a voting member of the Sumter City-County Board of Zoning Appeals and shall:

1. Call meetings of the Sumter City-County Zoning Board of Appeals;
2. Preside at meetings and hearings and swear in witnesses;
3. Act as spokesperson for the Sumter City-County Zoning Board of Appeals;
4. Sign documents for the Sumter City-County Zoning Board of Appeals;
5. Have orders of the Sumter City-County Zoning Board of Appeals served on parties;
6. Perform other duties approved by the Sumter City-County Zoning Board of Appeals.

b. **Vice-Chairman:** The vice-chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the absence of the chairman and vice-chairman, the members present shall elect an acting chairman.

c. **Secretary to the Board:** The Secretary shall:

1. Provide and publish notice of appeals and meetings;
2. Assist the chairman in preparation of the agenda;
3. See that property involved in appeals for variances or special exceptions are properly posted;
4. Keep recordings and minutes of meetings and hearings;
5. Maintain Sumter City-County Zoning Board of Appeals records as public records;

6. Serve Sumter City-County Zoning Board of Appeals decisions on parties;
7. Attend to Sumter City-County Board of Zoning Appeals correspondence;
8. Perform other duties normally carried out by a secretary.

**1.i.2. Appeals Process:**

- a. **Form of Appeal:** Appeals from administrative decisions, applications for variances, and applications for special exceptions shall be filed on forms approved by the Sumter City-County Board of Zoning Appeals and provided to applicants by the Board Secretary. The Sumter City-County Zoning Board of Appeals may require additional information deemed necessary for their deliberation on matters before the Sumter City-County Zoning Board of Appeals.. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.
- b. **Time of Appeal:** An appeal from an administrative decision must be filed within 30 days after actual notice of the decision by delivery of the approved appeal form to the Board Secretary who shall notify the Sumter City-County Zoning Board of Appeals that an appeal has been received.
- c. **Calendar:** Appeals and applications shall be marked with the date of receipt and placed on the Sumter City-County Zoning Board of Appeals agenda in the order in which received. Appeals shall be heard in the order on the agenda unless otherwise set by the Sumter City-County Zoning Board of Appeals for good cause shown.
- d. **Withdrawal of Appeal:** Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the Sumter City-County Zoning Board of Appeals. An appeal from an administrative decision which is withdrawn may not be re-filed after 30 days time from the date when originally withdrawn. Withdrawn applications for variances and special exceptions may be re-filed after 12 months and shall be placed on the calendar according to the date re-filed.
- e. **Continuances:** The hearing of an appeal or application may be continued one time by the Sumter City-County Zoning Board of Appeals for good cause shown.
- f. **Disposition:** The Sumter City-County Zoning Board of Appeals may deliberate and make a final disposition of a matter by majority vote of members present at the hearing and qualified to vote provided that no less than a quorum are qualified to vote. The vote may be taken at the same or subsequent meeting. A member may not vote on a matter which the member has not heard. Deliberations shall be conducted and voting shall be in public.
- g. **Form of Order:** An order shall be issued disposing of a matter by granting or denying relief with such conditions as may be deemed necessary; or affirming, modifying, or

reversing an administrative decision. A matter may be dismissed for lack of jurisdiction. Findings of fact and conclusions of law shall be separately stated in an order.

- h. **Rehearing:** The Board at its discretion may grant a rehearing of an application which has been dismissed or denied. A written request for a rehearing shall be filed with the secretary within 15 days after the delivery of an order. Said request shall be accompanied by any new evidence which could not have been presented at the initial hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome.
- i. **Order and Documents:** The secretary shall assist in the preparation and services of all orders of the Sumter City-County Zoning Board of Appeals in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as a public record.
- j. **Service of Order:** The secretary shall deliver a copy of an order to each party in interest by certified mail immediately upon execution of the order by the Chairman.

### 1.i.3. Meetings:

- a. **Applications** for the Sumter City-County Zoning Board of Appeals shall be submitted through the office of the Zoning Administrator. Prior to the placement of an item on the agenda of the Board of Appeals an application must be **“complete”** as determined by the Zoning Administrator, and must be submitted in its complete form 22 days prior to a meeting of the Sumter City-County Zoning Board of Appeals.. The Board of Appeals shall act on a complete application within 30 days of receipt of the complete application.
- b. **Time and Place:** An annual schedule of regular meetings shall be adopted, published and posted at the Sumter County Administration Building in January of each year. Special meetings may be called by the Chairman upon 24 hours notice. Meetings shall be held at the place stated in the notices, and shall be open to the public.
- c. **Agenda:** A written agenda shall be furnished by the secretary to each member of the Sumter City-County Zoning Board of Appeals and the news media, and shall be posted at least 5 days prior to each regular meeting and at least 24 hours prior to a special meeting. Item may be added to or removed from the agenda or postponed at a meeting by a majority vote.
- d. **Quorum:** A majority of the members of the Sumter City-County Zoning Board of Appeals shall constitute a quorum. A quorum shall be present before any business is conducted other than the rescheduling of meetings.
- e. **Appearance:** The applicant or any interested party may appear in person, or be represented by an agent or an attorney. The Sumter City-County Zoning Board of

Appeals may postpone or proceed to dispose of a matter in the absence or lack of appearance of the applicant or representative thereof.

- f. **Witnesses:** Interested parties may present testimony under oath. Witnesses may be compelled to attend by subpoena which has been signed by the Chairman and served at least 10 days prior to a hearing. The Sumter City-County Zoning Board of Appeals may call its own witnesses when deemed appropriate.
- g. **Cross-Examination:** No party shall have the right to cross-examination witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses shall not be allowed.
- h. **Evidence:** Legible copies of relevant documents, photographs, maps, drawings, etc., will be received in the record without authentication. Relevant testimony, which is not cumulative, repetitive, or hearsay, will be received. The chairman will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.
- i. **Conduct of Hearing:** The normal order of hearing, subject to modification by the Chairman, shall be:
  - 1. Statement of matter to be heard (Zoning Administrator);
  - 2. Presentation by applicant and supporters (5 minute limit);
  - 3. Presentation by opponents (5 minute limit);
  - 4. Rebuttal by applicant (3 minute limit);
  - 5. Un-sworn public comment when appropriate;
  - 6. The Sumter City-County Zoning Board of Appeals may question participants at any point in the hearing.
  - 7. Matters in which additional time is granted may be moved to the end of the agenda.

Note: Chairman will have discretion on time limits.
- j. **Minutes:** The secretary shall record all meetings and hearings of the Sumter City-County Zoning Board of Appeals on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the Sumter City-County Zoning Board of Appeals at the next regular meeting. Minutes shall be maintained as a public record.

**1.i.4. Actions on Appeals:** In exercising the above powers, the Sumter City-County Zoning Board of Appeals in conformity with the provisions of this Ordinance, may reverse or affirm,

wholly or partly, or may modify the order, requirements, or decision of the Zoning Administrator or other administrative officials; and to that end, shall have all powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

**1.i.5. Public Notice:** Notice of a hearing of the Sumter City-County Zoning Board of Appeals shall be provided by publication in a newspaper of general circulation in Sumter County 15 days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected. In cases involving variances and special exceptions, conspicuous notice shall be posted on the property affected, with at least one such notice being visible from each road that abuts the property.

**1.i.6. Public Hearings on Appeal:** The Sumter City-County Zoning Board of Appeals shall fix a reasonable time for hearing matters referred to it after the required posting and notice has occurred. The Sumter City-County Zoning Board of Appeals shall follow whatever rules of procedure it may adopt, and shall provide due notification to other parties in interest. At the hearing any party in interest may appear in person or by agent or by attorney. The Sumter City-County Zoning Board of Appeals must act upon the request within 30 days after the public hearing. If no decision has been made within that time, the request shall automatically be considered approved by the Sumter City-County Zoning Board of Appeals, and the Sumter City-County Zoning Board of Appeals shall direct that the necessary permits be issued.

**1.i.7. Stay of Proceedings:** An appeal stays all legal proceedings in furtherance of the action from which the appeal has been taken, unless the Zoning Administrator certifies to the Sumter City-County Zoning Board of Appeals, that by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed unless by a restraining order which may be granted by the Sumter City-County Zoning Board of Appeals or by a Court of competent jurisdiction in Sumter County.

**1.i.8. Expiration of Variance or Special Exception:** If the work authorized by any variance or special exception has not begun within 6 months from when the date of the variance or special exception was approved, said variance or special exception shall be canceled by the Zoning Administrator and written notice thereof shall be given to the person(s) affected.

**1.i.9. Appeals From The Board of Zoning Appeals:**

- a. Any person who may have a substantial interest in any decision of the Sumter City-County Zoning Board of Appeals may appeal the decision to the Circuit Court in and for Sumter County, filing with the Clerk of Court a petition in writing setting forth plainly, fully, and distinctly wherein such decision of the Sumter City-County Zoning Board of Appeals is contrary to law. Such appeal shall be filed within 30 days after the decision of the Sumter City-County Zoning Board of Appeals is mailed.
- b. A property owner whose land is the subject of a decision of the Sumter City-County Zoning Board of Appeals may appeal either:

1. As provided in *Article 1.i.9.a.*; or



2. By filing a notice of appeal with the Circuit Court accompanied by a pre-litigation mediation in accordance with *Article 1.i.10*.

Any notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the Board is postmarked.

- c. Any filing of an appeal from a particular Sumter City-County Zoning Board of Appeals decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to *SC Code Section 8-21-310(11)(a)*.

**1.i.10. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.**

- a. If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the Sumter City-County Zoning Board of Appeals.
- b. The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (a) or his representative must be notified and have the opportunity to attend the mediation. The government entity must be represented by at least one person for purposes of mediation.
- c. Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.
- d. Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:
  1. the local legislative governing body in public session; and
  2. the Circuit Court as provided in subsection (g).
- e. Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.
- f. If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the Circuit Court within 30 days of:

1. The report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or
  2. The failure to approve the settlement by the local governing body.
- g. The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:
1. In the same manner as provided by law for appeals from other judgments of the circuit court; or
  2. By filing an appeal pursuant to subsection (f).

**1.i.11. Notice of appeal; transcript; supersedeas.**

- a. Upon the filing of an appeal with a petition as provided in *Article 1.i.9* or *Article 1.i.10*, the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and within 30 days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the Sumter City-County Zoning Board of Appeals, including a transcript of the evidence heard before the board, if any, and the decision of the Sumter City-County Zoning Board of Appeals including its findings of fact and conclusions.
- b. The filing of an appeal in the circuit court from any decision of the Sumter City-County Zoning Board of Appeals does not ipso facto act as a supersedeas, but the judge of the circuit court may in his discretion, grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

**1.i.12. Determination of appeal; costs; trial by jury.**

- a. At the next term of the circuit court or in chambers, upon ten days' notice to the parties, the presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the Sumter City-County Zoning Board of Appeals proceedings. The findings of fact by the Sumter City-County Zoning Board of Appeals must be treated in the same manner as a finding of facts by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the Sumter City-County Zoning Board of Appeals for rehearing. In determining the questions presented by the appeal, the court must determine only whether the decision of the Sumter City-County Zoning Board of Appeals is correct as a matter of law. In the event that the decision of the Sumter City-County Zoning Board of Appeals is reversed by the circuit court, the Sumter City-County Zoning Board of Appeals is charged with

the costs, and the costs must be paid by the governing authority which established the board of appeals.

- b. When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the non-jury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the board of appeals, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

## **SECTION J: RESERVED**

## **SECTION K: RESERVED**

## **SECTION L: RESERVED**

## **SECTION M: RESERVED**

## **SECTION N: RESERVED**

## **SECTION O: ADMINISTRATIVE OFFICER AND RESPONSIBILITIES**

**1.o.1.** There shall be an administrative officer who shall have the responsibility for implementation and enforcement of all provisions of this ordinance as planning director and zoning administrator. This officer may delegate duties to subordinate officials within the department to assist in such administration and implementation and to represent the department as needed. Ultimate responsibility to County Council for such implementation, enforcement, and representation shall remain with the administrative officer.

**1.o.2.** The Zoning Administrator shall accept and examine all applications for construction, land use or reuse, and shall jointly issue building and zoning permits in full cooperation with the Building Official where such applications are in accord with the provisions of this Ordinance and the applicable Standard Building Code regulations. He/she shall direct parties in conflict with this Ordinance, cause to be kept records and files of any and all matters referred to him, and execute any and all reports Sumter County Council of Sumter, South Carolina, may require.

**1.o.3.** If the Zoning Administrator shall find that any one of the provisions of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order the discontinuance of illegal uses of land, (and in full cooperation with the Building Official) the discontinuance of illegal buildings and structures; the removal of illegal buildings or structures; illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violations of its provisions.



## **SECTION P: LAND CLEARANCE, GRADING, BUILDING, AND SIGN PERMITS REQUIRED**

**1.p.1.** Unless elsewhere exempted by this Ordinance, no building, sign, parking lot or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Zoning Administrator. Furthermore, no large-scale (greater than 2.0 acres) land clearance or grading of property shall be permitted without a tree protection and landscape plan submitted and approved by the Sumter City-County Planning Commission, which shall then direct the Zoning Administrator concerning the issuance of grading or land clearance permit. Small-scale (less than 2 acres) land clearance and grading plans will be submitted directly to the Zoning Administrator for approval and permit. Nothing in this Section shall prohibit farming operations regulated elsewhere in this Ordinance. The permit, if issued, shall be posted on the property in full view from each street upon which the property abuts.

## **SECTION Q: APPLICATION FOR A BUILDING PERMIT**

**1.q.1.** All applications for building permits as required by the Sumter County Building Code shall be accompanied by a site plan in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact size and location on the lot of buildings already existing, if any; and the location and dimension of the proposed buildings or alterations. The application shall include such other information as lawfully may be required by the Zoning Administrator; including existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance.

**1.q.2.** One copy of the plans shall be returned to the applicant by the Building Official after he shall have marked such copy either as approved or disapproved and attested to same by his/her signature on such copy. The original copy of the plan, similarly marked shall be retained by the Building Official. The County Engineer shall attest to the correctness and the adequacy of all infrastructure improvements shown on the site plan and/or as-built survey accompanying the site plan by affixing his signature and seal on the plans.

## **SECTION R: CERTIFICATES OF ZONING COMPLIANCE FOR NEW OR ALTERED USES**

**1.r.1** A certification of zoning compliance is provided when the applicable building or sign permit is approved by an official of the Sumter City-County Planning Department.

## **SECTION S: CONSTRUCTION AND USE TO BE AS SHOWN IN THE APPLICATIONS, SITE PLANS, BUILDING PERMITS, AND CERTIFICATES OF OCCUPANCY**

**1.s.1.** Building permits or certificate of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. No other use, arrangement or construction shall be allowed.

**1.s.2.** No building, other structure, or land shall be used; nor shall any building, structure or land be converted, wholly or in part, to any other use, until a Certificate of Occupancy, certifying compliance with this Ordinance, has been issued by the Zoning Administrator and the Building Official. No Certificate of Occupancy shall be issued where such use is in violation of the provisions of this Ordinance, or of any other applicable law or regulations.

## **SECTION T: AMENDMENT AUTHORIZATION AND PROCEDURE**

**1.t.1.** This Zoning and Development Standards Ordinance, including the map(s), may be amended from time to time by Sumter County Council, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Sumter City-County Planning Commission for review and recommendation. The Sumter City-County Planning Commission shall have 30 days from the meeting at which the amendment was presented within which to submit its report. If the Sumter City-County Planning Commission fails to submit a report within the 30 day period, it shall be deemed to have approved the requested amendment. Any communication (written, verbal or otherwise) purporting to be an application for a change shall be regarded as mere notice to seek relief until it is made in the form required. Upon receipt of any communication, the interested parties shall be supplied with the proper application form(s) by the Zoning Administrator.

**1.t.2. Initiation of Amendment:** Proposed changes or amendments to the Sumter -County Zoning and Development Standards Ordinance and Map(s) may be initiated by, the Sumter County Council, the Sumter City-County Planning Commission, the Sumter City-County Zoning Board of Appeals, and individual property owners.

**1.t.3. Application Fee:** Before any action shall be taken on an amendment request, the party or parties proposing or recommending said amendment shall deposit the required fee with the Zoning Administrator. The application fee shall not be refunded for failure of said amendment to be adopted. The fee is not required where the amendment is initiated by a public body listed in *Article 1.t.2.*

**1.t.4. Planning Commission Report:** The Sumter City-County Planning Commission shall prepare a report and make recommendations on any proposed amendment, stating its findings and its evaluation of the request. In making its report, the Sumter City-County Planning Commission shall consider the following factors:

- a. The relationship of the request to the Comprehensive Plan and whether the request violates or supports the Plan;
- b. Whether the use permitted by the proposed change would be appropriate in the area concerned;
- c. Whether adequate public school facilities, roads, and other public services exist or can be provided to serve the needs of the development likely to take place as a result of such change and the consequence of such change;
- d. Whether the proposed change is in accord with any existing or proposed plans for providing public water supply and sanitary sewer to the area. In the absence of such infrastructure capabilities, the proposed change must demonstrate that a safe and sanitary living environment exists through the provision of facilities sanctioned by the South Carolina Department of Health and Environmental Control (SC DHEC);
- e. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in Sumter County, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

**1.t.5. Declaration of Policy:** As a matter of policy, no request to change the text of the Zoning Ordinance or the Zoning Map shall be acted upon favorably except:

- a. Where necessary to implement the Comprehensive Plan; or,
- b. To correct an original mistake or manifest error in the regulations or map; or,
- c. To recognize substantial change or changing conditions or circumstances in a particular locality; or
- d. To recognize change in technology, the style of living, or manner of doing business.

**1.t.6. Public Hearing and Notice Thereof:** Before enacting an amendment in this Ordinance, Sumter County Council shall hold a public hearing thereon. At least 15 days notice of the time and place of the hearing shall be published in a newspaper of general circulation in Sumter County. When a proposed amendment affects the district classification of property, notice shall be made by posting the subject property, with at least one notice being visible from each road that abuts the property. Posting of said property shall occur at such time as the notice is given, and shall be at least 15 days prior to the hearing. All adjoining property owners directly abutting a parcel scheduled for rezoning (and those property owners within a circumference of 500 feet shall be contacted in writing at 15 days prior to the public hearing.

- a. When it is deemed beneficial by the Sumter City-County Planning Commission to hold a public hearing, no public hearing by Sumter County Council is required before amending the Zoning Ordinance text or maps. However, Sumter County Council may hold a public hearing to obtain additional public input on its own initiative;

- b. No challenge to the adequacy of notice or challenge to the validity of a regulation or map, or amendment to it, whether enacted before or after the effective date of this section, may be made 60 days after the decision of Sumter County Council, if there has been substantial compliance with the notice requirements of this section, and with established procedures of the Sumter County Council and the Sumter City-County Planning Commission.

**1.t.7. Action by the Sumter County Council:** Sumter County Council shall consider the recommendations of the City-County Planning Commission on each proposed zoning amendment. However, the Sumter County Council is not bound by the recommendation in making a final decision, and may call for additional information.

**1.t.8. Resubmission of denied Application:** In no instance shall a property owner(s) initiate action for a zoning amendment affecting the same parcel or lot, or any part thereof, for a period of 12 months following denial of such request by the Sumter County Council. The Sumter City-County Planning Commission, the Sumter City-County Zoning Board of Appeals, or the Sumter County Council may initiate a change in the Ordinance any time without regard to the 12 month limitation.