

ARTICLE 19: ADMINISTRATION AND APPEALS

Section 19.10 Administration and Administrative Officer (Ordinance 2004-04, 8/24/04)

Pursuant to SC Code §6-29-905, this Ordinance shall be administered and enforced by the Town of Seabrook Island Zoning Administrator. The Zoning Administrator may be assisted, as needed, in the administration and enforcement of this Ordinance by other Town officials, pursuant to their respective fields.

§19.10.10

Specifically, the Zoning Administrator's duties and powers shall include:

- (a) Interpreting the Development Standards Ordinance. In administering this Ordinance and rendering determinations as to the uses permitted in various zoning districts, the Zoning Administrator shall have the power and authority to render decisions whether a specific proposed use, although not listed as a permitted, conditional, or special exception use, is so substantially similar in substance and effect to a permitted, conditional or special exception use, that it should be allowed as if expressly permitted.
- (b) Administering permits and certificates where the requirements of this Ordinance have been met.
- (c) Processing applications for variances and/or special exception uses to the Board of Zoning Appeals.
- (d) Processing applications for subdivision and other land development approvals.
- (e) Processing appeals to the Board of Zoning Appeals and preparing the record for appeal to circuit court.
- (f) Collecting fees for the processing of applications for permits and certificates.
- (g) Investigating and resolving complaints pertaining to potential violation of ordinances.
- (h) Conducting inspections of buildings, structures and uses of land to determine compliance with the provisions of this Ordinance.
- (i) Maintaining public records related to zoning and land development approvals.

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- (j) Enforcing the provisions of this Ordinance, the decisions of the Board of Zoning Appeals and conditions placed upon a project in conjunction with a land development approval by the BZA, Planning Commission and/or Town Council.
- (k) Maintaining and making available for public inspection and copying the official Zoning Map and Development Standards Ordinance.
- (l) Other duties assigned by ordinance, Town Council, BZA, or Planning Commission.

Section 19.20 Planning Commission

The Town of Seabrook Island Planning Commission shall function as an advisory committee to the Zoning Administrator with respect to the provisions of this Ordinance, and shall have such direct review and approval functions as specified in this Ordinance. in accord with the provisions of Title 5, Chapter 3 of the Seabrook Island Town Code. (Ordinance 1995-06, 6/8/95)(Ordinance 2004-04, 5/25/04)

Section 19.30 Board of Zoning Appeals

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

§19.30.10 Appeals

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination by the Zoning Administrator in the enforcement of this Ordinance, pursuant to §19.40.

§19.30.20 Variances

To authorize upon appeal in specific cases a variance from the terms of the Ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon finding by the Board of Zoning Appeals that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and

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- (b) Such conditions are peculiar to the particular piece of property involved and do not generally apply to other property in the vicinity; and
- (c) Because of these conditions, application of the Ordinance on this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (d) Relief, if granted, would not cause substantial detriment to adjacent property, the public good or impair the purpose and intent of the Ordinance or the comprehensive plan.

§19.30.20.10 The board shall not grant a variance the effect of which would be to allow:

- (a) Establishment of a use not otherwise permitted in a zoning district; or
- (b) Physical extension of a nonconforming use of land; or
- (c) Change the zoning district boundaries shown on the official zoning map.

§19.30.20.20 The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance. (Ordinance 2004-04, 8/24/04)

§19.30.20.30 Any person requesting a variance within The Town must give notice of such action to the owners of all real property located within two lots on all four sides of such property. The applicant shall provide such notice by serving a copy of the application on the owner of the properties as shown on current tax records at least thirty (30) days prior to the date set for a public hearing. The applicant shall file service of certified mail with date of service at the same time the application is filed. Notice to a regime must be made to its manager or president. Notice to a partnership may be made by serving any partner. Notice to a corporation may be made on any officer.

§19.30.20.40 No hearing on the application shall take place prior to the elapse of thirty (30) days from the date of the filing of the application and the certificate of service. (Ordinance 1995-11, 9/14/95)

§19.30.30 Special Exceptions

To permit uses by special exception subject to the terms and conditions for the uses as set forth for such uses in the Town of Seabrook Island Development Standards Ordinance. (Ordinance 2004-04, 8/24/04)

Section 19.40 Appeals Heard by the Board of Zoning Appeals

Appeals of final zoning decisions made by the Zoning Administrator pursuant to this Ordinance shall be made to the Town of Seabrook Island Board of Zoning Appeals. (Ordinance 1995-06, 6/8/95)

§19.40.10 Appeals, Hearings and Notice

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board, or agency of the Town.

§19.40.10.10 Such appeal shall be taken within thirty (30) days from the date the appealing party has received actual notice of the action from which the appeal is taken, by filing with the officer/department from whom the appeal is taken and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

§19.40.10.20 An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the 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 and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

§19.40.10.30 The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney. (Ordinance 1995-06, 6/8/95)

§19.40.20

In exercising the previously referenced powers, the Board of Zoning Appeals may in conformity with the provision of this act, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and in case of contempt may certify such fact to the circuit court having jurisdiction. (Ordinance 1995-06, 6/8/95)

§19.40.30 Appeals from Decisions of Board of Zoning Appeals

Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal from any decision of the Board to the circuit court in and for Charleston County, filing with the clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within thirty (30) days after the decision of the Board is rendered. (Ordinance 1995-06, 6/8/95)

Section 19.50 Appeals to the Planning Commission (Ordinance 2004-04, 8/24/04)

§19.50.10

Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the Planning Commission by any party in interest. The Planning Commission shall act on such appeal within sixty (60) days and the action of the Planning Commission is final.

§19.50.20

Appeals from actions or decisions of the Planning Commission involving the requirements of Articles 15 through 17 of this Ordinance shall be made to the circuit court in and for Charleston County, and must be filed in writing specifying the ground therefore within thirty (30) days following actual notice of the decision is received by the applicant.