

# TOWN OF SEABROOK ISLAND

DSO Advisory Committee Meeting  
September 17, 2020 – 2:00 PM



Virtual Meeting (Zoom)

[Watch Live Stream \(YouTube\)](#)

## AGENDA

### CALL TO ORDER

### APPROVAL OF MINUTES

#### 1. DSO Advisory Committee Meeting:

- August 20, 2020

[Pages 2-3]

### ITEMS FOR DISCUSSION

#### 1. Review and Discussion of Draft DSO Articles:

- Article 19: Amendments
- Article 20: Appeals
- Article 21: Nonconformities
- Article 22: Enforcement & Penalties

[Pages 4-8]

[Pages 9-12]

[Pages 13-16]

[Pages 17-20]

### ADJOURN

#### **About the DSO Advisory Committee**

*On March 26, 2019, the Seabrook Island Town Council approved a contract with PLB Planning Group for the purpose of completing a comprehensive update of the town's Development Standards Ordinance (DSO). The DSO Advisory Committee was appointed on April 23, 2019 and includes ten members: one member from Seabrook Island Town Council, two members from the Board of Zoning Appeals, two members from the Planning Commission, four residents of the town, and one staff representative from the Seabrook Island Property Owners Association. The committee will be tasked with providing input, guidance and feedback to town staff and the consultant during the development of a new DSO. The committee's recommendations will be submitted to Town Council in late 2020.*

# TOWN OF SEABROOK ISLAND

## DSO Advisory Committee Meeting

August 20, 2020 – 2:00 PM

Virtual Meeting Hosted via Zoom

[Live Streamed on YouTube](#)



## MINUTES

Present: Skip Crane (Chair), Bob Driscoll, Ava Kleinman, Gary Quigley, Walter Sewell, Roger Steel, Ed Williams, Katrina Burrell, Joe Cronin (Town Administrator)

Absent: Wayne Billian

Guests: John Gregg (Mayor), Paul LeBlanc (PLB Planning Group)

Chairman Crane called the meeting of the DSO Advisory Committee to order at 2:00 PM. Chairman Crane confirmed that the requirements of the Freedom of Information Act were fulfilled, and the meeting agenda was properly posted.

### APPROVAL OF MINUTES

1. **DSO Advisory Committee Meeting: August 13, 2020**: Mr. Quigley made a motion to approve the minutes from the August 13, 2020 meeting. Mr. Steel seconded the motion. The motion was **APPROVED** by a vote of 8-0.

### ITEMS FOR DISCUSSION

1. **Review and Discussion of Draft DSO Articles**: Paul LeBlanc of PLB Planning Group provided a summary of the proposed language for the following articles:

- Article 17: Duties and Responsibilities
- Article 18: Permits & Fees

Committee members reviewed, discussed and provided feedback on the proposed language for Articles 17 and 18. A detailed discussion took place regarding the following topics:

- Article 17
  - The “quasi-judicial” role of the Board of Zoning Appeals;
  - The role of the Planning Commission;
  - Delegation of authority provisions; and
  - Incorporating language regarding the general qualifications, duties, responsibilities and procedures for administrative and decision-making bodies.

- Article 18
  - Procedures for handling incomplete applications;
  - “Development” vs. “Maintenance” (ie. When is a permit necessary?);
  - Procedures for reviewing and approving encroachment permits;
  - Council’s role in approving Temporary Use Permits;
  - Charleston County’s role in building permits and inspections;
  - Financial guarantees; and
  - Permit expiration dates.

Mr. LeBlanc will incorporate the committee’s recommendations into updated versions of Articles 17 and 18.

Ms. Kleinman left the meeting at 2:57 PM.

Mr. Steele left the meeting at 4:40 PM.

**ADJOURN**

There being no further business, Mr. Quigley made a motion to adjourn the meeting. Mr. Williams seconded the motion. The motion was **APPROVED** by a vote of 6-0 and the meeting was adjourned at 3:51 PM.

Minutes Approved: Pending



Joseph M. Cronin  
Town Administrator

**Amendments**

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**Article  
19**

**Seabrook Island Development Standards Ordinance**

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## Section 19.1 Ordinance Text or Map Amendments

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- A. **Ordinance Text Amendment.** Only the Planning Commission or Town Council may initiate an amendment to the ordinance text in accordance with the procedures of Section 19.2; provided, an application form and fee shall not be required.
- B. **Map Amendment.** The Official Zoning Map may be amended from time to time by Town Council, either on its own initiative or in response to a petition from the owner or option holder of a property. In either case, the procedures of Section 19.2 shall be followed; provided, if an amendment is initiated by Town Council an application form and fee shall not be required.
- C. **Resubmittal of Map Amendment.** No application for a zoning map amendment affecting the same parcel, or part thereof, which has been denied by Town Council, shall be resubmitted within 12 months of the date when the request was first denied. However, if the amendment request is for a different zoning district than the previous request, an application may be accepted.

## Section 19.2 Amendment Procedure

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- A. **Application.** Each application to amend the zoning map shall be filed with the zoning administrator on forms provided for that purpose, along with the application fee. Only complete applications, containing all required information, exhibits, and the required fee, shall be processed in accordance with the public notice and hearing requirements of this ordinance. An application shall not be withdrawn by the applicant after the legal notification has been processed, except as otherwise provided.
- B. **Zoning Administrator Review.** The zoning administrator shall review all proposed map amendment requests. Applications shall be forwarded to the Planning Commission, along with a recommendation, **within 15 days of receipt** of a complete application.
- C. **Public Notice.** All proposed amendments to the ordinance text and zoning map shall be subject to the public hearing requirements; provided text amendments shall not require posting of property or notification of interested parties or adjacent property owners.
  - 1. Public Hearing Advertisement(s). Notice of the time and place for each public hearing shall be published at least 15 days in advance of the hearing in a newspaper of general circulation in the Town of Seabrook Island. However, for map amendments, no hearing shall take place less than 30 days from the date of filing the application and the certificate of service as required in Subsection C.4 of this section.
  - 2. Posting of Property. In cases involving a zoning change, conspicuous notice shall be posted on or adjacent to the subject property no less than 15 days in advance of the hearing date. At least one (1) such notice shall be visible from each street that abuts the property.
  - 3. Notification of Interested Parties.
    - a. If a landowner whose property is the subject of a proposed amendment will be allowed to present oral or written comments to the Planning Commission at a public hearing, at least a 10 day notice and opportunity to comment in the same manner must be given to other interested members of the public, including owners of adjoining property. **Is this needed or, since it's a public hearing, can anyone be given the opportunity to speak without advance request. It seems that the applicant should be allowed to present his/her request as a matter of right.**
    - b. If a list of groups that have expressed an interest in being informed of zoning proceedings is maintained by the town clerk, notice of such meetings shall be mailed to these groups.

4. **Notification of Adjacent Property Owners.** Any person applying to rezone property within the town must give notice of such action to the owners of all real property located within two (2) lots on all sides of such property.
  - a. 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 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.** **Is this a requirement? It seems that the application should be submitted and accepted by the zoning administrator before the neighbors are given notice of a hearing.**
  - b. Notice must also be made to SIPOA and, if applicable, to a regime manager or president. Notice to a partnership may be made by serving any partner. Notice to a corporation may be made on any officer.
- D. **Planning Commission Review.** The Planning Commission shall consider all amendment requests and submit a report and recommendation for action to Town Council within 30 days of the public hearing.
  1. If the Planning Commission does not forward its recommendation to Town Council within 30 days, it shall be deemed a recommendation for approval.
  2. However, in the case of a map amendment, the applicant may request, in writing, that the Commission defer making its recommendation for a specified period of time, in which case the 30 day requirement shall not apply.
- E. **Town Council Action.**
  1. **Consideration.**
    - a. Upon receipt of an application transmitted by the Planning Commission for an amendment to the ordinance text or zoning map, along with its recommendation, Town Council shall place the proposal on its agenda for the next scheduled public hearing. **If Town Council has authorized the Planning Commission to hold a public hearing on a proposed amendment, Council may elect to consider the amendment proposal without holding a second public hearing.** **Has Council delegated public hearing authority to the PC?**
    - b. In accord with SC Code 1976, § 6-29-760, no change in or departure from the ordinance text or official zoning map, as recommended by the Planning Commission, may be made pursuant to the hearing unless the change or departure is first resubmitted to the Planning Commission for review and recommendation. Council shall inform the Planning Commission of any substantive changes or departures from the amendment proposal reviewed and recommended by the Planning Commission prior to taking action, allowing the Planning Commission opportunity to make further recommendations.
  2. **Final Action.**
    - a. After a duly advertised public hearing has been conducted by the Planning Commission and/or Town Council, Council shall consider all information presented at the public hearing, staff review comments, and the Planning Commission recommendation.
    - b. Town Council shall have the option of forwarding the proposal and all such information to committee in order to gain additional facts or seek a resolution of any disputes related to the request. In such cases, Town Council may defer additional action on the application until such committee has reported out on its discussions and made a recommendation on the zoning amendment under consideration.
    - c. Town Council may approve or disapprove any application or request for change in zoning.

- i. If deemed to be in the public interest, Town Council may require that the applicant exclude specific uses otherwise allowed in the proposed zoning district as a condition of the amendment approval.
  - ii. The record of Town Council's final action shall specify Council's reasons for denial or approval of the proposed text or map amendment and the specific conditions applicable to an amendment approved with conditions.
3. **Effective Date.** Any ordinance adopted affecting a change in the text of the Development Standards Ordinance or zoning map shall become effective the day following the council meeting at which action has been taken.

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### **Section 19.3                      Criteria for Amendments**

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In consideration of amendments to the ordinance or map, the Planning Commission and Town Council shall be guided by the following criteria, as applicable.

#### **A. Text Amendments.**

1. The proposed text amendment would clarify the intent of the ordinance.
2. The proposed text amendment would correct an error or oversight in the ordinance.
3. The proposed text amendment would address changes to the State legislation, recent case law, or Attorney General opinions.
4. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.
5. In the event the amendment will add a use to a district, that use shall be fully consistent with the purpose of that district and the character of the other uses provided for within the district.
6. The amendment will not create incompatible land uses within a zoning district or between adjacent districts.
7. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items.
8. As applicable, the proposed change would be consistent with the town's ability to provide adequate public facilities and services.
9. The proposed change would be consistent with the town's desire to protect the public health, safety, and welfare of the community.

#### **B. Map Amendments.** **Note: the current DSO lists 14 criteria. They have been consolidated into the following:**

1. Whether or not the proposed rezoning is consistent with the goals, policies, and future land use recommendations of the Town of Seabrook Island Comprehensive Plan; or, if conditions have changed significantly since the Plan was adopted, consistency with recent development trends in the area.
2. Whether the proposed district and all uses allowed within that district are compatible with the site's physical, geological, hydrological, and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values, and traffic impacts.
3. Whether, if rezoned, the site can accommodate all allowed uses, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.

4. Whether the current zoning already provides a reasonably viable economic use of the subject property.
5. Other factors deemed appropriate by the Planning Commission or Town Council.

**Section 19.4 Challenges**

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- A. An owner of adjoining land or representative has standing to bring action contesting the decision of Town Council on a zoning change request; provided, this subsection does not create any new substantive right in any party.
- B. No challenge to the adequacy of "Notice of Challenge" to the validity of a regulation or map, or amendment thereto, whether enacted before or after the effective date of this section, may be made 60 days after the decision of Town Council if there has been substantial compliance with public notice requirements or with established procedures of Town Council or the Planning Commission.

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**Appeals**

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**Article  
20**

**Seabrook Island Development Standards Ordinance**

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## **Section 20.1 Purpose and Authority**

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- A. The South Carolina Code specifically authorizes the zoning ordinance to provide for a Board of Zoning Appeals as part of the administrative mechanism designed to enforce the ordinance. The Town Council has hereby created a Board of Zoning Appeals with the authority to make certain final decisions concerning this ordinance, subject to appeal to circuit court.
- B. The powers of the Board are limited to three specific subject matter areas:
  - 1. determining appeals from administrative decisions of the zoning administrator,
  - 2. granting or denying applications for variances, and
  - 3. granting or denying applications for special exceptions.
- C. In addition, the BZA may remand a matter to the zoning administrator if the record is insufficient for the Board's review.

## **Section 20.2 Administrative Appeals**

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### **A. Authority and Limitations.**

- 1. The Board shall have the exclusive power to hear and decide appeals where it is alleged the zoning administrator, in the enforcement of this ordinance, erred in an order, requirement, decision, or determination.
- 2. The Board has all the powers of the zoning administrator in such cases and may issue or direct the issuance of a permit.
- 3. In exercising its authority, the Board of Zoning Appeals may reverse or affirm, wholly or in part, or may modify the administrative order, requirements, decision, or determination. The Board, in the execution of its duties, may subpoena witnesses and, in case of contempt, may certify such fact to the circuit court having jurisdiction.

### **B. Hearing.**

The Board shall fix a reasonable time for hearing the appeal or other matter referred to it, and give at least 15 days public notice thereof in a newspaper of general circulation within the town, as well as due notice to the parties in interest, and shall render its decision within a reasonable time. At the hearing any party may appear in person or by representative.

### **C. Decisions.**

- 1. When deciding an administrative appeal, the Board is not bound by the conclusion or reasoning of the zoning administrator and may consider and apply the appropriate provisions of this ordinance as dictated by the facts before it.
- 2. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the Board, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed 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 zoning administrator, and on due cause shown.

### **D. Timing.**

An appeal of an administrative decision shall be filed within 30 days from the date the appealing party has received actual notice of the action from which the appeal is taken. Written notice of the appeal shall be filed with the zoning administrator specifying the grounds for the appeal. The zoning administrator shall forthwith transmit to the Board the notice of appeal and all papers, documents, and exhibits constituting the record upon which the action appealed from was taken.

## Section 20.3 Variances

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### A. Authority and Limitations.

1. The Board has the power to hear and decide requests for variances when strict application of the zoning ordinance would result in unnecessary hardship.
2. A variance allows the Board to modify an otherwise legitimate zoning restriction when, due to unusual conditions of the property, the restriction may be more burdensome than was intended. The variance must not impair the public purpose. To obtain a variance on the ground of unnecessary hardship, there shall at least be proof that a particular property suffers a singular disadvantage through the operation of a zoning regulation.
3. An owner shall not be entitled to relief from a self-created or self-inflicted hardship. A claim of unnecessary hardship shall not be based on conditions created by the owner nor can one who purchases property after the enactment of a zoning regulation complain a nonconformity creates a hardship.
4. The fact that the property may be used more profitably, if a variance is granted, may not be considered as grounds for a variance.
5. In granting a variance, the Board may attach conditions. These conditions may affect 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.

### B. Hearing.

1. Any person requesting a variance must give notice of such action to the owners of all real property located within two (2) lots on all sides of the subject 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 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. Is this a requirement? It seems that the application should be submitted and accepted by the zoning administrator before the neighbors are given notice of a hearing.**
2. Notice must also be made to SIPOA and, if applicable, to a regime manager or president. Notice to a partnership may be made by serving any partner. Notice to a corporation may be made on any officer.
3. No hearing on the application shall take place less than 30 days from the date of filing the application and the certificate of service.

### C. Decisions.

1. The Board of Zoning Appeals shall only grant a variance in an individual case of unnecessary hardship if the Board finds and explains, in writing, that all the following criteria have been satisfied:
  - a. *Extraordinary conditions.* There are extraordinary and exceptional conditions pertaining to the particular piece of property. Extraordinary conditions could exist due to size, shape, topography, drainage, street widening, beachfront setback lines, or other conditions that make it difficult or impossible to make an economically feasible use of the property.
  - b. *Other property.* These conditions do not generally apply to other property in the vicinity.
  - c. *Utilization.* 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. *Detriment.* 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.
2. 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 structure or use of land; or
  - c. change the zoning district boundaries shown on the official zoning map.

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#### **Section 20.4                      Special Exceptions**

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The Board of Zoning Appeals shall be responsible to review and decide applications for special exception uses, if provided for in the ordinance, subject to the terms and conditions as may be set forth for such uses in this ordinance.

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#### **Section 20.5                      Decisions of the Board**

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- A. After a vote on an application, a record of action containing the decision of the Board shall be transmitted to the applicant by the zoning administrator. The decision shall be binding and, whenever a permit is authorized, the terms and conditions of the decision shall be incorporated into the permit.
- B. A decision of the Board on an administrative appeal shall not be in effect and acted upon by the town until the expiration of five (5) days from the date of the Board's decision unless the Board finds the immediate validity of a decision is necessary for the preservation of property or personal rights and shall so certify on the record. Decisions by the Board on all other matters not on appeal are effective upon the date of the Board's decision.
- C. Any party adversely affected by a decision of the Board may appeal the decision in the manner provided in *Section 20.6* of this ordinance.

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#### **Section 20.6                      Appeals of Board Decisions**

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- A. Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal any decision of the Board to the circuit court in and for Charleston County.
- B. An appeal petition to circuit court must be filed with the clerk of court within 30 days after the decision of the Board is rendered. Failure to file an appeal petition within the prescribed time deprives the court of jurisdiction to hear the matter.

**Nonconformities**

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**Article  
21**

**Seabrook Island Development Standards Ordinance**

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### **Section 21.1 Intent**

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- A. It is recognized that there exist within zoning districts certain land uses, buildings, structures, and lots which were lawful before this ordinance was passed or amended, but are now prohibited, regulated, or restricted under the terms of this ordinance or may be affected by future amendments. It is the intent of this ordinance to permit legally established nonconformities to continue until they are removed, but not to encourage their survival.
- B. Nonconforming land uses, buildings, structures, and lots are declared by this ordinance to be incompatible with the provisions of the districts in which they are located. It is the intent of this ordinance that these nonconformities shall not be enlarged upon, expanded, or extended, except as otherwise specifically permitted in this ordinance, nor be used as grounds for adding other land uses, buildings, or structures prohibited elsewhere in the district.
- C. Nothing in this ordinance shall require a change in the plans, construction, or designated use of any building which has been approved prior to the effective date of adoption or amendment, subject to the vested rights limitations of the State of South Carolina.
- D. Nothing in this ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a building, structure, or lot in violation of zoning regulation in effect at the time of the adoption of this ordinance.
- E. The existence of such nonconformities shall not be accepted as a basis for adding new land uses, buildings, structures, or lots otherwise prohibited in the same zoning district.
- F. The provisions of this ordinance apply to both lots or parcels of land and to individual uses or structures. Where more than one (1) nonconforming use or structure is allowed to continue on a lot or parcel after another nonconforming use or structure has been discontinued, the provisions of this ordinance shall not be waived in the case of the discontinued use or structure.

### **Section 21.2 Nonconforming Uses**

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- A. A nonconforming use may not be changed to or exchanged for another nonconforming use, except to be brought into conformity with this ordinance. When a nonconforming use has been changed to or exchanged for a conforming use, no nonconforming use may be reestablished.
- B. A nonconforming use may not be enlarged or extended, except to be brought into conformity with this ordinance.
- C. No part of any nonconforming use shall be moved unless that movement eliminates or reduces the nonconformity.
- D. A nonconforming use may not be reestablished after abandonment for a period of 12 consecutive months or 18 cumulative months in a two (2) year period. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, any of which shall constitute an intent on the part of the property owner to abandon the nonconforming use:
  - 1. utilities, such as water, gas and electricity, to the property have been disconnected; or,
  - 2. the property, buildings, or grounds have fallen into disrepair; or,
  - 3. signs or other indications of the existence of the nonconforming use have been removed; or,
  - 4. equipment or fixtures necessary for the operation of the nonconforming use have been removed; or,
  - 5. other actions which, in the opinion of the zoning administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.

### **Section 21.3 Nonconforming Buildings and Structures**

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- A. If a nonconforming building or structure is moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this ordinance, with the exception of

property covered by the South Carolina Coastal Tidelands and Wetlands Act 48.39 Coastal Management Act and related laws dated July 1, 1988.

- B. Where a lawful nonconforming building or structure exists that does not conform with the requirements of this ordinance relative to, building size, lot coverage, height, setbacks, or parking that building or structure may continue to be occupied and used so long as it remains otherwise lawful, subject to the following provisions:
  - 1. No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by 50 percent or less of the distance required by this ordinance. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.
  - 2. In the event that a nonconforming building or structure is destroyed to an extent of more than 66 2/3 percent of its replacement value, it shall be reconstructed only in conformity with the provisions of this ordinance.
- C. None of the provisions of this ordinance are meant to preclude normal repairs and maintenance on any nonconforming building or structure that would prevent strengthening or correcting an unsafe condition of the building or structure.

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#### **Section 21.4 Nonconforming Lots of Record**

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- A. In any zoning district, where a lot of record at the effective date of adoption of this ordinance does not contain sufficient land area or width to meet the requirements of the district in which it is located, such lot may be used as a building site for any use permitted in the zoning district in which the lot is located; provided, all structures on such a lot must conform to the district's minimum front and rear yard requirements. Side yard setbacks may be reduced in the same proportion as the existing lot width bears to the required width, but no less than five (5) feet. However, a side yard abutting a street shall not be reduced to less than the district requirement.
- B. Boundary line adjustments may be permitted between nonconforming lots or between a conforming and nonconforming lot; provided, the zoning administrator finds that the degree of nonconformity for any existing nonconforming lot is not increased due to such adjustments and no conforming lot shall be made nonconforming as a result.
- C. No person shall apply for a variance arguing a hardship based upon an attempt to re-establish a lot line, which has previously been abandoned, if said re-established lot line does not permit full compliance with all applicable ordinances.
- D. If two (2) or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this ordinance, or any future amendment, with continuous frontage and under single ownership do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of that parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this ordinance. This is a provision commonly found in other ordinances. Is it something that should be incorporated into this DSO?

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#### **Section 21.5 Non-Reversion**

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- A. Whenever the use of a building, structure or lot becomes nonconforming through an amendment to this ordinance or change in the district boundaries, the nonconforming use may be continued only as provided within this ordinance. Any use that is changed from nonconforming to a conforming use shall thereafter continue to be used only for a conforming use.

- B. Any nonconforming structure that is changed, in whole or in part, to a conforming structure, or to a structure that is closer to conformity than it was prior to the change, shall continue to be used or arranged as a conforming or more conforming structure. The structure shall not revert to its prior nonconforming status, or to a less conforming structure, at any time in the future.
- C. In no event shall a nonconforming lot be altered in a way that increases its nonconformity. And no conforming lot shall be altered in such a way as to create a nonconforming lot.

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**Section 21.6                      Unlawful Nonconformities**

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Any land use, building, structure or lot established in violation of the provisions of this ordinance or any prior ordinance or amendment shall not be considered a legal nonconformity and shall not be entitled to the provisions, remedies, and safeguards of this ordinance.

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**Enforcement and Penalties**

**Article  
23**

DRAFT

**Seabrook Island Development Standards Ordinance**



### **Section 23.1 Minimum Requirements**

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In the interpretation, application, and enforcement of this ordinance, all provisions shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare.

### **Section 23.2 Public Nuisance, Per Se**

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Any building or structure which is erected, repaired, altered, or converted; or any use of premises or land which is begun or changed subsequent to the time of passage of this ordinance and in violation of any of the provisions of this ordinance, is hereby declared to be a public nuisance, per se, and may be abated by order of any court of competent jurisdiction.

### **Section 23.3 Enforcement**

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- A. Pursuant to SC Code 1976, § 6-29-905, this ordinance shall be administered and enforced by the 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.
- B. Enforcement officials of the town are hereby authorized to enter upon private property for the purpose of enforcing the provisions of this ordinance or removing or abating any violation that may be present. It shall be unlawful for any person to interfere with, hinder or refuse to allow any properly identified enforcement official to enter upon private property for the purpose of enforcing the provisions of this ordinance or removing, investigating or abating violations.
- C. The enforcement duties shall include, but not be limited to:
  1. Investigating and resolving complaints pertaining to potential violation of the Development Standards Ordinance.
  2. Conducting inspections of buildings, structures and uses of land to determine compliance with the provisions of this ordinance.
  3. Enforcing the provisions of this ordinance, the decisions of the Board of Zoning Appeals and conditions placed upon a project in conjunction with land development approvals by the BZA, Planning Commission, and/or Town Council.
- D. The zoning administrator shall have the authority and duty to ensure that all buildings and structures and the use of all land complies with the provisions of this ordinance. Whenever the zoning administrator determines that a violation of this ordinance has occurred, or has received reliable information indicating that a violation of this ordinance is about to occur, he/she shall notify, in writing, the persons responsible for such violation, indicating the nature thereof and take such action as is necessary to correct the violation and prevent further similar violations from occurring.
- E. In general, the following steps shall be followed with respect to enforcing this ordinance and rectifying violations:
  1. Notice of Violation. Whenever the enforcement official shall find that there is a violation of the provisions of this ordinance, he/she shall serve notice to the owner and occupant of the premises to comply with the relevant provisions. Notification shall be considered sufficient if the notice is hand-delivered to the person to listed on the property tax rolls or deposited in the United States mail, properly stamped, certified, and sent to the address listed on the property tax rolls.
  2. Failure to Comply with Notice. If the person to whom the violation notice is directed fails or neglects to comply with the provisions of this section within 15 days after the notice has been

received, or within 20 days after a copy of the notice has been deposited in the United States mail, that person shall be considered in violation of this section and subject to the penalties set forth in this ordinance. However, the zoning administrator or other enforcement official may, in his/her sole discretion, depending on the nature of the violation, allow additional time in which to comply.

3. Stop Work Order. In the event the violation has not been corrected within the prescribed time period, the zoning administrator or other official may, depending on the nature of the violation, post a stop work order on the property. In such case, no further construction shall be permitted and all rights arising from any prior approvals shall be terminated until the violation is resolved and the stop work order is rescinded.
  4. Property subject to abatement of conditions. It shall be unlawful for any owner, agent, or occupant of any lot, parcel, or tract of land which is subject to the provisions of this ordinance to permit the conditions set forth in this section to exist or continue after receiving notice. It shall be the duty of the owner, agent, or occupant of any such lot, parcel, or tract in violation of the provisions of this ordinance to abate the unlawful condition.
- F. If a violation of this ordinance is not corrected within the time period provided, enforcement officials are authorized to enter upon such property and correct or abate such violations or take such other action as may be reasonably necessary to remove the threat to the public health, safety and welfare. All costs incurred in such action, including, but not limited to, inspection, administration, labor, equipment, court costs, and attorney's fees, shall become a lien on the subject property and shall be collected in the same manner as county taxes are collected.
- G. The remedies provided in this section are not mutually exclusive and shall be cumulative to other remedies provided in this ordinance and to any other remedy provided at law or in equity.
- H. In case any building is erected, constructed, reconstructed, altered, converted, or maintained or any building, structure, or land is or is proposed to be used in violation of the ordinance, the zoning administrator or any neighboring property owner who would be specially damaged by such violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use.

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## **Section 23.4                      Violations**

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- A. Any person violating the provisions of this ordinance or who knowingly permits any such violation to occur, fails to comply with any of the requirements hereof, or erects/establishes any building or structure or use in violation of the provisions of this ordinance or the conditions of any approval granted under this ordinance, shall be guilty of a misdemeanor subject to the enforcement provisions of this article.
1. It shall be unlawful for any person to make or cause to be made any unauthorized amendment to an approved site plan, fail to conform to an approved site plan, or begin any development before obtaining an approved site development plan and/or permit required by this ordinance.
  2. In case any building or structure is erected, constructed, reconstructed, altered, maintained or used in violation of this ordinance or amendment thereof, Town Council or any owner of real property adjacent or neighboring such structure or land who may be specially damaged by the violation, in addition to other remedies provided by law, may institute an injunction, abatement, or any appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use, or to prevent occupancy of the building, structure or land.

3. In the event any land is altered or trees destroyed in violation of this ordinance, in addition to the penalties set forth in this article, the violator shall replace or mitigate the property to its original condition to the extent possible.
- B. No permit shall be issued or approved unless the requirements of this ordinance or any amendments thereto are complied with. It is unlawful for any officials to issue permits for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure **without the approval of the zoning administrator**. *Does this happen now? Is it feasible for the zng adm to review all building permits, stormwater permits, etc. that are issued by the County?*
- C. Any permit or license issued in conflict with the provisions of this ordinance shall be considered null and void from the date of issue.
- D. Any subdivision of property conducted for the purpose of fraudulently circumventing this ordinance shall be considered void and the provisions of this ordinance shall apply.

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### **Section 23.5 Penalties**

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- A. Fines and mitigation requirements for violation of this ordinance shall be imposed by the zoning administrator, who shall notify the Planning Commission and Mayor of all such enforcement actions.
- B. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500.00 or imprisoned not more than 30 days. Each day of violation shall constitute a separate offense.
- C. Failure to comply with the fines and/or mitigation requirements imposed pursuant to this Ordinance shall constitute grounds for the institution of legal proceedings to assure compliance with such enforcement actions.

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### **Section 23.6 Appeals**

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- A. Appeal of penalties and/or mitigation requirements shall be made to the Board of Zoning Appeals.
- B. Appeals from any criminal conviction in the municipal court for the violations of this ordinance shall be to the circuit court.