

**TOWN OF SEABROOK ISLAND**

**ORDINANCE NO. 2022-03**

**ADOPTED \_\_\_\_\_**

**AN ORDINANCE TO REPEAL ORDINANCE NO. 2021-12 AND TO ADOPT A TEMPORARY MORATORIUM ON THE CONSIDERATION OF ZONING MAP AMENDMENTS (IE. "REZONINGS"), ANNEXATION REQUESTS AND CERTAIN SUBDIVISION APPROVALS FOR A PERIOD EXPIRING UPON THE ADOPTION OF A NEW DEVELOPMENT STANDARDS ORDINANCE (DSO) AND ZONING MAP OR JUNE 30, 2022, WHICH EVER SHALL OCCUR FIRST**

**WHEREAS**, pursuant Sec. 6-1-110 of the South Carolina Code of Laws, a municipality may enact a moratorium by ordinance after two readings which are at least one week apart; and

**WHEREAS**, pursuant to relevant case law, a moratorium is generally viewed as a valid exercise of a local government's police powers when: 1) the moratorium is imposed for a specific purpose; 2) the moratorium remains in effect for a limited duration; 3) the moratorium is non-discriminatory; and 4) during the term of the moratorium, the local government is actively engaged in researching and implementing amendments to its zoning and land development regulations which are relevant to the purpose of the moratorium; and

**WHEREAS**, the Town of Seabrook Island is currently in the process of finalizing and adopting a comprehensive update to its Development Standards Ordinance (hereafter, the "DSO") and Official Zoning District Map (hereafter, the "Zoning Map"); and

**WHEREAS**, the Mayor and Council of the Town of Seabrook Island have determined that it is fitting and proper to temporarily suspend consideration of Zoning Map amendments (ie. "rezonings"), annexation requests and certain subdivision approvals until the new DSO and Zoning Map are adopted so as to minimize the number of non-conforming lots which may be created following adoption of the new DSO and Zoning Map; and

**WHEREAS**, on October 26, 2021, the Mayor and Council of the Town of Seabrook Island adopted a moratorium by ordinance (Ordinance No. 2021-12) so as to temporarily suspend certain development activities for a period not to exceed one hundred and eighty (180) days; and

**WHEREAS**, in anticipation that the new DSO and Zoning Map will not be adopted until after April 24, 2022, the Mayor and Council of the Town of Seabrook Island desire to repeal Ordinance No. 2021-12 and to replace it with a new moratorium which will expire upon the adoption of the new DSO and Zoning Map or June 30, 2022, which ever shall occur first; and

**WHEREAS**, this moratorium is not intended to further limit or restrict the ability of a property owner to use and/or develop his or her property under the town's current zoning and land development regulations; provided, however, the property may not be rezoned, annexed or subdivided while the moratorium is in effect; and

**WHEREAS**, the Mayor and Council advertised and held a public hearing on the proposed ordinance during a duly called meeting on \_\_\_\_\_;

**NOW, THEREFORE**, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, **BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SEABROOK ISLAND:**

**SECTION 1. Repealing Ordinance No. 2021-12.**

Ordinance No. 2021-12, which was adopted by the Mayor and Council for the Town of Seabrook Island on October 26, 2021, is hereby repealed in its entirety.

**SECTION 2. Adopting a Temporary Moratorium.**

- (A) The Town of Seabrook Island hereby imposes a temporary moratorium on the consideration of all requests to amend the town's Zoning Map.
- (B) The Town of Seabrook Island hereby imposes a temporary moratorium on the consideration of all requests to annex unincorporated property into the municipal limits of the Town of Seabrook Island.
- (C) The Town of Seabrook Island hereby imposes a temporary moratorium on the consideration of all requests to subdivide property within the town, including all sketch plans, conceptual plans, preliminary plats and final plats related to the subdivision of property; provided, however, this moratorium shall not apply to the following types of subdivision requests:
  - (1) The subdivision of land into parcels of five (5) acres or more where no new streets are created, and no existing streets are modified;
  - (2) The combination or recombination of portions of previously platted and recorded lots where the total number of lots is not increased and the resultant lots conform to the current requirements of the DSO;
  - (3) The combination or recombination of entire lots of record where no new streets are created, and no existing streets are modified;
  - (4) The subdivision of land for public acquisition, either by purchase or donation, and which is intended to be used for a public purpose; and
  - (5) Any subdivision plat which is created and approved by judicial act.

**SECTION 3. Effective Date and Duration of Moratorium Period.**

- (A) The provisions of this ordinance shall be effective immediately upon enactment and shall remain in effect until the earlier of the following:

- (1) Upon adoption by the Mayor and Council of the new DSO and Zoning Map; or
- (2) June 30, 2022.

(B) Any modification or extension of this ordinance shall be made by adoption of a subsequent ordinance by the Mayor and Council.

**SECTION 4. Invocation of Pending Ordinance Doctrine.**

The Mayor and Council for the Town of Seabrook Island hereby invoke the pending ordinance doctrine, as recognized under South Carolina case law and legal precedent. Effective immediately upon first reading approval of this ordinance, the Zoning Administrator shall not accept or process any new application or request which is subject to the moratorium provisions described herein, and no individual or body having review authority shall consider or approve such requests while the moratorium remains in effect.

**SECTION 5. Town Action Plan.**

During the moratorium, the Mayor and Council shall undertake the following actions:

- (A) The Mayor and Council shall undertake a comprehensive effort to inform residents and property owners about the new DSO and Zoning Map and shall accept public participation and feedback on the draft documents prior to adoption. The Mayor and Council shall also hold an official public hearing prior to second reading approval of both documents.
- (B) The Mayor and Council shall consider, amend (if necessary) and adopt the new DSO and Zoning Map by ordinance.

**SECTION 6. Conflicting Ordinances Suspended.**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby suspended to the extent of such inconsistency.

**SECTION 7. Severability.**

If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections, subsections, paragraphs, clauses, or provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

**SIGNED AND SEALED** this \_\_\_\_ day of \_\_\_\_\_, 2022, having been duly adopted by the Town Council for the Town of Seabrook Island on the \_\_\_\_ day of \_\_\_\_\_, 2022.

First Reading: February 22, 2022  
Public Hearing: March 22, 2022  
Second Reading: March 22, 2022

TOWN OF SEABROOK ISLAND

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John Gregg, Mayor

ATTEST

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Katharine E. Watkins, Town Clerk