

ARTICLE 8

ADMINISTRATIVE PROCEDURES AND ENFORCEMENT REGULATIONS

Section 8.1 Administration and Enforcement

The designated Zoning Administrator is duly charged with the authority to administer and enforce the provisions of this Ordinance.

The Zoning Administrator shall accept and examine all applications for construction, land use or reuse, and shall issue permits where such applications are in accord with the provisions of this Ordinance and applicable building codes. He shall direct parties in conflict with this Ordinance, and cause to be kept records and files of any and all matters referred to him.

If the Zoning Administrator shall find that any one of the provisions of this Ordinance is being violated, he 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 shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

Section 8.2 Administrative Procedures and Requirements

No building, structure or sign requiring a permit or any part thereof shall be erected, added to or structurally altered until the required permits have been issued.

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

No permits inconsistent with the provisions of this Ordinance shall be issued unless accompanied by an approved variance as provided by this Article.

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

Section 8.2-1 Filing Applications

Applications for permits shall be signed by the owner or his/her designee and shall be filed on forms provided by the Zoning Administrator.

Section 8.2-2 Application Requirements for a Building Permit

Each application for a permit for a building or structure other than a sign shall be accompanied by two (2) sets of the following or as much thereof as the Zoning Administrator shall find necessary to determine whether the proposed building or use will be in compliance with the provisions of this Ordinance.

A plat and/or Site Plan showing:

- (1) date and scale,
- (2) actual shape and dimensions of the lot to be built upon,
- (3) size, height and location on the lot of existing and proposed buildings and structures and their relation to rights-of-way and property lines,
- (4) existing and intended use of each building or part of a building,
- (5) number of families or housekeeping units,
- (6) location of existing trees 10" DBH,
- (7) flood and wetland areas,
- (8) proposed parking, buffer areas, and landscaping,
- (9) building elevations, and
- (10) such other information as required to determine compliance with and enforcement of this Ordinance.

Section 8.2-3 Application Requirements For a Sign Permit

Each application to erect a sign, where a sign permit is required by this Ordinance, shall be accompanied by the following information:

- (1) Identification of ownership and/or leaseholder of property on which the sign is to be erected, including street address.
- (2) Name and address of the owner of the sign.
- (3) Site plan with dimensions (non-professionally drafted plan is acceptable) showing the location of the sign with respect to the property and right-of-way lines, building and setback lines, and buildings, parking areas, existing free-standing signs, and buffer areas.
- (4) Correct size, shape, configuration, face area, height, nature, number and type of sign to be erected.
- (5) The value of the sign and sign structure.
- (6) The Zoning Administrator may waive any of the informational requirements listed above deemed unnecessary to process an application.

Section 8.2-4 Application Fees

A fee to cover the administrative cost of issuing building and sign permits shall accompany all requests for such permits, where required by this Ordinance. The amount of the fee shall be determined by Town Council, a schedule of which is available at the office of the Town Clerk.

Section 8.3 Expiration of Building/Sign Permits

If the work described in any Building or Sign Permit has not been completed within twelve (12) months from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected.

Section 8.4 Inspections for Compliance

The Zoning Administrator and/or other appropriate town officials may make or require inspections of any land disturbing activity, construction or

maintenance requirements to ascertain compliance with the provisions of this Ordinance and to ascertain compliance with approved permit applications, or plans prior to issuance of a certificate of occupancy.

Section 8.5 Application for a Certificate of Occupancy; Certificate Required

Upon completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the Town of Elgin for a certificate of occupancy. The Town shall process the application in accord with adopted procedures. No land or building hereafter erected or altered in its use, shall be used until such a certificate of occupancy has been granted.

Section 8.6 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, the Zoning Administrator or other appropriate town official shall record and investigate such complaint, and take such action as provided by this Ordinance. Complaints may be filed in writing or verbally, stating fully the cause and basis thereof.

Section 8.7 Penalties For Violation

Any persons violating any provision of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined as determined by the Court for each offense.

Where any building, structure or sign is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure, sign or land is or is proposed to be used in violation of this Ordinance, the Zoning Administrator or other appropriate administrative officer, may in accord with the provisions of Section 56-7-80 of the South Carolina Code of Laws 1976, as amended, issue an ordinance summons, or institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate the violation or to prevent the occupancy of the building, structure or land. Each day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues shall be deemed a separate offense.

Section 8.8 Right of Appeal

Any decision or determination by the Zoning Administrator may be appealed to the Board of Zoning Appeals.

Section 8.9 Establishment of Board of Zoning Appeals

A Board of Zoning Appeals is hereby established. Said Board shall consist of three (3) members, who shall be citizens of the town and shall be appointed by the Mayor and Town Council for overlapping terms of four years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment and any member may be removed by the Town Council for cause, after a public hearing. Members shall serve without pay, but may be reimbursed for any expenses incurred while representing the Board.

Section 8.9-1 Proceedings of the Board of Zoning Appeals

The Board of Zoning Appeals shall elect a Chairman and a Vice-Chairman from its members, who shall serve for one year or until reelected. The Board shall appoint a Secretary, who may be a city officer or a member of the Board of Zoning Appeals. The Board shall adopt rules and by laws in accordance with Section 6-29-790 of the South Carolina Code of Laws. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public. A quorum shall be required to take any official action by the Board. Two members present shall constitute a quorum.

Section 8.9-2 Appeals to the Board of Zoning Appeals; Hearings and Notices

Appeals to the Board shall be taken within 30 days of the date of the action which is appealed, by filing notice of appeal with the Zoning Administrator, who shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. The town attorney may review all appeals to determine if they constitute an appeal action.

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/her, 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 except 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.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give at least 15 days public notice thereof in a newspaper of general circulation in the community, 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.

Section 8.9-3 Powers and Duties of the Board of Zoning Appeals

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

- (1) **To Hear and Decide Appeals, Generally.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.
- (2) **To Grant Variances, Generally.** 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 the 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 if the Board makes and explains in writing the following findings:
 - (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; and
- (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.

The Board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

Section 8.9-4 Decisions of the Board of Zoning Appeals

In exercising the above powers, the concurring vote of a majority of the members present and voting shall be required to reverse or affirm, wholly or in part, or modify any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, and to that end, shall have the powers of the officer from whom the appeal is taken and may 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.

All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board and parties of interest notified.

Section 8.10 Appeal From Board of Zoning Appeals to Circuit Court

A person who may have a substantial interest in any decision of the Board of Appeals or an officer or agent of the Town may appeal from a decision of the Board to the Circuit Court in and for the county by filing with the Clerk of Court a petition in writing setting forth plainly, fully and distinctly why the decision is contrary to law. The appeal must be filed within thirty (30) days after the decision of the Board is mailed.

Section 8.11 Vested Right

Section 8.11-1 Definition

'Vested right' means the right to undertake and complete the development of property under the terms and conditions provided in this Article.

Section 8.11-2 Duration

A vested right is established for two years upon the approval of a permit by the Zoning Administrator, and/or Town Council.

A vested right may be extended at the end of the vesting period for an additional 12 months upon request by the applicant and a determination by the permitting agent that there is just cause for extension and that the public interest is not adversely affected.

A validly issued building permit does not expire or is not revoked upon expiration of a vested right, except for public safety reasons or as prescribed by the applicable building code.

Section 8.11-3 Amendment

A vested right may be amended Town Council pursuant to the provisions of this ordinance.

Section 8.11-4 Revocation

A vested right is subject to revocation by Town Council upon determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval.

Section 8.11-5 Applicability of Other Regulations

A vested right is subject to later enacted federal, state, or local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. The issuance of a building permit vests the specific construction project authorized by the building permit to the building, fire, plumbing, electrical, and mechanical codes in force at the time of the issuance of the building permit;

A change in the zoning district designation or land use regulations made subsequent to vesting that affect real property does not operate to affect, prevent, or delay development of the real property under a vested right without consent of the landowner;

Section 8.11-6 Vested Right to Run with Property

A vested right pursuant to this section is not a personal right, but attaches to and runs with the applicable real property. The landowner and all successors to the landowner who secure a vested right pursuant to this Section may rely upon and exercise the vested right for its duration subject to applicable federal, state, and local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. This Section does not preclude judicial determination that a vested right exists pursuant to other statutory provisions. This Section does not affect the provisions of a development agreement executed pursuant to the South Carolina Local Government Development Agreement Act in Chapter 31 of Title 6.