



Proposed Text Amendment-Report to City Council

Case No. T-2011-03

Meeting Date: November 28, 2011
Staff Contact: Leah Youngblood, Senior Planner

INFORMATION

Applicable Sections: Article 2: Administration
Application Date: October 4, 2011.
Applicant: Rock Hill Planning Commission

BACKGROUND

Article 2 has two primary functions. First, it explains which City entities review and make decisions about each type of development application. Second, it details the procedure for taking each type of development application through the process of review and consideration of approval.

The proposed amendments to *Article 2* serve several purposes: to eliminate sections that refer to procedures that we do not use, to increase compliance with state law, to make the development process easier for applicants and staff, and to update the stormwater management processes in compliance with state and federal law.

EXPLANATION OF AMENDMENTS

Article 2

A. Eliminating antiquated sections

In a couple of places, *Article 2* refers to plats that the City does not require and to processes that the City does not use. For example, it includes detailed information about a Technical Review Committee and Hearing Officers. In an effort to make the requirements and processes clearer to those who use the Ordinance as well as to streamline the Ordinance, it is proposed to remove these antiquated references.

B. Increasing compliance with state law

A few sections of *Article 2* need to be amended in order to increase compliance with state law. Topics include: dual office holding, length of review period, and board authority to hear appeals on certain types of requests.

C. Making the development process easier

In an effort to expedite the development process and to make it easier for applicants and staff, certain amendments are proposed, including:

- Allowing neighborhood meetings for Planned Developments to occur after the submittal of the application as long as they occur prior to the public hearing;
- Changing the required deadline for placing legal advertisements for text and map amendments from 30 days to 15 days;
- Modifying the required findings for granting variances so that they match those found in state law; and

- Allowing staff to approve deferrals and withdrawals of development applications so that applicants do not need to attend a meeting in order to accomplish this.

Similarly, it is proposed to modify some provisions in *Article 2* in order to increase flexibility in handling particular types of development applications by:

- Simplifying the content of our public notice so that citizens can better understand the requests; and
- Expanding the minor deviations that the Planning Commission and staff may approve for Planned Developments.

D. Updating storm water management processes

The storm water management section of Article 2 needs to be updated to reflect new requirements from the South Carolina Department of Health and Environmental Control and the Environmental Protection Agency in regards to stormwater management. The Ordinance needs to:

- Update the allowed exemptions from the ordinance to conform to the state regulations.
- Reference the City of Rock Hill Stormwater Management Design Manual for technical design and waiver requirements.

PUBLIC NOTIFICATION

Staff hereby certifies that the required public notification actions have been completed as follows:

- October 2—Planning Commission public hearing advertisements published in *The Herald*.

PUBLIC HEARING

No one from the public spoke during the public hearing.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission voted unanimously to recommend the proposed amendments for approval. The Planning Commission had no discussion about the proposed amendments during this meeting.

Prior to this meeting, the Planning Commission held a workshop to discuss the proposed amendments. The discussion primarily regarded how the new timeframes would work with respect to the flow of agenda items through the process of review and consideration of approval.

ATTACHMENTS:

- Markup of the Affected Sections of Article 2

ARTICLE 2: ADMINISTRATION

2-100 (A) Summary of Administrative Article

(1) Administrative Article and Review Bodies and City Staff

The following bodies and City staff have powers and responsibilities in administering and reviewing applications for permit approval under this Ordinance.

(a) *City Council*

(b) *Planning Commission*

(c) *Zoning Board of Appeals (ZBA)*

(d) *Board of Historic Review (BHR)*

(e) *City Staff*

Including the: ~~Planning and Development Director and City Attorney.~~

- ~~1. Development Services Director;~~
- ~~2. Technical Review Committee (TRC);~~
- ~~3. City Attorney; and~~
- ~~4. Hearing Officers.~~

(2) Summary Table of Permits and Review Bodies and City Staff

Table 2-100(A): *Permit Review Procedures* summarizes the review bodies and City staff that have specific permit review roles under this Ordinance, and their responsibilities.

TABLE 2-100(A): PERMIT REVIEW PROCEDURES					
S = STAFF REVIEW		R = REVIEW AND ADVISE		D = FINAL DECISION	
A = APPEAL					
DEVELOPMENT PERMIT	DEVELOPMENT SERVICES DIRECTOR	ZONING BOARD OF APPEALS (ZBA)	BOARD OF HISTORIC REVIEW (BHR)	PLANNING COMMISSION	CITY COUNCIL
Zone District Map Amendment (Rezone) and Text Amendment (Section 2-300(A))	S			R	D
Planned Development (Section 2-300(B))	S			R	D
Conditional Use Permit (Section 2-300(C))	D	A			
Special Exception Permit (Section 2-300(D))	S	D			
Variance Permit (Section 2-300(E))	S	D			
Administrative Adjustments (Section 2-300(F))	D	A			
Historic Districts					

ARTICLE 2: ADMINISTRATION

TABLE 2-100(A): PERMIT REVIEW PROCEDURES					
S = STAFF REVIEW		R = REVIEW AND ADVISE		D = FINAL DECISION	
A = APPEAL					
DEVELOPMENT PERMIT	DEVELOPMENT SERVICES DIRECTOR	ZONING BOARD OF APPEALS (ZBA)	BOARD OF HISTORIC REVIEW (BHR)	PLANNING COMMISSION	CITY COUNCIL
Historic District and Historic Property Designation (Section 2-300(A) and 3-500(B)(2))	S		R	R	D
Certificates of Appropriateness (Section 2-300(G)(1))	R		D		
Certificates of Appropriateness (Section 2-300(G)(1)) (Minor Alterations, Repair, and Maintenance Only)	D		A		
Certificate of Hardship (Section 2-300(G)(2))	R		D		
Appeals of Interpretations and Decisions to BHR of Development Services Director on Historic Regulations (Section 2-300(G)(6))			A		
Site Plan					
Minor Site Plan (Section 2-300(H)(4))	D	A		A	
Major Site Plan (Section 2-300(H)(5))	R (outside of designated business parks) D (inside designated business parks)			D (outside of designated business parks) A (inside designated business parks)	
Subdivision					
Minor Subdivision (Section 2-300(I)(4))	D			A	
Preliminary Plat for Subdivision (Section 2-300(I)(5)(b))	R			D	
Detailed Construction Plans (Section 2-300(I)(5)(c))	D			A	
Intermediate Field Survey Plat (Section 2-300(I)(5)(d))	D			A	
Final Plat for Subdivision (Section 2-300(I)(5)(f))	D				
Conservation Subdivision (Section 2-300(I)(5)(g))	R			D	
Other Permits					
Stormwater Management and Sediment Control Plan (Section 2-300(J))	D	A			

TABLE 2-100(A): PERMIT REVIEW PROCEDURES							
S = STAFF REVIEW		R = REVIEW AND ADVISE		D = FINAL DECISION		A = APPEAL	
DEVELOPMENT PERMIT	DEVELOPMENT SERVICES DIRECTOR	ZONING BOARD OF APPEALS (ZBA)	BOARD OF HISTORIC REVIEW (BHR)	PLANNING COMMISSION	CITY COUNCIL		
Grading Permit (Section 2-300(K))	D	A					
Land Development Permit (Section 2-300(L))	D	A					
Sign Permit (Section 2-300(M))	D	A					
Temporary Use Permit (Section 2-300(N))	D	A					
Zoning Permit (Section 2-300(O))	D	A					
Certificate of Conformity (Section 2-300(P))	D	A					
Interpretations by Development Services Director (Section 2-300(Q))	D						
Appeals to ZBA from Interpretations and Decisions of Development Services Director (Section 2-300(R))		A					
Land Development Agreements (Section 2-400)	S			R	D		

2-100(C) Planning Commission

(1) Powers and Duties

The Planning Commission is hereby established in accordance with the S.C. Code of Laws, and shall have the following powers and duties under this Ordinance:

(a) Amendments to Text

To initiate, review, and make recommendations to the City Council to approve or deny applications to amend the text of this Ordinance (Text amendment) (Section 2-300(A)).

(b) Amendments to Official Zone District Map (Rezone)

To initiate, review, and make recommendations to the City Council to approve or deny applications to amend the Official Zone District Map (Rezone) (Section 2-300(A)).

(c) Planned Development

To review and make recommendations to the City Council on PD Master Plans and amendments to the Official Zone District Map to a Planned Development (PD) District (Section 2-300(B)).

(d) Historic Overlay (YH) District Classification

To review and make recommendations to the City Council on PD Master Plans and amendments to the Official Zone District Map to a Planned Development (PD) District (Section 2-300(B)).

(e) Historic Properties Designation

ARTICLE 2: ADMINISTRATION

To make recommendations to the City Council on recommendations from the BHR to approve or deny amendments to the Official Zone District Map to a Historic Overlay (YH) District (Section 2-300(A) and Section 3-500(B)(2)).

- (f) ***Design Guidelines for Historic Properties and Historic Overlay Districts***
To review and make recommendations to the City Council on design guidelines for Historic Properties and Historic Overlay (YH) Districts that are recommended by the BHR.
- (g) ***Land Development Agreements***
To review and make recommendations to the City Council on requests to enter into Land Development Agreements (Section 2-400).
- (h) ***Major Site Plans***
To review and decide Major Site Plans in conformance with Section 2-300(H)(5).
- (i) ***Preliminary Plats for Subdivision***
To review and decide Preliminary Plats for Subdivision (Section 2-300(I)(5)(b)).
- (j) ***Conservation Subdivisions***
To review and decide Conservation Subdivisions (Section 2-300(I)(5)(g)).
- (k) ***Appeals***
To hear and decide appeals on decisions of the Development Services Director on:
 - 1. Minor Subdivisions (Section 2-300(I)(4)).
 - 2. Detailed Construction Plans (Section 2-300(I)(5)(c)).
 - 3. Minor Site Plans (Section 2-300(H)(4))
 - 4. Major Site Plans in conformance with Section 2-300(H)(5)
 - 5. Intermediate Field Survey Plats (Section 2-300(I)(5)(d)).
- (l) ***Other Powers and Duties***
To carry out any other powers and duties delegated to it by City Council, consistent with state law.

(2) Membership

- (a) ***Number***
The Planning Commission shall consist of seven (7) members.
- (b) ***Qualifications***
Each member shall be a resident of the City and a qualified voter. No member may be a member of the City Council or a City employee.
- (c) ***Appointment***
Each member shall be appointed by City Council.
- (d) ***Other office***
No member shall hold another municipal office, ~~except that one (1) may be a member of the ZBA.~~

(e) Terms of Office

1. Terms of office shall be four (4) years.
2. A member shall continue to serve until the member is reappointed or replaced.

(f) Resignation

Any member who resigns prior to the end of the member's term shall do so in writing to the Chair.

(g) Removal

Any member may be removed from office by the City Council for malfeasance, more than four (4) unexcused absences over the course of one (1) calendar year, or failure to carry out the duties of the appointment, after written charges have been filed, and the member is provided an opportunity to respond at a meeting.

(h) Filling of Vacancy

Vacancies occurring other than through expiration of a term shall be filled for the remainder of the unexpired term by the Mayor, with the concurrence of the City Council.

(i) Compensation

The members of the Planning Commission shall serve without compensation.

2-100(D) Zoning Board of Appeals (ZBA)

(1) Powers and Duties

The Zoning Board of Appeals (ZBA) is hereby established, and shall have the following powers and duties under this Ordinance:

(a) Special Exception Permits

To review and decide applications for Special Exception Permits specifically authorized under this Ordinance (Section 2-300(D)).

(b) Variance Permits

To review and decide applications for Variance Permits (Section 2-300(E)).

(c) Appeals

To hear and decide appeals on:

1. Conditional Use Permits (Section 2-300(R)).
2. Administrative Adjustments (Section 2-300(R)).
- ~~3. Minor Site Plans (Section 2-300(R)).~~
- ~~4.~~ 3. Stormwater Management and Sediment Control Plans (Section 2-300(R)).
- ~~5.~~ 4. Grading Permits (Section 2-300(R)).
- ~~6.~~ 5. Land Development Permits (Section 2-300(R)).
- ~~7.~~ 6. Temporary Use Permits (Section 2-300(R)).
- ~~8.~~ 7. Sign Permits (Section 2-300(R)).

- ~~9.~~ 8. Zoning Permits (Section 2-300(R)).
- ~~10.~~ 9. Certificates of Conformity (Section 2-300(R)).
- ~~11.~~ 10. Interpretations by the Development Services Director (Section 2-300(R)).
- ~~12.~~ 11. Appeals taken by any aggrieved party by any other decision of the Development Services Director related to this Ordinance (Section 2-300(R)).

(2) Membership

(a) Number

The ZBA shall consist of seven (7) members.

(b) Qualifications

Each member shall be a resident of the City and a qualified voter. No member may be a member of the City Council or a City employee.

(c) Appointment

Each member shall be appointed by the City Council.

(d) Other office

No member shall hold another municipal office, ~~except that one (1) may be a member of the Planning Commission.~~

(e) Terms of Office

1. Terms of office shall be three (3) years. They shall be staggered.
2. A member shall continue to serve until the member is reappointed or replaced.

(f) Resignation

Any member who resigns prior to the end of the member's term shall do so in writing to the Chair.

(g) Removal

Any member may be removed from office by the City Council for malfeasance, more than four (4) unexcused absences over the course of one (1) calendar year, or failure to carry out the duties of the appointment, after written charges have been filed, and the member is provided an opportunity to respond at a meeting.

(h) Filling of Vacancy

Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term in the same manner as the original appointment.

(i) Compensation

The members of the ZBA shall serve without compensation.

2-100 (F) City Staff

(1) Development Services Director

(a) General

The Development Services Director is designated by the City Manager as the zoning administrator responsible for administering and enforcing the provisions of this Ordinance.

(b) Powers and Duties

In addition to the authority and duties that may be conferred on the Development Services Director by general law and the City Code of Ordinances, the Development Services Director shall have the following powers and duties under this Ordinance:

1. To review and decide applications for Conditional Use Permits (Section 2-300(C)).
2. To review and decide applications for Administrative Adjustments (Section 2-300(F)).
3. To review and decide Minor Site Plans (Section 2-300(H)(4)).
4. To review and decide applications for:
 - a. Minor Subdivisions (Section 2-300(I)(4)).
 - b. Detailed Construction Plans (Section 2-300(I)(5)(c)).
 - c. Intermediate Field Survey Plats (Section 2-300(I)(5)(d)).
 - d. Final Plats for Subdivision (Section 2-300(I)(5)(f)).
 - e. Major Site Plans in conformance with Section 2-300(H)(5).
5. To review and decide applications for Stormwater Management and Sediment Control Plans (Section 2-300(J)).
6. To review and decide applications for Grading Permits (Section 2-300(K)).
7. To review and decide applications for Land Development Permits (Section 2-300(L)).
8. To review and decide applications for Sign Permits (Section 2-300(M)).
9. To review and decide applications for Temporary Use Permits (Section 2-300(N)).
10. To review and decide applications for Zoning Permit (Section 2-300(O)).
11. To review and decide applications for Certificates of Conformity (Section 2-300(P)).
12. To render interpretations of this Ordinance (Section 2-300(Q)).
13. To establish application content requirements and a submission schedule for review of applications and appeals (Sections 2-200(B)(1) and (2)).
14. To compile and maintain an Administrative Manual (Section 2-200(B)(4)).

15. To review and make recommendations through a Staff Report to the City Council, Planning Commission, ZBA, and BHR on applications for permits and permit approvals, where appropriate, and take any other action necessary to administer the provisions of this Ordinance.
16. To maintain the Official Zone District Map and other such records and official materials that relate to the adoption, amendment, enforcement, or administration of this Ordinance.
17. To enforce this Ordinance in accordance with Article 9: *Enforcement*.
18. To provide expertise and technical assistance to the City Council, Planning Commission, ZBA, and BHR upon request.

~~(2) Technical Review Committee~~

~~(a) Establishment~~

~~There hereby is established a Technical Review Committee (TRC).~~

~~(b) Membership~~

~~The TRC shall consist of one (1) representative from each department of the City involved with development review.~~

~~(c) Powers and Duties~~

~~The TRC shall assist the Development Services Director in the administration of the Ordinance by meeting with applicants on development proposals and providing assistance in the review of development applications, as determined necessary by the Development Services Director.~~

~~(d) Chair~~

~~The Development Services Director shall coordinate the TRC activities, serve as its Chair, and serve as liaison to the departments involved for clarification of issues or conflicts.~~

(3) City Attorney

In addition to the authority and duties that may be conferred upon the City Attorney by general law and the Code of Ordinances, the City Attorney shall counsel the City Council, Planning Commission, ZBA, BHR, Development Services Director, and City departments in regard to the legal issues that may arise in the review of applications for permits and permit approval and the general implementation of this Ordinance.

~~(4) Hearing Officer~~

~~(a) Creation and Appointment~~

~~The City Council may confirm one (1) or more Hearing Officer(s) to hear and consider such matters as may be required to be conducted by a hearing officer under any provision of this Ordinance or state law, or as may be determined to be appropriate. The Hearing Officer(s) shall serve at the pleasure of the City Council for such period as is determined by the City Council. The Hearing Officer(s) shall be compensated at a rate to be determined by the City Council. Whoever shall accept an appointment as a Hearing Officer shall, for a period of one (1) year from the date of termination as holder of such position, not act as agent or attorney in any proceeding, application, or any other matter before any decision-making or advisory body of the City in any matter involving land that was the subject of a~~

~~proceeding which was pending during the time served as a Hearing Officer.~~

~~**(b) Minimum Qualifications**~~

~~A Hearing Officer may have the following minimum qualifications:~~

- ~~1. Demonstrated knowledge of administrative, zoning, and land use law and practice.~~
- ~~2. Hold no appointive or elective public office or position in the City during the period of appointment.~~

~~**(c) Powers and Duties**~~

~~A Hearing Officer shall have the following duties:~~

- ~~1. To issue subpoenas to compel the attendance of witnesses and production of documents, and to administer oaths to witnesses appearing at hearings.~~
- ~~2. To perform other such tasks as the City Council may assign.~~

2-200(D) Neighborhood Meetings

(1) General

The purpose of the neighborhood meeting is to education occupants and owners of nearby lands about the proposed development and application, receive comments, address concerns about the development proposal, and resolve conflicts and outstanding issues, where possible.

(2) Favored Practice

Neighborhood meetings are encouraged as opportunities for informal communication between owners and occupants of nearby lands, applicants, and other residents who may be affected by development proposals.

(3) Applicability

(a) Neighborhood Meetings Mandatory

Neighborhood meetings are mandatory ~~prior to the submission of applications~~ for Planned Development (Section 2-300(B)), and Land Development Agreements (Section 2-400). ~~Neighborhood meetings may be conducted after the submittal of the application but must be conducted prior to the issuance of public notice of the public hearing for Planned Developments and prior to the issuance of public notice of the first public hearing for Land Development Agreements.~~

(b) Neighborhood Meetings Optional

Neighborhood meetings are optional for any other applications under this Ordinance. However, neighborhood meetings are strongly encouraged ~~prior to submission of~~ for all applications requiring a public hearing ~~and prior to submission of applications for permit approvals in a Neighborhood Conservation Overlay District~~. If neighborhood meetings are conducted, they may be conducted after the submittal of the application but should be conducted prior to the issuance of public notice of the public hearing.

(c) Neighborhood Meeting May Be Required

1. The Development Services Director may require an applicant to conduct a neighborhood meeting prior to a public hearing on an application if the Director determines the application is likely to cause a significant land use, appearance, traffic, or other public facility impact on neighboring lands.
2. The Mayor of the City Council, and/or the Chair of the Planning Commission,

may direct an applicant to conduct a neighborhood meeting either prior to or during a public hearing on an application being review by the board they chair, if it is determined the application could potentially have significant land use, appearance, traffic, or any other public facility impacts on neighboring lands.

(4) Procedure

If a neighborhood meeting is held by the applicant, it shall generally comply with the following procedures:

(a) Time and Place

The neighborhood meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application. It shall be scheduled after 5:00 P.M. on a weekday.

(b) Notification

The applicant shall provide notification of the neighborhood meeting a minimum of (10) business days in advance of the meeting by mail, to all owners and occupants within three (300) feet of the land subject to the application, to any neighborhood organization registered with the City of Rock Hill Neighborhood Empowerment Office, any organizations or persons who have registered to receive notification of development permit applications in accordance with Section 2-200(l)(6), *Registration to Receive Notice by Mail*, and the City Council or Planning Commission when the neighborhood meeting is required by that review board. The notification shall state the time and place of the meeting.

(c) Conduct of Meetings

At the neighborhood meeting, the applicant shall explain the development proposal and application, answer any questions, and respond to concerns neighbors have about the application and proposed ways to resolve conflicts.

(d) Staff Attendance

City staff may attend the neighborhood meeting for the purpose of advising the attendees regarding applicable provisions of this Ordinance, but shall not serve as facilitators or become involved in negotiations at the neighborhood meeting.

(e) Written Summary of Neighborhood Record of Meeting

The applicant shall provide the Development Services Director a written summary of the neighborhood meeting within five (5) business days of its conclusion. The written summary shall include a list of those in attendance, a summary of the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information the applicant deems appropriate. The written summary of the neighborhood meeting shall be included with the application materials, and be made available to the public for inspection.

(f) Response to Summary

Any person in attendance at the neighborhood meeting, within ten (10) business days of the meeting, may submit an additional written summary stating their understanding of the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information they deem appropriate. This written summary may include a response to the applicant's written summary of Neighborhood Record of Meeting. All written summaries of the neighborhood meeting shall be included with the application materials, and be made available for public inspection.

2-200(I)

Public Notification

(1) **Public Notice Content**

All notices for public hearings, ~~unless expressly noted otherwise,~~ whether done by mail (written notice), publication (publishing in a newspaper of general circulation in the City), or posting shall either provide the following information or provide a means to obtain the following information.

(a) Identify Application and Explain Request

Identify the applicant, the application number and the type of application submitted, and briefly explain the request.

(b) Describe Land Involved

Describe the land involved by street address, tax map number, legal description, or nearest cross streets, and by approximate size.

(c) Describe the Public Hearing

Indicate the date, time, and place of the public hearing, and explain that interested parties may make comments or submit information to be considered during the public hearing or in writing before the public hearing.

(d) How to Learn More

Describe where the application can be reviewed and how interested parties may learn more about the request.

~~**(a) Identify the Application**~~

~~Identify the application or application number.~~

~~**(b) Indicate Application Type**~~

~~Indicate the type of application submitted~~

~~**(c) Indicate Date, Time, and Place of Public Hearing**~~

~~Indicate the date, time, and place of public hearing.~~

~~**(d) Describe the Land Involved**~~

~~Describe the Land Involved by street address or by legal description and nearest cross street, and area size (except posted notice).~~

~~**(e) Application Available for Public Inspection**~~

~~Describe where the application and any support materials are available for public inspection, and state these materials will be made for public inspection.~~

~~**(f) Where Written Comments May be Submitted**~~

~~Indicate where members of the public may submit written comments or evidence on the application prior to the public hearing.~~

~~**(g) Statement that Public and Landowners May Appear and be Heard at Public Hearing**~~

~~Include a statement that interested members of the public and adjoining landowners may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.~~

(2) **Written (Mailed) Notice**

When the provisions of this Ordinance (see Section 2-200(I)(5)) require that written or mailed notice be provided, the Development Services Director shall be responsible for

preparing and mailing the written notice. Notice shall be mailed to:

(a) Landowners of Land Subject to Application

All landowners of the land subject to the application;

(b) Landowners Within 150 Feet

All landowners within one hundred-fifty (150) feet of the land subject to the application whose address is known by reference to the latest ad valorem tax records. At the City's discretion, it may provide mailed notice to property owners owning lands beyond one hundred-fifty (150) feet of land subject to an application for development; and

(c) Organizations and Persons

Organizations and persons that have registered to receive notice in accordance with Section 2-200(I)(6), *Registration to Receive Notice by Mail*.

~~Notice shall be deemed mailed by its deposit in the United States mail, first class, property addressed, postage paid. The Development Services Director shall prepare an affidavit with affirmation that notice meeting the content requirements of Section 2-200(I)(1), *Public Notice Content*, was mailed. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection.~~

(d) Copy of Mailed Notice Shall be Maintained

A copy of the mailed notice shall be maintained in the office of the Development Services Director for public inspection during normal business hours.

(3) Published Notice

(a) Responsibility for Preparing Notice

When the provisions of this Ordinance require that notice be published, the Development Services Director shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation in the City. The content and form of the published notice shall be consistent with the requirements of the S.C. Code of Laws.

~~**(b) Affidavit Published Notice Occurred**~~

~~**(b) Copy of Published Notice Shall be Maintained**~~

~~The Development Services Director shall prepare an affidavit certifying that published notice has occurred in accordance with the requirements of this subsection. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection.~~ A copy of the published notice shall be maintained in the office of the Development Services Director for public inspection during normal business hours.

(4) Posted Notice

(a) Responsibility for Posting Notice

When the provisions of this Ordinance require that notice be posted on the land subject to the application, the Development Services Director shall be responsible for posting the notice in accordance with the following standards:

1. Notice shall be posted on sign(s) in a form established by the Development Services Director.
2. The sign(s) shall be placed on the land that is subject to the application, along

each public thoroughfare that abuts or runs through the land. ~~at intervals of not more than five hundred (500) feet.~~

3. The sign(s) shall be posted in a manner that ensures visibility from public thoroughfare(s).

~~(b) Affidavit of Posted Notice~~

~~(b) Copy of Mailed Notice Shall be Maintained~~

~~The Development Services Director shall prepare an affidavit certifying that posted notice has been provided in accordance with the requirements of this subsection. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection.~~ A map showing the location of the posted notice shall be maintained in the office of the Development Services Director for public inspection during normal business hours.

(c) Responsibility for Maintenance of Public Notice

The applicant shall ensure that the posted notice is maintained on the land until the completion of the public hearing on the application.

(d) Responsibility for Removal of Posted Notice

The sign(s) shall be removed by the **Planning and Development Director** ~~applicant~~ ~~within five (5) days~~ after the public hearing on the application.

(5) Required Notice and Timing

Unless otherwise expressly provided in the S.C. Code of Laws or this Ordinance, notice shall be provided as follows in Table 2-200(I), *Public Notification for Permit Approvals*:

TABLE 2-200(I): PUBLIC NOTIFICATION FOR PERMIT APPROVALS			
APPLICATION FOR DEVELOPMENT PERMIT OR OTHER ACTION	NOTICE REQUIRED (DAYS BEFORE HEARING/ACTION)		
	WRITTEN (SECTION 2-200(I)(2))	PUBLICATION (SECTION 2-200(I)(3))	POSTED (SECTION 2-200(I)(4))
Text Amendment	N/A	At least 30 15 days prior to public hearing	N/A
Amendment to Official Zone District Map & Planned Development District	At least 15 days prior to public hearing	At least 30 15 days prior to public hearing	At least 15 days prior to public hearing
Special Exception Permit & Variance Permit	At least 15 days prior to public hearing	At least 15 days prior to public hearing	At least 15 days prior to public hearing
Appeal to Board of Zoning Appeals	At least 15 days prior to public hearing	At least 15 days prior to public hearing	At least 15 days prior to public hearing
Certificate of Appropriateness & Certificate of Hardship & Appeal of Development Services Director's Interpretation or Decision on Certificates of Appropriateness	At least 15 days prior to public hearing	At least 15 days prior to public hearing	At least 15 days prior to public hearing

TABLE 2-200(I): PUBLIC NOTIFICATION FOR PERMIT APPROVALS			
APPLICATION FOR DEVELOPMENT PERMIT OR OTHER ACTION	NOTICE REQUIRED (DAYS BEFORE HEARING/ACTION)		
	WRITTEN (SECTION 2-200(I)(2))	PUBLICATION (SECTION 2-200(I)(3))	POSTED (SECTION 2-200(I)(4))
Land Development Agreements	At least 30 -15 days prior to public hearing	At least 30 -15 days prior to public hearing before Planning Commission At least 30 -15 days prior to public hearing before City Council	At least 30 -15 days prior to public hearing

(6) Registration to Receive Notice by Mail

Bi-annually beginning in 2006, and prior to July 31 of that year, any person, neighborhood organization, or other organization in the City may register with the Development Services Director to receive written notice of all applications in accordance with Section 2-200(I)(2), *Written (Mailed) Notice*. To be eligible for registration, the applicant shall provide the Development Services Director information in the form required by the Development Services Director to ensure notification can be made to the organization, along with a fee to defray the costs. To continue to receive such notice, a person or organization shall re-register every two (2) years.

2-200(J) Deferral or Withdrawal of Application

(1) Submission of Request

An applicant may defer or withdraw an application by submitting a statement of deferral or withdrawal to the Development Services Director prior to a public meeting or by making a verbal statement of deferral or withdrawal during a public meeting.

When an applicant defers or withdraws an application prior to the public meeting, staff shall attempt to notify known interested parties regarding the deferral or withdrawal.

(2) Fees

When an application is deferred, the application may be subject to additional application fees to defray the costs of processing the application. Fees shall not be refunded for withdrawn applications.

~~**2-200 (J) Deferral of Application**~~

~~**(1) Request Prior to Publication of Notice**~~

~~An applicant may request that an advisory or decision-making bodies' consideration of an application at public hearing be deferred by submitting a written request for deferral to the Development Services Director prior to the publication of notice for the public hearing (Section 2-200(I), *Public Notification*). The Development Services Director may grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted.~~

~~**(2) Request After Publication of Notice**~~

~~If a request for deferral of consideration of an application by an advisory or decision-making~~

~~body is submitted subsequent to publication of notice, the request for deferral shall be placed on the public hearing agenda and acted upon by the advisory or decision-making body. The advisory or decision-making body may grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted. If a deferral is granted, the application may be subject to additional application fees to defray the costs of processing the application.~~

2-200(K) Changes to Application After Notice of Public Hearing

After notice of public hearing has occurred, changes to an application (including changes to an application at the public hearing) not made solely to satisfy staff or review body recommendations or conditions shall be governed by the provisions of this section.

- (1) Clerical Errors**
Minor additions, deletions, or corrections to clerical errors in an application may be made without referral of the application, as amended, back to the Development Services Director for review and preparation of a Staff Report, and to any review or decision-making bodies as is required for the original review of the application.
- (2) Major Changes**
No substantive changes may be made in major elements of the development proposal relating to uses, densities, intensities, and/or access without referral of the application, as amended, back to the Development Services Director for evaluation and preparation of a Staff Report in accordance with Section 2-200(G), *Preparation of a Staff Report*, and to any other advisory or decision-making bodies in the same manner as is required for the original review of the application.
- (3) Conditions and Development Standards**
Proposed changes in conditions and development standards may be considered without referral back to the Development Services Director or advisory or decision-making bodies, provided the changes do not constitute a major substantive change in the development proposal in the determination of the body with decision-making authority on the application.

~~**2-200(L) Request for Withdrawal of Application**~~

- ~~**(1) Submission of Request**
Any request for withdrawal of an application subject to a public hearing shall be submitted in writing to the Development Services Director, or shall be made through a verbal request at a public hearing.~~
- ~~**(2) Prior to Notice of Public Hearing**
The Development Service Director shall approve a request for withdrawal of an application, if it has been submitted prior to public notification on the application in accordance with Section 2-200(I), *Public Notification*.~~
- ~~**(3) Subsequent to Notice of Public Hearing**
If the request for withdrawal of an application is submitted subsequent to public notification (Section 2-200(I), *Public Notification*), the request for withdrawal shall be placed on the public hearing agenda and acted upon by the advisory or decision-making body.~~
- ~~**(4) Fees**
Fees shall not be refunded for withdrawn applications.~~

2-200 (S) Notification of Decision

Within a reasonable period of time after a decision on an application, the Development Services Director shall notify the applicant of the decision ~~by mail~~ **in writing in accordance with the requirements of the S.C. Code of Laws**. Within a reasonable period of time after the decision, a copy of the decision shall also be made available to the public at the offices of the Development Services Director, during normal business hours.

2-300 SPECIFIC STANDARDS AND OTHER REQUIREMENTS FOR APPLICATIONS FOR DEVELOPMENT APPROVAL

2-300 (A) Amendments to Text and Official Zone District Map

(1) Purpose

The purpose of this section is to provide a means for amending the text of this Ordinance or making an amendment to the Official Zone District Map (Rezoning).

(2) Authority

The City Council may adopt an ordinance amending the text of this Ordinance or amending the Official Zone District Map (Rezoning) upon compliance with the provisions of this section.

(3) Initiation

(a) Amendment to the Text of this Ordinance

An application to amend the text of this Ordinance may be initiated by the City Council, the Planning Commission, or requested by an owner of land in the City.

(b) Amendment to Official Zone District Map (Rezoning)

An application to amend the Official Zone District Map (Rezoning) may be initiated by the City Council, the Planning Commission, the BHR (for an amendment for an Historic Property designation or an Historic Overlay (YH) District classification only), or a person who may submit applications in accordance with Section 2-200(A), *Authority to File Applications*.

(4) Procedures

(b) Review and Recommendation by Planning Commission

After preparation of a Staff Report, public notification, and the scheduling of the public hearing, the application shall be referred to the Planning Commission by the Development Services Director on the date the public hearing on the application is conducted. The Planning Commission shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, the testimony given at the public hearing, and following the close of the public hearing, make a report to the City Council recommending either to approve or deny the application based on the standards in Section 2-300(A)(5), *Standards*. The Planning Commission shall forward its report to City Council within thirty (30) calendar days **from the date of the application's referral by the Development Services Director to the Planning Commission** ~~(unless a longer review period is established by mutual agreement of the applicant and Planning Commission)~~. If the Planning Commission does not submit its report within the prescribed time, it is presumed the Planning Commission recommends approval of the application, and the City Council may proceed to act on the application without the recommendation of the Planning Commission.

(c) Review and Action by City Council

After receipt of the report from the Planning Commission, the City Council shall review and consider the application, the relevant support materials, the Staff Report, the report of the Planning Commission, and the comments given at the meeting (if any). During the meeting, the City Council, by a majority vote of a quorum present, shall either adopt an ordinance amending the Text of this Ordinance or the Official Zone District Map (whichever is appropriate), or deny the application, based on the standards of Section 2-300(A)(5), *Standards*.

~~(c) Protest Petitions~~

~~1. General~~

~~Applications to amend the Official Zone District Map which are subject to a valid protest petition shall require an affirmative vote of at least three-fourths (3/4) of all members of the City Council to be adopted.~~

~~2. Valid Protest Petitions~~

~~For a protest petition to be considered valid, it shall be signed by at least twenty percent (20%) of the landowners who own lots:~~

~~a. Included in the area subject to the amendment application;~~

~~b. Located immediately adjacent to the side or rear of the lands subject to the amendment application; or~~

~~c. Located directly opposite of the lands subject to the amendment application.~~

(5) Standards Guidelines

(a) Text Amendments

Amending the text of this Ordinance is a matter committed to the legislative discretion of the City Council. In determining whether to adopt or deny the proposed amendment, the City Council ~~shall~~ **may** consider and weight the relevance of the following factors ~~as well as any other relevant factors. These factors are not required findings of fact but rather are general guidelines that may help City Council reach a decision about whether to approve a proposed text amendment.~~

1. *Consistent with General Plan, Focal Point, and Sub-area Plans*

Whether the extent to which the proposed amendment is consistent with the *General Plan*, and relevant adopted Focal Point and Sub-area Plans.

2. *Consistent with Ordinance*

Whether the proposed amendment is in conflict with any provision of this Ordinance, and related City regulations.

3. *Changed Conditions*

Whether and the extent to which there are changed conditions that require an amendment.

4. *Community Need*

Whether and the extent to which the proposed amendment addresses a demonstrated community need.

5. *Compatible with Surrounding Uses*
Whether and the extent to which the proposed amendment is consistent with the purpose and intent of the zone districts in this Ordinance, or will improve compatibility among uses and will ensure efficient development within the City.
6. *Development Patterns*
Whether and the extent to which the proposed amendment would result in logical and orderly development pattern.
7. *Effect on Natural Environment*
Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

(b) Amendments to the Official Zone District Map (Rezoning)

Amending the Official Zone District Map (Rezoning) is a matter committed to the legislative discretion of the City Council. In considering an amendment to the Official Zone District Map (Rezoning), the City Council may adopt a change for only part of the area requested for a less intense zone district than requested by the applicant, or both. In determining whether to adopt or deny the proposed amendment, the City Council ~~shall~~ **may** consider and weigh the relevance of the following factors **as well as any other relevant factors. These factors are not required findings of fact but rather are general guidelines that may help City Council reach a decision about whether to approve a proposed map amendment.**

1. *Consistent with General Plan, Focal Point, and Sub-Area Plans*
Whether and the extent to which the proposed amendment is consistent with the *General Plan*, and any relevant adopted Focal Point or Sub-area Plans.
2. *Changed Conditions*
Whether and the extent to which there are changed conditions that require an amendment.
3. *Community Need*
Whether and the extent to which the proposed amendment addresses a demonstrated community need.
4. *Compatible with Surrounding Uses*
Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land.
5. *Development Patterns*
Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns.
6. *Premature Development*
Whether and the extent to which the proposed amendment would encourage pre-mature development.
7. *Strip or Ribbon Commercial Development*
Whether and to the extent to which the proposed amendment would result in strip or ribbon commercial development.

8. *Isolated Zone District*
Whether and the extent to which the proposed amendment will result in the creation of an isolated zone district unrelated to adjacent and surrounding zone districts.
9. *Property Values*
Whether and the extent to which the proposed amendment will result in significant adverse impacts on the property values of surrounding lands.
10. *Effect on Natural Environment*
Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

2-300 (B) Planned Development District

(1) General

This section established the procedures for review of the City's Planned Development (PD) zone districts: Planned Development-Residential (PD-R); Planned Development-Commercial (PD-C); Planned Development-Major Employment Center (PD-MEC); Planned Development-Traditional Neighborhood Development (PD-TND); and Planned Development-Planned Educational District (PD-PED).

(2) Location

A PD zone district classification may be established on any land that complies with all of the applicable standards of this section.

(3) Unified Ownership or Control

To ensure unified control, copy of the title to all land that is part of a proposed PD zone district classification shall be provided, and all owners of the land shall sign the planned development application to indicate their support for the application and willingness to be bound by any conditions of approval.

(4) PD Zone District Classification and PD Master Plan

(a) Procedure

1. *General*

A PD zone district classification shall constitute an amendment to the Official Zone District Map (Rezoning). It shall be controlled by a PD Master Plan and PD Terms and Conditions. The procedure requires approval of a PD zone district classification, PD Master Plan, and PD Terms and Conditions (Section 2-300(B)(4)(c)), and then a Final PD Plan (Section 2-300(B)(5)).

2. *Pre-application Conference, Application Submission, Review, Public Notification, and Scheduling Hearing*

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

3. *Review and Recommendation by Planning Commission*

After preparation of a Staff Report, public notification, and the scheduling of the public hearing, the application shall be referred to the Planning Commission by the Development Services Director on the date the public hearing on the application is conducted. The Planning Commission shall

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conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, the testimony given at the public hearing, and following the close of the public hearing, make a report to the City Council recommending either to approve, approve with conditions, or deny the application based on the standards in Section 2-300(B)(4)(b), *Planned Development Standards*. The Planning Commission shall forward its report to City Council within thirty (30) calendar days of the application's referral by the Development Services Director to the Planning Commission ~~(unless a longer review period is established by mutual agreement of the applicant and Planning Commission)~~.

If the Planning Commission does not submit its report within the prescribed time, it is presumed the Planning Commission recommends approval of the application, and the City Council may proceed to act on the application without the recommendation of the Planning Commission.

4. *Review and Action by City Council*

a. After receipt of the report from the Planning Commission, the City Council shall review and consider the application, the relevant support materials, the Staff Report, the report of the Planning Commission, and the comments given at the meeting (if any). In its discretion, the City Council may refer the matter back to the Planning Commission for further study and recommendation on specific issues and for a supplemental report to be submitted to the City Council. If the referral requires additional public notification, it shall be given in accordance with Section 2-200(I), *Public Notification*. During the meeting at which the application is finally considered, the City Council shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(B)(4)(b), *Planned Development Standards*.

b. ~~An application for a PD zone district classification shall be subject to the standards in Section 2-300(A)(4)(d), *Protest Petitions*.~~

(b) *Planned Development Standards*

A PD zone district classification, PD Master Plan, and PD Terms and Conditions shall comply with the standards in Section 2-300(A)(5)(b), *Amendments to Official Zone District Map (Rezoning)*, and the standards for the type of PD district that is being approved in accordance with Section 3-400(D), *Standards*.

(c) *PD Terms and Conditions*

Concurrent with the approval of the adopting ordinance and the PD Master Plan, PD Terms and Conditions shall be established binding the planned development to any conditions placed in the adopting ordinance and PD Master Plan. The PD Terms and Conditions shall include, but are not limited to:

1. *PD Master Plan and PD Standards*

The PD Master Plan and PD Standards.

2. *Conditions*

Conditions related to the approval of the PD Master Plan.

3. *Other Provisions Related to Future Development of PD*

Standards, conditions, or other provisions related to future development approvals, or responsibilities of the landowners within the PD Master Plan.

(d) Conditions of Approval

In approving a PD zone district classification, a PD Master Plan, and PD Terms and Conditions, the City Council may impose appropriate conditions on the approval in accordance with Section 2-200(O), *Conditions of Approval*.

(e) Placement of Planned Development District Classification on Official Zone District Map

After final approval of the adopting ordinance for the PD zone district classification, the PD Master Plan, and PD Terms and Conditions, the Development Services Director shall amend the Official Zone District Map to show a PD zone district classification.

(f) Recordation

The applicant shall record the adopting ordinance, the PD Master Plan, and the PD Terms and Conditions with the York County Clerk of Court. They shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the PD Master Plan and in the PD Terms and Conditions. The applicant shall submit proof to the Development Services Director that the adopting ordinance, PD Master Plan, and PD Terms and Conditions have been recorded with the York County Clerk of Court within six (6) months of its approval, or the adopting ordinance, PD Master Plan, and PD Terms and Conditions shall automatically and immediately be rendered invalid and the land shall return to its prior zone district classification (or if the land was not located in the City prior to its approval as a PD zone district classification, the land shall be classified RH district).

(g) Expiration

The approval of the adopting ordinance for a PD zone district classification, the PD Master Plan, and PD Terms and Conditions shall be subject to the terms of Section 2-200(P), *Expiration and Extension of Approvals*.

(h) Minor Deviations *Versus* Amendments

A minor deviation to a PD Master Plan and/or PD Terms and Conditions shall not be considered as an amendment, ~~and shall be approved by the Development Services Director.~~

~~The minor deviation shall comply with the standards of this Ordinance.~~ A minor deviation shall be limited to technical considerations which could not reasonably be anticipated during the approval process of any other change which has no material effect on the character of the approved PD development or any of its approved terms or conditions. The following shall constitute minor deviations ~~that the Development Services Director may approve: driveway relocations, structure floor plan revisions, and facility design modifications for amenities and the like.~~

~~1. Driveway Relocations~~

~~Driveway relocations.~~

~~2. Structure Floor Plan Revisions~~

~~Structure floor plan revisions.~~

~~3. Facility Design Modifications~~

~~Facility design modifications for amenities and the like.~~

The Planning Commission also may approve minor deviations to Planned Developments in the following limited circumstances:

1. *Site Access*
Driveway and street relocations, provided that they are internal to the Planned Development and do not change external project access. Also, minor modifications to external access points based on final design considerations, provided that location and operation are functionally the same as originally approved.
2. *Parking Lot Designs*
Parking lot designs, provided that the proposed changes are internal to the Planned Development and do not change external project access.
3. *Architectural Design*
Architectural design, provided that the proposed changes consist of minor differences in materials and/or façade design.
4. *Signage*
Signage, provided that the proposed changes consist of minor differences in the location, design, and/or size of signs.
5. *Lighting*
Lighting, provided that the proposed changes consist of minor differences in the location, design, and/or intensity of lights.
6. *Change in proportion of housing types*
Change in proportion of housing types by 15% or less.

Changes that materially affect the basic concept of the PD Master Plan are not considered minor deviations, and shall only be changed as amendments to the PD Master Plan and/or the PD Terms and Conditions (Section 2-300(B)(4)(c)).

~~(i) **Amendments**~~

~~1. **General**~~

If an applicant determines it is necessary to alter the concept or intent of the PD Master Plan, and/or the PD Terms and Conditions, the PD Master Plan and/or PD Terms and Conditions shall be amended, extended, or modified only in accordance with the procedures and standards for its original approval. Any changes not defined as a minor deviation are considered an amendment.

~~2. **Amendments Defined**~~

~~The following items are considered an alteration of the concept or intent of the PD Master Plan or PD Terms and Conditions:~~

~~a. Changes in use designations;~~

~~b. Density/intensity increases;~~

~~c. Decreases in open space;~~

~~d. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development are moved so traffic flows both inside and outside the development are affected);~~

~~e. Change in the location of any public easement;~~

~~f.—Change in the proportion of housing types by more than fifteen percent (15%); or~~

~~g.—Violation of any specific condition of the PD Terms and Conditions.~~

(5) **Final PD Plan**

(a) **Submittal of PD Final Plan**

Within one (1) year of the approval of a PD zone district classification, PD Master Plan, and PD Terms and Conditions, the applicant shall submit a PD Final Plan for any part or section of the plan for development shown in the PD Master Plan. The PD Final Plan shall implement the PD Master Plan. For the purposes of this Ordinance, the PD Final Plan shall mean either Site Plan (Section 2-300(H)) or Preliminary Plat for Subdivision (Section 2-300(I)(5)(b)) approval, whichever is appropriate.

(b) **Standards**

In addition to complying with the relevant standards for Site Plan (Section 2-300(H)) or Subdivision (Section 2-300(I)), whichever is appropriate, the PD Final Plan shall also conform to the PD Master Plan and the PD Terms and Conditions.

(c) **Expiration**

The approval of a PD Final Plan shall be subject to the terms of Section 2-200(P), *Expiration and Extension of Approvals*.

2-300 (D) **Special Exception Permit**

(1) **Purpose**

The purpose of this section is to provide a means for reviewing applications for approval of uses allowed as Special Exceptions. These are uses that are generally compatible with the other uses permitted in a zone district, but require individual review of their location, design, configuration, and density and intensity of use, and may require the imposition or conditions to ensure the appropriateness of the use at a particular location.

(2) **Authority**

The ZBA is authorized to review and decide applications for Special Exception Permits in accordance with this section. Only those uses identified as Special Exceptions in Table 4-100(B), *Table of Allowed Uses*, are authorized to be considered as Special Exceptions under this section. The designation of a use allowed as a Special Exception in Table 4-100(B), *Table of Allowed Uses*, does not constitute an authorization that such use shall be approved through a Special Exception Permit in accordance with this section. Rather, each proposed Special Exception shall be evaluated by the ZBA for compliance with the standards set forth in this section and the applicable standards for the use in Section 4-300, *Uses Specific Standards* (if appropriate).

(3) **Procedure**

(a) **Application Submission, Review, Public Notification and Scheduling Hearing**

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

(b) **Review and Action by Zoning Board of Appeals (ZBA)**

After preparation of a Staff Report, public notification, and the scheduling of a public hearing, the ZBA shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the ZBA shall consider the application, the relevant support materials, the Staff Report, and the testimony given at the public hearing. After the close of the public hearing, the ZBA shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(D)(4), *Special Exception Standards*.

(4) Special Exception Standards

A Special Exception Permit shall be approved only upon a finding the applicant demonstrates ~~that the applicable all the following~~ standards are met. ~~The Board may find that not all of these standards will be applicable to every case.~~

(a) Complies with Use Specific Regulations

The proposed special exception complies with all standards in Section 4-300, *Use Specific Standards*.

(b) Compatibility

The proposed special exception is appropriate for its location and compatible with the character of surrounding lands and the uses permitted in the zone district(s) of surrounding lands.

(c) Design Minimizes Adverse Impact

The design of the proposed special exception minimizes adverse effects, including visual impacts of the proposed use on adjacent lands; furthermore, the proposed special exception avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.

(d) Design Minimizes Environmental Impact

The proposed special exception minimizes environmental impacts and does not cause significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

(e) Roads

There is adequate road capacity available to serve the proposed special exception, and the proposed special exception use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.

(f) Not Injure Neighboring Land or Property Values

The proposed special exception will not substantially and permanently injure the use of neighboring land for those uses that are permitted in the zone district, or reduce property values.

(g) Site Plan

A site plan has been prepared that demonstrates how the proposed special exception use complies with the other standards of this subsection.

(h) Complies With All Other Relevant Laws and Ordinances

The proposed special exception use complies with all other relevant City laws and ordinances, state and federal laws, and regulations.

(5) Conditions of Approval

In approving a Special Exception Permit, the ZBA may impose appropriate conditions

on permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(6) Appeal

A person having a substantial interest affected by a decision of the ZBA on a Special Exception Permit may appeal from the decision of the ZBA to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal shall be filed within thirty (30) days after the decision of the ZBA is mailed. For the purposes of this subsection, person includes persons jointly or severally aggrieved by the decision of the ZBA.

(7) Effect

Issuance of a Special Exception Permit shall authorize only the particular special exception that is approved in the permit. A Special Exception Permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(8) Expiration

The approval of a Special Exception Permit shall be subject to the terms of Section 2-200(P), *Expiration and Extension of Approvals*.

(9) Amendments

A Special Exception Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(10) Effect of Rezoning

An existing use that is subsequently rezoned such that the new zoning district would require the use to have one or more special exceptions is deemed to have been granted such special exceptions automatically upon the rezoning.

2-300 (E) Variance Permit

(1) Purpose

The purpose of a Variance Permit is to allow certain deviations from the standards of this Ordinance (such as height, yard, setback, lot coverage, parking, landscaping, and signage standards), when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the dimensional standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

(2) Authority

The ZBA is authorized to review and decide on a Variance Permit in accordance with this section.

(3) Procedures

(a) Application Submission, Review, Notification and Scheduling of Hearing

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

(b) Review and Action by the Zoning Board of Appeals (ZBA)

After preparation of a Staff Report, public notification, and the scheduling of a public hearing, the ZBA shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the ZBA shall consider the application, the relevant support materials, the Staff Report, and the testimony given at the public hearing. After the close of the

public hearing, the ZBA shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(E)(4), *Variance Standards*.

(4) Variance Standards

(a) Findings

A Variance Permit shall be approved only upon a finding, made in writing, that the applicant demonstrates that all of the following standards are met:

1. Extraordinary and Exceptional Conditions

There are extraordinary and exceptional conditions ~~(such as topographic conditions, narrowness, shallowness, or the shape of the property)~~ pertaining to the particular piece of land. ~~for which the variance is sought, that do not generally apply to other land or structures in the vicinity.~~

~~2. Not Result of Action by Applicant~~

~~The special circumstances are not the result of the actions of the applicant.~~

~~2. Unique Conditions~~

~~These conditions do not generally apply to other property in the vicinity.~~

~~3. Strict Application Deprives Use~~

~~Because of the conditions in subsection 2-300(E)(4)(a)(1) above, the application of this Ordinance to the land would effectively prohibit or unreasonably restrict the utilization of the land and result in unnecessary and undue hardship.~~

~~4. Minimum Variance~~

~~The granting of the Variance Permit is the minimum action that will make possible the reasonable use of the land or structure which is not contrary to the public interest, and which would carry out the spirit of this Ordinance.~~

~~5. 4. Not Detrimental~~

~~The authorization of the Variance Permit will not result in substantial detriment to adjacent land, or to the public good, and the character of the district will not be harmed by the granting of the variance. zone-district in which the land subject to the application is located.~~

~~6. Consistency with this Ordinance~~

~~The granting of the Variance Permit will be generally consistent with the purposes and intent of this Ordinance.~~

(b) Not Grounds for Variance

The following do not constitute grounds for a Variance Permit:

~~1. Nonconforming Use of Neighboring Lands~~

~~The nonconforming use of neighboring lands, structures, or buildings in the same zone district that applies to the land for which the Variance Permit is sought.~~

~~2. 1. Property Could Be Utilized More Profitably~~

~~The fact that land may be utilized more profitably should a Variance Permit be granted.~~

(c) Prohibitions

No Variance Permit shall be granted to:

1. Allow a use not permitted by right, Conditional Use Permit, or by Special Exception Permit in the district in which the land subject to the Variance Permit is located.
2. Extend physically a nonconforming use of land.
3. Change the zone district boundaries on the Official Zone District Map.
- ~~4. Establish, enlarge, or alter any use, structure, or characteristic of use that arises from or is necessitated by the approval of a Special Exception Permit.~~

(5) Conditions of Approval

In approving a Variance Permit, the ZBA may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(6) Appeal

A person having a substantial interest affected by a decision of the ZBA on a Variance Permit may appeal from the decision of the ZBA to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal shall be filed within thirty (30) days after the decision of the ZBA is mailed. For the purposes of this subsection, person includes persons jointly or severally aggrieved by the decision of the ZBA.

(7) Recordation

a) Purpose

The purpose of this section is to provide a mechanism for reviewing demolition, removal, new construction, additions, or alterations of exterior features on Historic Properties and structures within the Historic Overlay (YH) district to ensure they comply with the standards of this section and approved design standards.

(b) Authority

1. *General*

The Board of Historic Review (BHR) is authorized to review and decide applications for a Certificate of Appropriateness.

2. *Development Services Director*

a. The BHR may, by the promulgation of written guidelines, authorize and delegate to the Development Services Director the authority to review and approve Certificates of Appropriateness for the repair and maintenance of any exterior building feature, when such work exactly reproduces the existing design of the building or structure, and the same or closely similar materials are used.

b. The Development Services Director is also authorized, in accordance with guidelines adopted by the BHR, to review and make decisions on applications for Certificates of Appropriateness for minor alterations or renovations.

(c) Applicability

1. *When Required*

A Certificate of Appropriateness shall be required prior to any demolition, removal, new construction, additions, or alterations of exterior features on Historic Properties or structures in the Historic Overlay (YH) District. The ZBA may require the applicant to record the Variance Permit with the York County

Clerk of Court. The Variance Permit shall be binding upon the landowners, their successors and assigns.

- (8) Subsequent Development**
Development authorized by the Variance Permit shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the City. A Variance Permit does not ensure that the development approved as a variance shall receive subsequent approval for other applications for permit approval unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.
- (9) Effect**
Issuance of a Variance Permit shall authorize only the particular variance that is approved in the permit. A Variance Permit, including any conditions, shall run with the land and not be affected by a change in ownership. Land subject to an approved Variance Permit shall not be exempted from other relevant standards in this Ordinance which are unrelated to the standard being varied.
- (10) Expiration**
The ZBA may prescribe a time limit within which development activity shall begin or be completed on the Variance Permit, or both. Failure to begin and/or complete such development activity within the time limit shall void the Variance Permit.
- (11) Amendment**
The approval of a Variance Permit shall be subject to the terms of Section 2-200(P), *Expiration and Extensions of Approvals*.

2-300 (G) Historic Districts and Historic Properties

- (1) Certificate of Appropriateness**

 - (a) Purpose**
The purpose of this section is to provide a mechanism for reviewing demolition, removal, new construction, additions, or alterations of exterior features on Historic Properties and structures within the Historic Overlay (YH) district to ensure they comply with the standards of this section and approved design standards.
 - (b) Authority**

 - 1. *General*
The Board of Historic Review (BHR) is authorized to review and decide applications for a Certificate of Appropriateness.
 - 2. *Development Services Director*

 - a. The BHR may, by the promulgation of written guidelines, authorize and delegate to the Development Services Director the authority to review and approve Certificates of Appropriateness for the repair and maintenance of any exterior building feature, when such work exactly reproduces the existing design of the building or structure, and the same or closely similar materials are used.
 - b. The Development Services Director is also authorized, in accordance with guidelines adopted by the BHR, to review and make decisions on applications for Certificates of Appropriateness for minor alterations or renovations.

(c) Applicability

1. *When Required*

A Certificate of Appropriateness shall be required prior to any demolition, removal, new construction, additions, or alterations of exterior features on Historic Properties or structures in the Historic Overlay (YH) District.

2. *Certificate of Appropriateness Not Required*

Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any architectural feature of structures designated as historic when the repair does not involve a change in design, material, color, or outer appearance of the structure. Certificates of Appropriateness are not required for alterations to the interior of a building or alterations to the use of a building, unless the interior of a particular structure is specifically identified in the designation ordinance establishing an Historic Property or Historic Overlay (YHO) District (section 3-500(B)(2), *Historic Overlay (YH) District*, and Section 2-300(A), *Amendments to Text and Official Zone District Map (Rezoning)*).

(d) Procedure

1. *BHR Review of Certificate of Appropriateness*

a. Preliminary Comments: Prior to submitting an application for a Certificate of Appropriateness, a landowner may appear before the BHR to seek advice on matters pertaining to this section and Section 3-500(B)(2), *Historic Overlay (YH) District*.

b. Application Submission and Review: The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

c. Review and Action by BHR: After preparation of a Staff Report, public notification, and scheduling of a public hearing, the BHR shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the BHR shall consider the application, the relevant support materials, the Staff Report, and the testimony given at the public hearing. After the close of the public hearing, the BHR shall, based on the standards in Section 2-300(G)(1)(e), *Certificate of Appropriateness Standards*, take one (1) of the following actions:

i. Affirm the recommendation of the Development Services Director in the Staff Report;

ii. Modify the recommendation of the Development Services Director in the Staff Report; or

iii. Reverse the recommendation of the Development Services Director in the Staff Report.

2. *Development Services Director Review of Certificate of Appropriateness*

a. Initial Submission of Application and Staff Review: The procedures and requirements for the Development Services Director's review of an application in accordance with Section 2-300(G)(1)(b)(2) are established in Section 2-200, *Common Procedures*.

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- b. Review and Action by Development Services Director: The Development Services Director shall review and take action on the application in accordance with Section 2-200(M), *Review by Development Services Director*, and make a decision on the application based on the standards in Section 2-300(G)(1)(e), *Certificate of Appropriateness Standards*.
- c. Appeal to the BHR: The BHR shall hear appeals on decisions of the Development Services Director on Certificates of Appropriateness in accordance with Section 2-300(G)(6), *Appeal to BHR*.

(e) Certificate of Appropriateness Standards

The following standards shall be applied in determining whether to approve, approve with conditions, or deny a Certificate of Appropriateness:

- 1. *Affect Exterior Appearance*
Whether the proposed action will affect the exterior appearance of the subject land or structure or the appearance of any interior portion specifically identified in any relevant designation ordinance.
- 2. *Affect Consistent with Historical, Architectural, or Other Relevant Qualities*
Whether any such affect is consistent with the historical, architectural, or other qualities which the relevant designation ordinance seeks to protect and enforce.
- 3. *Negative or Positive Impact on Neighboring Lands of Historical Significance*
Whether the proposed action will have a negative or positive impact on neighboring lands that have historic significance.
- 4. *Complies with Design Review Guideline Manual*
Whether the proposed Certificate of Appropriateness is in compliance with the City's *Design Review Guideline Manual*.

(f) Conditions of Approval

In approving a Certificate of Appropriateness, the BHR or Development Services Director, whichever is appropriate, may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(g) Appeal

Any aggrieved party objecting to a final decision of the BHR on a Certificate of Appropriateness may appeal the decision to the courts of South Carolina in accordance with S.C. Code of Laws Section 6-29-900.

(2) Certificate of Hardship

(a) Purpose

The purpose of this section is to provide a procedure for a landowner to gain relief who ~~has a Certificate of Appropriateness denied, or~~ believes it is not possible to comply with the standards for approval for a Certificate of Appropriateness.

(b) General

The BHR is authorized to review and decide applications for Certificates of Hardship.

(c) Procedure

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1. ***Application Submission, Review, Notification, and Scheduling Hearing***
The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.
 2. ***Review and Action by BHR***
After preparation of a Staff Report, public notification, and the scheduling of a public hearing, the BHR shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the BHR shall consider the application, the economic feasibility analysis, the relevant support materials, and the testimony given at the public hearing. After the close of the public hearing, the BHR shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(G)(2)(e), *Hardship Standards*.
- (d) ***Economic Feasibility Analysis Required***
Any application for a Certificate of Hardship shall be accompanied by an Economic Feasibility Analysis prepared by a South Carolina Licensed or Certified Appraiser in accordance with the South Carolina Uniform Standards of Professional Appraisal Practice, and shall include all of the following:
1. An “as is” market value estimate of the structure(s) based upon the highest and best use of the site as improved;
 2. An “after rehabilitation” market value estimate of the structure(s) based upon the highest and best use of the site as improved;
 3. A land value analysis based on the highest and best use of the site as vacant land regardless of whether the highest and best use of the site as vacant land differs from the highest and best use of the land as improved; and
 4. A verifiable estimate of the rehabilitation costs obtained from market sources (e.g., an actual cost estimate from a licensed South Carolina contractor, data on actual costs experienced during rehabilitation of similar structures in the area, or information from contractors who are experienced in historic building rehabilitation/renovation).
- (e) ***Hardship Standards***
A Certificate of Hardship shall be approved only upon a finding that the economic feasibility analysis indicates that the “as is” market value and rehabilitation costs exceed the “after rehabilitation” market value by fifteen percent (15%) or more.
- (f) ***Conditions of Approval***
In approving a Certificate of Hardship, the BHR may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.
- (g) ***Appeal***
Any aggrieved party objecting the a final decision of the BHR on a Certificate of Hardship may appeal the decision to the York County Circuit Court in Accordance with S.C. Code of Laws Section 6-29-900.
- (3) ***Submission of New Application After Disapproval***
If the BHR or Development Services Director denies a Certificate of Appropriateness or Certificate of Hardship, the applicant may, at any time, submit a new application with new information addressing the written reasons for disapproval.

(4) **Expiration**

(a) **Site Specific Development Plans**

Certificates of Appropriateness or Certificates of Hardship that affect the use, density, or intensity of development (such as building expansions, conversions to different uses, or physical improvement related to such activities) are considered site specific development plans and are subject to the terms of Section 2-200(P), *Expiration and Extension of Approvals*.

(b) **General**

On Certificates of Appropriateness or Certificates of Hardship not deemed to be site specific development plans as defined above, the BHR or Development Services Director (whichever approved the permit) may prescribe a time limit within which development activity or demolition shall begin or be completed (or both) on the Certificate of Appropriateness or Certificate of Hardship. Failure to begin and/or complete such activity within the time limit specified shall result in the expiration of the Certificate. Unless specified otherwise by the BHR or Development Services Director (whichever approved the permit), the approved activity shall occur within twelve (12) months from the date of approval, or the Certificate shall immediately expire and be void.

(c) **Extension**

Upon written application submitted at least thirty (30) days prior to the expiration of the Certificate of Appropriateness or Certificate of Hardship by the applicant, and upon showing of good cause, the BHR or Development Services Director (whichever approved the permit) may grant one (1) extension not to exceed six (6) months. The approval shall be deemed extended until the BHR or Development Services Director (whichever approved the permit) has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the Certificate.

(5) **Appeal to BHR**

(a) **General**

The BHR shall hear appeals made by any aggrieved party by a decision of the Development Services Director with regards to a decision on a Certificate of Appropriateness or any other matter related to the administration of this section and Section 3-500(B)(2), *Historic Overlay (YH) District*, by filing a written appeal with the Development Services Director within ten (10) business days of the decision. The appeal shall specify the ground for the appeal.

(b) **Procedures**

The procedures for appeal are the same as those established in Section 2-300(R), *Appeals to ZBA from Decisions and Interpretations of the Development Services Director*, except the appeal shall be heard by the BHR instead of the ZBA.

2-300(J) **Stormwater Management and ~~Sediment Control Plan~~**

(1) **Purpose and Intent**

This section is intended to provide the standards, approval criteria, and procedures for addressing the installation and proper maintenance of on-site stormwater management and ~~sediment erosion~~ control devices and activities associated with land disturbing activities subject to this Ordinance. This section is not intended for application to stormwater management actions that are outside the scope of this Ordinance and

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subject to the provisions in the City Code of Ordinances. The purpose of this section is to protect for posterity the natural assets and resources of Rock Hill and the general health, safety, and welfare of the people of Rock Hill, South Carolina, by requiring a Stormwater Management and Sediment Control Plan, and to:

- (a) Protect the land and waters from the adverse effects of excessive soil erosion, sedimentation, and stormwater through good and responsible development;
- (b) Prevent the erosion of soils, sedimentation of streams, and silting of lakes;
- (c) Provide unobstructed and sanitary channels for stormwater runoff;
- (d) Control stormwater runoff from development areas;
- (e) Eliminate the encroachment of uses incompatible with natural drainage channels;
- (f) Enhance the water quality of surface and groundwater, and promote groundwater recharge;
- (g) Prevent pollution of watersheds, streams, and natural drainage channels;
- (h) Reduce the damage potential of flood water and protect properties near land disturbing activities;
- (i) Conserve and protect the City's natural and scenic resources for future generations to enjoy;
- (j) Achieve the following objectives:
 - 1. Protect human life and health;
 - 2. Minimize public and private property damage resulting from erosion, sedimentation, and flooding;
 - 3. Regulate development, which may, when acting alone or in combination with similar development, create a demand for public investment in flood-control works, by requiring protection against flood damage at the time of initial construction and afterwards;
 - 4. ~~Insure~~ **Ensure**, as far as possible, an efficient drainage system that will not result in excessive public or private monies being used for maintenance and replacement of portions of the system;
 - 5. ~~Insure Ensure that~~ the design of the drainage system will be consistent with good engineering practices and design;
 - 6. Provide temporary and permanent erosion and sediment control measures to protect individuals occupying land adjacent to and downstream from proposed development from being damaged by sediment originating from within or because of the proposed development;
 - 7. Provide for development of area with minimum adverse ~~effects impacts~~ to the natural environment;
 - 8. Encourage wise use of the City's economic and fiscal resources;

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9. Utilize on-site storage or other structural ~~measures~~ Best Management Practices (BMPs) before using existing channel capacity for ~~flood runoff~~ flows;
 10. Utilize appropriate public open spaces for both open space uses (parks, recreational use, etc.) and the temporary storage of excessive stormwater;
 11. Keep the drainage system as natural and aesthetically pleasing as possible;
 12. Promote a comprehensive approach to the control of nuisance flooding and stormwater runoff;
 13. Minimize the need for rescue and relief efforts associated with flooding generally undertaken at the expense of the general public;
 14. Minimize prolonged business interruptions;
 15. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, ~~and sewer lines~~, and streets and bridges; and
- (k) Establish procedures through which these purposes can be fulfilled.

(2) Applicability

Unless exempted by Section 2-300(J)(3), *Exemptions*, the standards in this section shall apply to all land disturbing activities ~~that are~~ subject to the standards in this Ordinance ~~and the City of Rock Hill Stormwater Management Design Manual~~.

(3) Exemptions

The following activities are exempt from the requirement to ~~obtain~~ develop a Stormwater Management and Sediment Control Plan ~~and obtain a permit~~:

- (a) Land disturbing activities on agricultural land for production of plants and animals useful to man, ~~except when a building permit is required~~;
- (b) Land disturbing activities undertaken on forest land for the production and harvesting of timber and timber products ~~per South Carolina's BMP Best Management Practices for Forestry Manual~~ (harvesting of timber prior to obtaining a Land Development Permit is not permitted);
- (c) Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20, Title ~~44 48~~, *The South Carolina Mining Act*;
- (d) Land disturbing activities, other than activities identified in (e) below, ~~that are~~ conducted under another state or federal environmental permitting, licensing, or certification program where the state or federal environmental permit, license, or certification is conditioned on compliance with the minimum standards and criteria developed under this Ordinance;
- (e) Any of the following land disturbing activities, if undertaken by any person that provides gas, electrification, or communications services, subject to the jurisdiction of the South Carolina Public Service Commission, or corporations organized and operating pursuant to State Law Section 33-49-10 et seq. ~~and not part of a permitted land disturbing activity/site~~:
 1. Land disturbing activities conducted pursuant to a certificate of environmental compatibility and public convenience and necessity issued pursuant to Title 58, Chapter 33, of the South Carolina Code, or land disturbing activities

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- conducted pursuant to any other certification or authorization issued by the Public Service Commission;
2. Land disturbing activities conducted pursuant to a federal environmental permit, including Section 404 of the *Federal Clean Water Act*, and including permits issued by the Federal Energy Regulatory Commission;
 3. Land disturbing activities associated with emergency maintenance or construction of electric, gas, or communications facilities, when necessary to restore service or when the Governor declares the area to have sustained a disaster and the actions are undertaken to protect the public from a threat to health or safety;
 4. Land disturbing activities associated with routine maintenance and/or repair of electrical, gas, or communications lines **which disturb less than one-tenth (0.1) acre**;
 5. Land disturbing activities associated with the placement of poles for overhead distribution or transmission of electric energy or of communications services;
 - ~~6. Land disturbing activities associated with placement of underground lines for distribution or transmission of electric energy or of gas or communications services;~~
 - ~~7.6.~~ Land disturbing activities conducted by a person filing environmental reports, assessments or impact statements with the United States Department of Agriculture, Rural Electrification Administration in regard to a project;
- (f) Activities relating to the routine maintenance and/or repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company **which disturb less than one-tenth (0.1) acre**;
- (g) Activities ~~undertaken on state-owned or managed lands that are otherwise regulated~~ **specifically exempted** by the provisions of Chapter 18, Title 48 of the *South Carolina Erosion and Sediment Reduction Act*;
- (h) Construction of a pond, lake, or reservoir which is singly built and not part of a permitted land disturbing activity, in accordance with the following:
1. A stormwater management and sediment control plan will not be required if the pond, lake, or reservoir is permitted under the *SC Dams and Reservoirs Safety Act* or has received a Certificate of Exemption from the *SC Dams and Reservoirs Safety Act* provided best management practices are used to minimize the impact of erosion and sediment;
 2. Land disturbing activities for ponds, lakes, and reservoirs which do not have a permit under the *SC Dams and Reservoirs Safety Act* shall submit a stormwater management and sediment control plan prior to beginning the land disturbing activity if the activity otherwise meets the size requirements for stormwater management and sediment control plan approval; and
- (i) Minor land disturbing ~~activities that would not violate the integrity of this section, as determined by the Development Services Director.~~ **not violating any local, state, or federal regulations.**
- (4) **Relationship Between Stormwater Management and Sediment Control Plan,**

Grading Permit, and Disturbance of Land

- (a) Unless otherwise provided within this Ordinance, the surface of land in the City shall not be disturbed or altered for any purpose whatsoever, except in accordance with a Stormwater Management and Sediment Control Plan approved in accordance with the standards in this Ordinance.
- (b) The applicant shall agree in writing to carry out the approved Plan, indemnify any person damaged by failure to comply therewith and allow the Approving or Enforcement Authorities to enter upon the project site.
- (c) After the plan is approved, a Grading Permit ~~may~~ will be issued by the City in accordance with the standards in Section 2-300(K), *Grading Permit*.

(5) Existing Disturbed Areas

- (a) All disturbed areas greater than one (1) acre in the City existing on April 1, 2003, which resulted from land disturbing activities not exempted by this Ordinance, ~~that~~ and are subject to continued accelerated erosion and/or sediment shall be provided with groundcover or other protective measures, structures, or devices sufficient to control the accelerated erosion and sedimentation.
- (b) The Development Services Director shall serve notice by certified mail, return receipt requested to the respective landowner specifically stating deficiencies. This notice shall require ~~that~~ corrective action, including a schedule for ~~that~~ corrective action, be submitted by the landowner within thirty (30) days of receipt of the notice. The response may be in form of a letter or plan, and it should provide the following information:
 - 1. The location where the measures are to be installed; and
 - 2. The date by which the measures are to be installed.
- (c) Should the landowner fail to comply with the requirements of the notice and specified corrective action, the landowner shall be subject to penalties as set forth in Article 9: *Enforcement*.

(6) Procedure

(a) *Written Statement of Financial Responsibility*

All Stormwater Management and Sediment Control Plan applications ~~hall~~ shall be accompanied by a written statement of financial responsibility and ownership. This statement shall be signed by the applicant or authorized agent. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and the owner of the land or their registered agents. The statement shall certify that the land disturbing activity will be accomplished pursuant to the approved plan and that responsible personnel will be assigned to the project. The statement shall also certify that City officials have the authority to conduct on-site inspections both before and after approval of the plan.

(b) *Approval of Application*

- 1. Upon submittal of the completed Grading Permit Application and accompanying documents, the Stormwater Management and Sediment

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Control Plan will be placed in queue for review. If, after review, the plan conforms to the requirements of this Ordinance, the Development Director shall approve the plan.

2. The plan is not to be considered approved without the inclusion of an approval stamp, signed, and dated by the Development Director. The stamp is solely an acknowledgement of satisfactory compliance with the requirements of these standards. The approval stamp does not constitute a representation or warranty to the applicant or to any other person concerning the safety, appropriateness, or effectiveness of any provision, or omission from the Stormwater Management and Sediment Control Plan.
3. Following approval of a Stormwater Management and Sediment Control Plan, a Grading Permit may be issued to the applicant unless there are violations of other City ordinances on the site, or unless the project has not yet received preliminary subdivision plat approval. A copy of the approved Stormwater Management and Sediment Control Plan should be reasonably available ~~to~~ on the job site and the issued Grading Permit shall be posted at the job site in a conspicuous place.
4. Approvals of plans approved prior to July 1, 2003, shall remain in effect for the original terms of the approval. If the term expires before the land disturbing activities are initiated, the applicant shall resubmit the Stormwater Management and Sediment Control Plan for review in accordance with the requirements in this section.

(c) *Timing of Review*

1. ~~*Type A Development*~~
Review of any plans or revised plan ~~for Type A (Single Residential lots and minor subdivisions)~~ shall be completed within ~~five (5) ten (10)~~ business days from the date of receipt of the complete application. If at the end of ~~five (5) ten (10)~~ business days a decision or conditional decision has not been reached, the applicant shall be issued ~~a Grading Permit.~~ a City of Rock Hill approval letter.
2. ~~*Type B Development, Less than Five (5) Acres*~~
~~Review of any plan or revised plan less than five (5) acres for Type B (Commercial/Industrial/Major Residential Subdivision) use shall be completed within ten (10) business days from the date of submittal. If at the end of ten (10) business days a decision or conditional decision has not been reached, the applicant shall be issued a Grading Permit.~~
3. ~~*Type B Development, Five (5) Acres or Greater*~~
~~Review of any plan or revised plan for five (5) acres or greater of Type B (Commercial/Industrial/Major Residential Subdivision) use shall be completed within twenty (20) business days from the date of receipt of the complete application. If at the end of twenty (20) business days a decision or conditional decision has not been reached, the applicant shall be issued a Grading Permit.~~

(d) *Other Required Authorizations*

The applicant is responsible for any authorization, permit, bonds, ~~insurances~~, or other securities as required by applicable Federal, State, or local laws, regulations or ordinances for any part of the proposed work to be ~~done performed~~ under the

plan.

(e) Application to Phased Projects

A Stormwater Management and Sediment Control Plan shall be filed for a residential development and the buildings constructed within, regardless of the phasing of construction.

1. In applying the Stormwater Management and Sediment Control criteria, individual lots in a residential subdivision development shall not be considered to be separate land disturbing activity projects and shall not require individual permits. Instead, the residential subdivision development, as a whole, shall be considered to be a single land disturbing activity project. Hydrologic parameters that reflect ~~eh~~ the ultimate subdivision development shall be used in all engineering calculations.
2. If individual lots or sections in a residential subdivision are being developed by different property owners, all land disturbing activities related to the residential subdivision shall be covered by an approved Stormwater Management and Sediment Control Plan. Individual lot owners or developers may sign a certificate of compliance ~~or co-permittee agreement that declaring~~ all activities on that lot will be carried out in accordance with the approved Stormwater Management and Sediment Control Plan for the residential subdivision. Failure to provide this certification will result in owners or developers of individual lots developing a Stormwater Management and Sediment Control Plan meeting the requirements of this Ordinance ~~and securing their own permits.~~

~~**(f) As-Built Plans**~~

~~The person responsible for the land disturbing activity shall, if required by the City during the plan approval process, submit as-built or record plans. In addition, the person responsible for the land disturbing activity shall be required to submit written certification from the professional preparing the plans that the land disturbing activity was accomplished according to the approved Stormwater Management and Sediment Control Plan or approved changes. Failure to do so shall constitute a violation of this Ordinance.~~

~~**(g f) Denial of Application**~~

~~If the Development Director denies a Stormwater Management and Sediment Control Plan after the review of the application, written notification shall be sent to the applicant indicating the reason or reasons for denial within ~~five (5)~~ ten (10) business days ~~after the review of plan receipt~~. The applicant may resubmit revised plans with no additional fee being required.~~

~~**(h g) Revocation of Grading Permit**~~

~~Grading Permits may be revoked if the person conducting the land disturbing activity does not follow the approved Stormwater Management and Sediment Control Plan.~~

~~**(i h) Extension**~~

~~If the applicant is unable to complete the work within the time specified by the approved Stormwater Management and Sediment Control Plan, one (1) extension shall be granted by presenting a written request for an extension to the Development Director prior to the expiration of such time frame specified.~~

~~**(j i) Responsibility of Applicant**~~

~~During any land disturbance operation, the applicant shall be responsible for~~

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carrying out the proposed work in accordance with the Grading Permit, approved Stormwater Management and Sediment Control Plan specifications, time schedule, and in compliance with all the requirements of this Ordinance.

(j) **As-Built Plans**

The person responsible for the land disturbing activity shall, ~~if required unless waived~~ by the City ~~during the plan approval process~~, submit as-built or record plans. In addition, the person responsible for the land disturbing activity shall be required to submit written certification from the ~~design~~ professional preparing the plans ~~that~~ the land disturbing activity was accomplished according to the approved Stormwater Management and Sediment Control Plan ~~or and any~~ approved changes. Failure to do so shall constitute a violation of this Ordinance.

(7) **Standards**

Stormwater Management and Sediment Control Plans shall include appropriate measures and practices for Stormwater Management ~~and Sediment Control~~, installed in a timely sequence during the land disturbing activity process, and maintained to ~~insure ensure~~ their proper functioning. Plans shall be in accordance with the standards in Section 6-500(D), *Stormwater Management and Sediment Control*, ~~the City of Rock Hill Stormwater Management Design Manual~~, and the following:

- (a) Determine the general soil suitability of the proposed land use;
- (b) Identify areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation;
- (c) Identify and evaluate potential erosion, sediment and stormwater problems, and select appropriate control measures;
- (d) Expose the smallest practical area of land for the ~~least~~ least possible amount of time during ~~the~~ land disturbing activity;
- (e) Retain and protect natural vegetation when feasible;
- (f) Place emphasis on conservation of existing on-site soil;
- (g) Save topsoil, where practical, for replacing on graded area;
- (h) Use temporary vegetati~~on~~ cover, geotextiles, mulching, grassed or surfaced waterways and outlets, ~~straw and silt~~ sediment traps, ~~and other BMPs~~ to control runoff, protect areas subject to erosion, and remove heavy sediment loads from runoff;
- (i) Provide for the management of increased runoff caused by changed soil conditions and surface conditions (including the use of diversion ditches, detention and retention basins, enlarged and protected drainage channels, grade control structures, and effective use of street gutters and storm sewers);
- (j) Install permanent vegetative cover and other long-term measures as soon as practical in the construction process;
- (k) Land disturbing activity in connection with construction adjacent to, over, or under a lake or natural watercourse shall be planned and conducted in such a manner so as to minimize the extent and duration of disturbance of the stream channel;
- (l) The relocation of a stream, where relocation is an essential part of the proposed

activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided;

- (m) In cases where the land disturbing activity is also conducting ~~buffer borrow~~ or waste disposal activity, areas from which ~~buffer borrow~~ is obtained and waste areas for surplus materials other than landfills regulated by the South Carolina Department of Health and Environmental Control, shall be considered as part of the land disturbing activity subject to these standards ~~and permitted as such~~;
- (n) Land disturbing activity within a Riparian Buffer (see Section 6-500(A)) shall be prohibited unless allowed by Section 6-500(A)(4), *Riparian Buffer Exemptions*;
- (o) When channel velocity is calculated to exceed sufficient stability for the channel cross section and grade, riprap, bituminous or other lines open channels shall be substituted for grassed channels; and
- (p) In addition to functional purposes, utilize natural streams or improved open channels for landscaping, environmental, architectural, or aesthetic purposes.
- (q) Protect the water temperature in the natural waterways by addressing the site runoff temperature prior to discharging offsite.

(8) Waiver from Stormwater Management and Sediment Control Plan Requirement
The Development Director may grant waivers from the requirements of this section for individual land disturbing activities in accordance with ~~the following standards: section 3.3.7 of the City of Rock Hill Stormwater Management Design Manual.~~

~~(a) Written Request Required~~

- ~~1. Any requests for waivers from the standards in this section shall be made in writing, and shall contain descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity.~~
- ~~2. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications which would alter the approved stormwater runoff characteristics to a land disturbing activity receiving a waiver.~~

~~(b) Types of Waivers~~

- ~~1. A project may be eligible for a waiver of stormwater management for both quantitative and qualitative controls if the applicant can demonstrate that the proposed project will return the disturbed area to a pre-development runoff condition and the pre-development land use is unchanged at the conclusion of the project.~~
- ~~2. A project may be eligible for a waiver of stormwater management for water quantity control if the applicant can demonstrate that:
 - ~~a. The proposed project will have no significant adverse impact on the receiving natural waterway or downstream properties; or~~
 - ~~b. The imposition of peak control requirements for rates of stormwater runoff would aggravate downstream flooding.~~~~

~~(c) Procedure~~

- ~~1. The Planning & Development Services Director will review the request for waiver within ten (10) business days. Failure of the Planning & Development Services Director to act by the tenth (10th) day will result in the automatic approval of the waiver.~~
- ~~2. Risk analysis may be used to justify a design storm event other than prescribed or to show that rate and volume control is detrimental to the hydrologic response of the basin, and therefore, should not be required for a particular site.~~
- ~~3. A complete watershed hydrologic and hydraulic analysis must be done performed using a complete an engineering model or procedure acceptable to the Planning & Development Services Director. The level of detail information and data required to be submitted is as follows:
 - ~~a. Watershed designation on the 7.5 minute topographic map exploded to a minimum of one (1) inch equals for hundred (400) feet.~~
 - ~~b. Inclusion of design and performance data to evaluate the effects of any structures which affect discharge. Examples may be ponds or lakes, road crossings acting as attenuation structures and there may be others, which must be taken into account.~~
 - ~~c. Land use data shall be taken obtained from the most recent aerial photograph and field checked verified and updated.~~
 - ~~d. The water surface profile shall be plotted for the conditions of pre- and post development for the two (2), ten (10), twenty five (25), and one hundred (100) year, — twenty-four (24) hour storm. (remove the dash in front of twenty)~~
 - ~~e. Elevations of any structure potentially damaged by the resultant flow shall also be shown.~~
 - ~~f. Elevations of any roadway crossings with the potential of being overtopped by the resultant flow shall be shown.~~~~
- ~~4. Based on the results of this type of evaluation, the Planning & Development Services Director shall review and evaluate the proposed regulation waiver or change.~~

(9) Inspection and Enforcement

- (a)** The person responsible for the land disturbing activity shall notify the Development Director before initiation of construction and upon project completion ~~when so~~ a final inspection ~~will can~~ be conducted to ensure compliance with the approved Stormwater Management and Sediment Control Plan.
- ~~(b) The person responsible for the land disturbing activity shall, if required by the City during plan approval process, submit "As-Built or Record Document" plans. In addition, the person responsible for the land disturbing activity may be required to submit written certification from the professional engineer, landscape architect, or Tier B land surveyor responsible for the field supervision of the land disturbing activity that the land disturbing activity was accomplished according to the~~

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~~approved Stormwater Management and Sediment Control Plan or approved changes. {duplicate of 6(j)}~~

(e b) The Development Director shall periodically inspect the sites of land disturbing activities for which permits have been issued to determine whether or not such activities are being conducted in accordance with the approved Stormwater Management and Sediment Control ~~Plan~~ **Plan** and whether or not the measures required by the plan are effective in controlling erosion, sedimentation, and stormwater runoff. An inspection report shall be ~~filled out upon completion of~~ **completed for** each inspection ~~that~~ **which** describes:

1. The date and location of the site inspection;
2. The name of the inspector;
3. Whether the approved plan has been properly implemented and maintained;
4. Approved plan or practice deficiencies; and
5. The action taken.

(d c) The Development Director shall provide procedures to ensure ~~that~~ deficiencies indicated by inspectors are rectified. The procedures shall include the following:

1. Notification to the person responsible for maintenance of deficiencies, including a time frame for repairs;
2. Subsequent inspection to ensure completion of repairs; and
3. Effective enforcement procedures or procedures to refer projects to the Development Director if repairs are not undertaken or are not ~~done~~ **properly completed**.

(e d) The following criteria shall be used by the Development Director in evaluating and ~~for~~ **correcting** off-site damages resulting ~~from~~ **from** the land disturbing activity:

1. Determine the extent of damage by sediment resulting from non-compliance with the approved Stormwater Management and Sediment Control Plan;
2. Determine the classification of the impaired water body, if any;
3. Determine the impact and severity of the damage resulting from non-compliance with the Stormwater Management and Sediment Control Plan;
4. Develop an agreement with landowners for cleanup and corrections, including a schedule of implementation;
5. Evaluate the alternatives for correction of the damage and prevention of future damage;
6. Failure to implement the agreement in the required schedule will constitute a violation of these regulations.

(f-e) When it is apparent that approved measures are not effective in controlling erosion, sedimentation, and stormwater runoff, the Development Director may notify the applicant so ~~that~~ the necessary plan revisions can be proposed by the

applicant and approved by the Development Director. The notice shall include a copy of the inspection report and an explanation of the particulars of noncompliance with the approved plan and/or measures that are not effective in controlling erosion, sedimentation, and stormwater runoff. The notice may also include suggestions of measures needed to achieve compliance. It shall be the responsibility of the person engaged in the land disturbing activity to control erosion, sedimentation and stormwater runoff caused by said land disturbing activity.

~~(g)~~ **(f)** Major changes to approved sediment and stormwater management plans, such as the addition or deletion of a sediment basin, shall be submitted by the owner/developer to the Development Director for review and approval. Minor changes to sediment and stormwater management plans may be made in the field inspection report. The Development Director shall develop a list of allowable field modifications for use by the inspector.

~~(h)~~ **(g)** If the Development Director determines that any person engaged in land disturbing activities, as defined herein, has failed to comply with the approved plan, or the approved plan as modified, a written notice of violation including a reasonable time schedule for compliance shall be served upon such person by certified mail return receipt requested. If the person engaged in land disturbing activity fails to comply within the time specified, such person shall be deemed in violation of this Ordinance and subject to the provisions of Article 9: *Enforcement*, including, without limitation, issuance of an immediate Stop Work Order by the Development Director. Notice of a violation shall be sufficient if directed to the owner, the agent of the owner, or the contractor and left at the last known place of residence or of business.

~~(i)~~ **(h)** The City shall have the power to conduct site inspections as may reasonably be deemed necessary to administer and enforce this Ordinance, and for this purpose, the Development Director may enter at any reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of land disturbing activities. No person shall refuse entry or access to any authorized representative or agent of the City or the State of South Carolina who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such City representative or agent in the process of carrying out their official duties.

~~(j)~~ **(i)** Upon completion of the land disturbing activity, a final inspection shall be made by the Development Director. If the work has been completed in accordance with the approved plan, a letter of satisfactory completion shall be issued to the applicant **and a notice of termination can be applied for through SCDHEC.**

~~(k)~~ **(j)** If a plan required by this Ordinance has not been submitted for approval, the person engaged in the land disturbing activity shall be given an immediate Stop Work Order pursuant to Article 9: *Enforcement*. A notice requiring such person to apply for a Grading Permit and submit the required plans shall also be served. The person shall conduct the minimum work necessary to stabilize the land disturbance.

~~(l)~~ **(k)** Failure of the person responsible for the land disturbing activity to comply with the Planning & Development requirements is a violation of this Ordinance subject to the standards in Article 9: *Enforcement*.

(10) Appeals

Appeals of the decision of the Development Director on Stormwater Management and

Sediment Control Plans shall be considered in accordance with the procedure and standards in Section 2-300(R), *Appeals to ZBA from Decisions and Interpretations of the Development Director*.

2-300(K) Grading Permit

(1) General

Grading Permits shall be reviewed and approved, **conditionally** approved **with conditions**, or **rejected denied** by the Development Director in accordance with an approved Stormwater Management and Sediment Control Plan, Section 2-300(J), *Stormwater Management and Sediment Control Plan*, and Plan 6-500 (D), *Stormwater Management and Sediment Control*, as well as any relevant procedures and standards in the City Code of Ordinances.

(2) Grading on Sites Without Development Permit Approval

In cases where a Grading Permit is issued for land not subject to an approved Site Plan, Preliminary Plat for Subdivision, Building Permit, or Zoning Permit, all land disturbing activities shall be prohibited within the Tree Protection Zone (see Section 2-300(L), *Land Development Permit*).

2-300 (O) Zoning Permit

(1) Purpose

A Zoning Permit shall be required in accordance with the provisions of this section in order to ensure that proposed development complies with the standards of this Ordinance, and to otherwise protect the public health, safety, and welfare of the citizens of the City.

(2) Applicability

The requirements of this section shall apply to any development that requires a Building Permit and **to** any change of use.

(3) Zoning Permit Requirement

No Building Permit shall be issued or change of use occur without approval of a Zoning Permit by the Development Services Director in accordance with this section.

(4) Procedure

(a) Submission and Review of Application

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

(b) Action by Development Services Director

The Development Services Director shall review the application in accordance with the procedures and requirements of Section 2-200(M), *Review by Development Services Director*.

(5) Zoning Permit Standards

A Zoning Permit shall be approved upon a finding the application complies with all relevant standards of this Ordinance.

(6) Expiration

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- (a) If a Building Permit is not issued within six (6) months of the date of issuance of the Zoning Permit, the Zoning Permit shall expire and be void.
- (b) In cases where a Building Permit is not required, the Zoning Permit shall expire and be void unless a Certificate of Conformity is issued within six (6) months of the date of issuance of the Zoning Permit.

(7) Amendment

A Zoning Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

APPENDIX 2-C: CERTIFICATE OF APPROVAL OF THE INSTALLATION AND CONSTRUCTION OF STREET, UTILITIES, AND OTHER REQUIRED IMPROVEMENTS

I do hereby certify (1) that streets, utilities, and other required improvements have been installed in an acceptable manner and according to City specifications and standards in the ~~subdivision~~ **development** entitled _____, or (2) that a guarantee of the installations of the required improvements in an amount or manner satisfactory to the City of Rock Hill has been received.

Date _____ City Engineer _____

APPENDIX 2-D: CERTIFICATE OF APPROVAL OF COMPLIANCE WITH THE STORMWATER MANAGEMENT AND SEDIMENT CONTROL ACT OF 1991

I do hereby certify that the stormwater management and sedimentation control system designed and installed for _____ (development name) addresses required improvements as cited in Section 10-404 of the City of Rock Hill's City Code of Ordinances; complies with the standards established and amended by the South Carolina Department of Health and Environmental Control (DHEC)/their designee and was approved on _____ (date) by DHEC/their designee.

NPDES # _____ SCR# _____

By _____

Registered P.E. Number _____

Date _____