

## ARTICLE IX

### APPLICATION PROCEDURES AND FEES

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## **SECTION 90 GENERAL PROCEDURES AND FEES**

### **Section 90.01 General requirements**

- (a) All properties within a single application must be contiguous and immediately adjacent to one another, or be the subject of separate petitions and filing fees;
- (b) No application shall be accepted unless it is presented on the official forms provided by the Department and the appropriate non-refundable application fee is paid;
- (c) The Department shall prepare, and periodically revise, the required forms and instruction packages for each development permit application described in this Section. It is the responsibility of the applicant to ensure the current forms are used;
- (d) Before an application is scheduled for further consideration, the Department shall determine the application package is complete;
- (e) All applicants for any matter described herein shall be required to have at least one pre-application conference with the staff;
- (f) The applicant, and/or his representative, shall be notified of all PC and/or ZBA meetings related to the proposed application and shall be required to attend all public meetings regarding the matter. Failure to attend a public meeting shall result in an automatic tabling of the application until the next regularly scheduled meeting;
- (g) No application shall be accepted for review regarding any matter described herein unless the property owner of record in the Public Records of Clarendon County, either signs the application, or authorizes in writing another person to act in his behalf;
- (h) Property surveys, site plans and landscape plans shall be provided at the same scale, no greater than 1 inch equals 100 feet;
- (i) All drawings and support materials required herein shall be signed and sealed by the respective South Carolina licensed engineer, architect, landscape architect and/or surveyor as described in Section 55.03;
- (j) The deadline for filing any application described herein shall be a minimum of 30 days prior to the regularly scheduled meeting of the first review body;
- (k) The County shall not be at fault for an applicant's failure to meet any deadline described herein;
- (l) Violations of any portion of this Section may subject the applicant and/or the property owner, to the code compliance process described in Article X;
- (m) Decisions shall be supported by competent substantial evidence in written findings of fact;
- (n) If an applicant withdraws an application, or requests tabling after the advertisement has been submitted and then reinstates consideration of the application, the applicant shall be billed for any additional advertising costs;
- (o) The fees for any matter described herein shall be as provided in Section 90.04; and
- (p) The subdivision process is described in Article VI.
- (q) In accordance with Section 6-29-1145, SC Code of Laws, the Department must inquire in the application whether the tract or parcel is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted use. If there is such a conflict the Department must not issue the permit unless the Department receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

### **Section 90.02 Application notice requirements**

It is the intent of this Section to provide public notice, and to reduce the application processing time to the maximum extent possible and to provide adequate procedural due process to all applicants.

The following application notice requirements are the minimum requirements:

- (a) Public notice of all applications for development approval shall be as provided in Table IX-1. When mailing of notices is required, the notice shall be sent to the applicant and the adjacent property owners of record in the Public Records of the County;
- (b) When newspaper advertisements are required, they shall appear in a newspaper of general circulation or other methods of publication as allowed by law. The County reserves the right to advertise in other newspapers as may be necessary, provided the notice requirements of the relevant state statutes are met;

- (c) A non-legal advertisement shall include a layman's description of the subject matter;
- (d) If appropriate to the context of the application, the advertisement described in subsection (b) above shall identify the tax map number taken from the Clarendon County Assessor's records, the street address and the general location of the project and a site location map may be included as appropriate;
- (e) When site posting is required, the notice shall be posted in at least one conspicuous site place on the site; and
- (f) Proof of publication and mailing notices shall be available for public inspection.

#### **Section 90.03 Reserved**

#### **Section 90.04 Application fee schedule**

- (a) The County Council shall, at least annually, review all the fees associated with the activities described herein; and
- (b) Table IX-2 depicts the nonrefundable fees for the applications described therein.

**TABLE IX – 1**  
**PUBLIC NOTICE REQUIREMENTS**

<b>Application</b>	<b>Review Body/Action</b>	<b>Notice Type</b>	<b>Notice Dates</b>
Zoning Map Amendments (Section 6-29-760)	TRC – Reg. Mtg. PC – Reg. Mtg. CC - 1 <sup>st</sup> Reading CC - 2 <sup>nd</sup> Reading CC – Pub.Hrg. CC – 3 <sup>rd</sup> Reading	post agenda post agenda post agenda post agenda post agenda post agenda	24 hour 10 days 24 hour 24 hour 15 days 24 hour
UDC Text Amendments (Section 6-29-760 & Section 6-29-1130 [B] )	TRC – Reg. Mtg. PC – Reg. Mtg. CC - 1 <sup>st</sup> Reading CC - 2 <sup>nd</sup> Reading CC – Pub. Hrg. CC – 3 <sup>rd</sup> Reading	post agenda post agenda post agenda post agenda post agenda post agenda	24 hour 10 days 24 hour 24 hour 30 days 24 hour
Conventional Variance (Section 6-29-800 [c] )	ZBA – Reg. Mtg. ZBA – Pub. Hrg.	Advertisement	15 days
Development Agreements or Modification Thereof  (Section 6-31-50 requires adoption by ordinance)	TRC – Comments PC – Reg. Mtg. 1 <sup>st</sup> Reading 2 <sup>nd</sup> Reading CC – Pub. Hrg. CC - 3 <sup>rd</sup> Reading	post agenda post agenda post agenda post agenda Advertisement post agenda	24 hours 10 days 24 hours 24 hours 15 days 24 hours
Comprehensive Plan Amendments  (Section 6-29-530 requires adoption/amendment by ordinance)	. CC - 1 <sup>st</sup> Reading CC - 2 <sup>nd</sup> Reading CC- Pub. Hrg. CC – 3 <sup>rd</sup> Reading	post agenda post agenda Advertisement post agenda	24 hours 24 hours 30 days 24 hours

**TABLE IX - 1**  
**NOTIFICATION REQUIREMENTS (cont'd)**

<b>Application</b>	<b>Review Body/Action</b>	<b>Notice Type</b>	<b>Notice Dates</b>
Conditional Use Permits	PC PC. PC – Pub. Hrg.	post agenda Advertisement	15 days 10 days 15 days
Street Names Other Than Subdivisions	PC – Pub. Hrg.	Advertisement	15 days
Subdivision Sketch Plans	PC – Reg. Mtg.	post agenda	7 days
Subdivision Final Plats	PC – Reg. Mtg.	post agenda	7 days
Appeal of Administrative Decision	ZBA – Reg. Mtg.	Info Ad post agenda	7 days
Street Name Change	PC – Pub. Hrg. PC	Advertisement	15 days

**TABLE IX – 2**  
**APPLICATION FEE SCHEDULE**

<b>Type of Permit or Application</b>	<b>Fee Amount (\$)</b>
Administrative Decision Appeals	350
Comprehensive Plan Amendment	350
Accessory Dwelling Unit Review	50
Conditional Use Permit	250
Development Agreements	400 + req'd others
Flood Hazard Area Permits	300
Flood Zone Certificate	10
Land Development Code Amendments	250
Land Development Code – Disc Copy	20
Land Development Code – Hard Copy	50
Performance Zone Application (non subdivision, non site plan)	50
Staff Site Plan Review	100
Street Name Change	300 plus 10/parcel
Subdivision Exemptions	25
Subdivision Sketch Plan Review	150
Subdivision Preliminary Plans Review	400 plus 10/lot
Subdivision Final Plat Review	400 plus 10/lot
Subdivision Minor Review	200
Site Plan Review > 5000 sq. ft. building or ½ acre	450
Site Plan Review < 5000 sq. ft. building or ½ acre	250
Site Plan Review Exemption	100
Temporary Use Permit / Temporary RV Permit	40
Use Permit	50
Variance, Conventional	350
Vested Rights Determination	150
Zoning Map Amendment	350
Zoning Certification Fee	10

#### **Section 90.05 Building construction permits and fees**

The County has adopted the building codes found in Article XIII in the public interest and to implement the policies and objectives of the Comprehensive Plan.

Table IX – 3 presents the building construction permit fee schedule. Fees are based on the Factors to Estimate Construction Cost provided at the bottom of the table. However, the Building Official reserves the right to substitute the contract price of a Commercial, Industrial, or Institutional project/job as a means of determining the building permit fee.

**TABLE IX - 3**  
**BUILDING PERMIT FEE SCHEDULE**

<b>Type of Permit</b>		<b>Fee Amount (\$)</b>
One & Two Family Residential (exc. Mfg. Homes)	Minimum Permit Fee	50
(based on est. const. cost)		
\$ 1001 to \$ 50,000	15 1 <sup>st</sup> 1000 plus 5/thou	
\$ 50,001 to \$ 100,000	260 1 <sup>st</sup> 50,000 plus 4/thou	
\$ 100,001 to \$ 500,000	460 1 <sup>st</sup> 100,000 plus 3/thou	
\$ 500,001 >	1,660 1 <sup>st</sup> 500,00 plus 2/ thou	
New Commercial	Minimum Permit Fee	65
(based on est. const. cost)		
\$ 1001 to \$ 50,000	15 1 <sup>st</sup> 1000 plus 5/thou	
\$ 50,001 to \$ 100,000	260 1 <sup>st</sup> 50,000 plus 4/thou	
\$ 100,001 to \$ 500,000	460 1 <sup>st</sup> 100,000 plus 3/thou	
\$ 500,001 >	1,660 1 <sup>st</sup> 500,00 plus 2 /thou	
Building Moving Fee		150
Building Demolition Fee		50
Electrical Permit	Residential 50 & Commercial 65	plus 3/thou
Plumbing Permit	Residential 50 & Commercial 65	plus 3/thou
HVAC Permit	Residential 50 & Commercial 65	plus 3/thou
Commercial Sprinkler Permit		plus 3/thou
Manufactured Home Installation		175
Manufactured Home Moving Permit		25
Manufactured Home Decal		5
Commercial Plan Check Fee		50 % of fees above
Agriculture Buildings		Same as Residential, 50 min
Reinspection		40
<b>Factors To Estimate Construction Cost</b>		
Agriculture		34 / sq. ft.
Commercial (Mechanical separate)		Per Contract
Industrial (Mechanical separate)		Per Contract
Residential 1 <sup>st</sup> floor & Finished Basement		125 /sq. ft.
Residential Pool		50 /sq. ft.
Residential Porch		34 / sq. ft.
Residential Attached Garage		30 /sq. ft.
Residential Open Porch/Detached Garage/Attached Carport		30 /sq. ft.
Residential Detached Accessory Bldgs.		34 /sq. ft.
Remodeling		60 /sq. ft.
Residential Roof/Pole Shed		10 /sq. ft.
Residential Open Deck		22 /sq. ft.
Residential Brick Veneer		22 / sq. ft.
Residential Vinyl Siding		17 /sq. ft.
Residential Foundation		5/sq. ft.

## **SECTION 91 ZONING MAP AMENDMENTS**

### **Section 91.01 General provisions**

An amendment to the Official Zoning Map requires adoption of an ordinance by the County Council and after review and recommendation of the Planning and Public Service Commission (PC).

### **Section 91.02 Comprehensive Plan consistency**

No application for a change in zone can be accepted unless the proposed zoning is consistent with the Objectives and Policies of the Comprehensive Plan.

### **Section 91.03 Procedures**

- (a) The public notice for a parcel rezoning shall be as provided in Table IX-1;
- (b) Upon receipt of a complete application and relevant supporting material, the Department will transmit application to the Technical Review Committee (TRC) for comment;
- (c) A staff report recommending findings of fact, including a draft ordinance for the proposed map change, shall be provided to the PC and the applicant not less than seven days prior to the meeting at which the application will be considered;
- (d) After the PPC recommendation is made, the application will be scheduled for a first reading of the ordinance at the next available meeting of the County Council;
- (e) A staff report presenting the PC findings of fact and a draft ordinance shall be provided to the County Council at that time;
- (f) The County Council shall conduct three readings of the ordinance and hold a public hearing;
- (g) The zoning map amendment decision shall be based on findings of fact and the public testimony received at the public hearing; and
- (h) The County Council decision shall be immediately effective.

### **Section 91.04 Decision criteria**

In order to be approved, the evaluation of a rezoning application, as evidenced in the written findings of fact, shall demonstrate the proposed rezoning is:

- (a) Consistent with all the relevant Goals, Objectives and Policies of the Comprehensive Plan; and
- (b) Compatible with land uses in the general area.

### **Section 91.05 Approval expiration**

A zoning map amendment shall be permanent unless changed pursuant to the process described in this Section.

### **Section 91.06 Rehearings**

A rezoning application denied by the County Council shall not be eligible for resubmission for a period of 365 days after the date of denial.

## **SECTION 92 UNIFIED DEVELOPMENT CODE AMENDMENTS**

### **Section 92.01 General provisions**

An amendment to the Unified Development Code (UDC) requires adoption of an ordinance by the County Council and after review and recommendation of the Planning and Public Service Commission (PC).

## **Section 92.02 Procedures**

- (a) The public notice for a UDC text amendment shall be as provided in Table IX-1;
- (b) Upon receipt of a complete application and relevant supporting material, the Department will transmit application to the Technical Review Committee (TRC) for comment;
- (c) A staff report recommending findings of fact, including a draft ordinance for the proposed map change, shall be provided to the PC and the applicant not less than seven days prior to the meeting at which the application will be considered;
- (d) After the PPC recommendation is made, the application will be scheduled for a first reading of the ordinance at the next available meeting of the County Council. A staff report presenting the PC findings of fact and a draft ordinance shall be provided to the County Council at that time;
- (e) The County Council shall conduct three readings of the ordinance and hold a public hearing;
- (f) The UDC text amendment decision shall be based on findings of fact and the public testimony received at the public hearing; and
- (g) The County Council decision shall be immediately effective.

## **Section 92.03 Decision criteria**

In order to be approved, the evaluation of an amendment application, as evidenced in the written findings of fact, shall demonstrate the proposed text change is consistent with all relevant goals, objectives and policies of the Comprehensive Plan.

## **Section 92.04 Approval expiration**

A Unified Development Code amendment shall be permanent unless changed pursuant to the process described in this Section.

## **Section 92.05 Rehearing**

An amendment denied by the County Council shall not be eligible for resubmission for a period of 180 days after the date of denial.

# **SECTION 93 SITE PLAN REVIEW**

## **Section 93.01 Intent**

It is the intent of this section to establish the process for review of site plans.

## **Section 93.02 Comprehensive Plan consistency**

No site plan application can be accepted unless it is located within a zoning district that allows that use.

## **Section 93.03 Procedures**

- (a) The applicant shall prepare a site plan which, at a minimum identifies the points of access, the amount of impervious surface, the footprints of proposed structures, general description of the proposed landscaping, the use of the parcel, the number of employees and other such matters as are identified in the application material;
- (b) The Department shall coordinate preparation of a staff report regarding the proposed site plan addressing the factors described in the application materials; and
- (c) Upon receipt of a complete application and relevant supporting material, the Department will transmit the application to the Technical Review Committee (TRC) for comment. The TRC shall evaluate the technical aspects of the proposed site plan permit and may make written and may establish conditions for approval.

## **Section 93.04 Authority**

- (a) All individual development project application shall be subject to the site plan review process described herein, except as defined below:
  - [1] Single family residences, and their accessory uses, as described in Table III-3;
  - [2] Duplex residences, and their accessory uses, as described in Table III-3;
  - [3] A family business.
- (b) The applicant shall be provided with written findings of fact and shall receive official notification of the site plan action. Said notification shall, at a minimum, prescribe the specific amount of each land use for the site;
- (c) No change in the type, or amount, of land uses specified in the application material shall be permitted without the written permission from the Planning director or his/her designee;
- (d) If the planning director or his/her designee determines a significant change in the specific type or amount of land uses has occurred, or is proposed to occur, the applicant shall be required to reapply using the new information and pay an additional fee; and
- (e) Planning Commission or Director may withdraw site plan approval for a project at any time the project is found to be non-compliant in use and/or site plan requirements.

## **Section 93.05 Vested Rights**

A site plan shall expire as provided by the provisions of 6-29-1530 of the South Carolina Code of Laws, 1976, as amended after the final Commission or Department approval.

## **Section 93.06 Rehearings**

A denied site plan permit shall not be eligible for resubmission for a period of 90 days after the date of denial.

## **SECTION 94 APPEALS**

The intent of this Section is to establish criteria to allow modification of the strict application of the requirements of Article III Permitted, Conditional and Accessory Uses; Article IV - Resource Protection Standards, Article V - Site Design Criteria, under limited conditions. This Section also establishes criteria whereby an applicant can appeal a Department interpretation of this Code.

### **Section 94.01 General requirements**

- (a) No variance shall be processed until any existing Code violations, not related to the subject variance, are corrected;
- (b) Under no circumstances will either a conventional, or administrative, variance application be accepted unless the proposed use is consistent with the Objectives and Policies in the Comprehensive Plan and is permitted by the zoning district in which it is located;
- (c) Pursuant to the requirements of Section 6-29-800 et.seq., SC Code of Laws, the fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance; and
- (d) No construction permit, setup permit or Certificate of Occupancy, shall be issued for any property that is subject to a variance, until the process is completed.

### **Section 94.02 Review process**

- (a) All applicants for a variance shall schedule a pre-application meeting with the Department staff to discuss the requirements and possible schedule. The staff will determine whether an administrative variance, or a conventional variance, is appropriate based on the specific conditions of the applicant's property;
- (b) The staff will provide an applicant with a current copy of the necessary forms and instructions for either an administrative variance, or a conventional variance, as may be appropriate; and
- (c) At a minimum, the applications shall include:
  - [1] The signature of the property owner, or his authorized agent;

- [2] The tax parcel identification number from the Clarendon County Property Assessor's Office;
- [3] A site plan, as may be appropriate;
- [4] Any other material deemed necessary by the staff, provided it is described in the application instructions; and
- [5] Payment of the appropriate fees as established in Table IX-2.

#### **Section 94.03 Conventional variance review**

- (a) A conventional variance applicant shall complete the application provided by the Department and pay the fee established in Table IX-2;
- (b) Public notice regarding the conventional variance application shall be provided as described in Table IX-1;
- (c) In conformance with the requirements of Section 6-29-800 (A) of the SC Code of Laws, the ZBA shall make the following findings of fact:
  - [1] The subject property has extraordinary and/or exceptional physical conditions, including but not limited to, size, shape, topography, soil conditions, etc, that are not present in adjacent properties;
  - [2] The specific conditions of the subject site are not generally applicable to other properties in the vicinity;
  - [3] The strict application of the provisions of this Ordinance to the subject property will not effectively prohibit all reasonable use of the subject property;
  - [4] Granting the variance will not be substantially detrimental to the adjacent property;
  - [5] Granting the variance will not permit a use of the land, water, or structures that is not otherwise permitted in the zoning district in which it is located;
  - [6] Granting the variance will not result in extending the life of a legal non-conforming use or expanding a legal non-conforming use; and
  - [7] The need for the variance is not caused by actions of the applicant.
- (d) The Department shall supply a written staff recommendation to the ZBA and the applicant no later than 10 days prior to a regularly scheduled meeting;
- (e) The ZBA may prescribe appropriate conditions for any variance and may prescribe a time limit not to exceed 90 days for which the variance shall be begun, completed or both; and
- (f) The ZBA shall not grant a variance for any use of land or a structure that is prohibited at the subject site by either the Comprehensive Plan objectives and policies or the zoning district requirements.

#### **Section 94.04 Appeals of administrative decisions**

Any aggrieved person may appeal any administrative decision by a County staff member, pursuant to the process described below:

- (a) An applicant shall complete the application form provided by the Department and pay the fee established in Table IX-2;
- (b) The appeal shall be filed with the Department within 30 days of the date of administrative determination action or the actions shall be determined to be the final County action in the matter;
- (c) Said form shall, at a minimum, include the following:
  - [1] Pertinent applicant information;
  - [2] A specific citation of the administrative decision being appealed;
  - [3] A statement of the reasons why the decision is incorrect or inaccurate, including a specific citation of the applicable county regulations, state statutes and/or case law;
  - [4] A suggested remedy or requested relief being sought by the appellant; and
  - [5] Other such material as may be pertinent to the specific case.
- (d) Public notice regarding the appeals application shall be provided as described in Table IX-1;
- (e) The application shall be scheduled for the next available meeting of the ZBA;
- (f) The administrative official whose decision is being appealed shall prepare a written response to the appeal;
- (g) A written response from the administrative official whose decision has been appealed and the appeal documents shall be transmitted to the ZBA and the appellant not less than 10 days prior to the meeting at which the matter will be discussed;
- (h) The appellant and the administrative official shall both be afforded reasonable opportunity to present their case regarding the decision;

- (i) After due consideration and hearing the arguments on both sides, the ZBA shall take whatever action deemed necessary regarding the matter; and
- (j) The ZBA action is the final County authority in the matter.

## **Section 94.05 Floodplain appeals**

In determining whether to grant an appeal or protest from the floodplain regulations, the Department of Health and Environmental Control, Department of Natural Resources or Federal Emergency Management Administration shall make such determinations

## **Section 94.06 Airport compatibility zone appeals**

In addition to the criteria described in Section 94.04, the following process shall be used in determining whether to grant a variance from the Airport Compatibility Zone requirements:

- (a) An application for a variance from the ACD requirements shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe use of the navigable airspace;
- (b) No airport compatibility zone variance application shall be considered by the ZBA, unless the airport operator has been afforded at least 15 working days to provide comments; and
- (c) The ZBA may require the applicant to install lights and markings per FAA requirements at his expense.

## **Section 94.07 Expiration**

Unless specifically stated otherwise, all variances shall expire 90 days after final ZBA action, unless a building permit, or certificate of occupancy as may be appropriate to the subject variance, has been issued.

# **SECTION 95 DEVELOPMENT AGREEMENTS**

## **Section 95.01 Intent**

Section 6-31-30, SC Code of Laws allows the County to enter into a development agreement with a private developer, subject to the requirements described herein. The purpose of this Section is to set forth the procedures and requirements necessary for the County to consider and enter into development agreements.

The powers described herein are supplemental to the powers conferred upon the County and other governmental agencies by other laws.

## **Section 95.02 Procedures**

- (a) An application for a development agreement may only be submitted by the property owner, the owner's designated agent, or any other person having a contractual interest in the parcel of land proposed for the development agreement; and
- (b) An application for a development agreement shall be filed with the Department accompanied by a nonrefundable fee as established in Table IX-2;
- (c) The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the Department. The application shall contain at least the following:
  - [1] A legal description, or tax map numbers, of the subject parcels;
  - [2] The names, addresses, phone numbers and/or fax numbers of the subject parcels legal and equitable property owners;
  - [3] The proposed duration of the agreement;
  - [4] A description of the development uses permitted on each portion of the subject site, including, but not limited to, their densities and/or intensities;
  - [5] A description of public facilities that will service the development, including, but not limited to, service providers, dates of construction of new facilities and a schedule to assure public facilities are available concurrent with the impacts of development;
  - [6] A description of any lands reserved for public uses;
  - [7] A description of the provisions to protect environmentally sensitive lands as may be required or permitted pursuant to the laws in effect at the time of entering into the development agreement;
  - [8] A description of all required local development permits, including a statement indicating that

failure of the agreement to address a particular permit, condition, term or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions;

- [9] A statement of findings of fact that the proposed use of the property is consistent with and implements the objectives and policies of the Comprehensive Plan and the zoning district requirements;
- [10] A description of any conditions, terms, restrictions or other requirements determined to be necessary by the local government for the public health, safety or welfare of its citizens;
- [11] A description of any provisions for the preservation and/or restoration of historic structures;
- [12] A description of the anticipated phases of development, their commencement and completion dates and any other relevant information thereto;
- [13] A specification of which local government shall be responsible for the administration of the agreement; and
- [14] Any other information as may be specifically appropriate to the subject parcel.

(d) Within 20 working days after an application for a development agreement is submitted, the Department shall determine whether the application is complete;

(e) Upon a determination the application package is complete enough to permit review, the Department shall transmit a copy of the application material to the TRC members for their review and comment;

(f) Unless waived by the applicant, the Department shall, within 60 days after a determination of application completeness, transmit a draft agreement adoption ordinance and a written report and recommendation to the applicant and PC for consideration at their next available meeting;

(g) The PC shall provide the applicant with an opportunity to discuss the Department's report and recommendations and make a recommendation to the County Council; and

(h) Upon final PC action regarding the proposed development agreement, the Department shall transmit the proposed agreement, the staff report and the PC recommendation to the County Council for a first reading.

#### **Section 95.03 Agreement execution**

- (a) The County Council shall adopt and/or amend a development agreement by ordinance.
- (b) The notice of the public hearing shall, at a minimum, specify the location of the property subject to the agreement, the development uses proposed on the property and where a copy of the agreement may be reviewed by the public; and
- (c) The executed development agreement shall be recorded in the public records of Clarendon County within 14 days of its approval by the County Council.

#### **Section 95.04 Agreement criteria**

- (a) A development agreement will be executed with a developer with all subdivision developments over 25 acres;
- (b) A development agreement shall be for the life of the project or as defined in the state code;
- (c) The agreement may include any matter that is not prohibited by law.

#### **Section 95.05 Comprehensive Plan consistency**

A development agreement shall not be approved, unless it is determined to be consistent with the Comprehensive Plan and the requirements of this Code.

### **Section 95.06 Effect of agreement**

- (a) The laws in effect at the time the agreement is executed shall govern the implementation of the agreement, except as described below; and
- (b) The County may apply subsequently adopted laws to a development that is subject to a development agreement only if the County Council conducts a public hearing and determines that:
  - [1] The laws are not in conflict with the laws governing the agreement and do not prevent the development set forth in the agreement;
  - [2] They are necessary to protect public health and safety;
  - [3] The laws are specifically anticipated and provided for in the development agreement;
  - [4] The County demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or
  - [5] The development agreement is based on substantially and materially inaccurate information supplied by the developer.
- (c) In the event state or federal laws or regulations, enacted after a development agreement has been executed, prevent or preclude compliance with one or more provisions of the development agreement, the provisions of the agreement must be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

### **Section 95.07 Periodic review**

- (a) The PC shall, at least annually, publish a review of the compliance with the terms of the agreement;
- (b) If the PC determines the developer has committed a material breach of the terms of the agreement, the developer shall be served a notice of such violation and be afforded an opportunity to discuss the matter at the next available PC meeting;
- (c) At said meeting, the developer may either rebut the Department findings and determination and/or consent to address the concerns identified by the PC;
- (d) The PC may establish criteria and a schedule for correction of the alleged violations; and
- (e) If the developer fails to satisfactorily address the violations within the time period identified, the PC may recommend the County Council terminate the agreement.

### **Section 95.08 Amendment, extension or cancellation**

A development agreement may be amended, extended or cancelled by mutual consent of both parties to the agreement or their successors in interest, provided the same process for adoption of the agreement is followed.

### **Section 95.09 Compliance with other codes**

- (a) A development agreement shall comply with all codes of Clarendon County in effect at the time of execution of the agreement; and
- (b) A development agreement shall not include provisions that supersedes or contravene the requirements of any codes of Clarendon County in effect at the time of execution of the agreement.

## **SECTION 96 PLAN ADOPTION OR AMENDMENT**

### **Section 96.01 General provisions**

An amendment to the Comprehensive Plan requires adoption of an ordinance by the County Council after the review and recommendation of the Planning and Public Service Commission (PC).

### **Section 96.02 Procedures**

- (a) The public notice for a Plan adoption, or amendment, is provided in Table IX-1;
- (b) Upon receipt of a complete application and relevant supporting material, the Department will transmit application to the Technical Review Committee (TRC) for comment;

- (c) A staff report recommending findings of fact, including a draft ordinance for the proposed map change, shall be provided to the PC and the applicant not less than seven (7) days prior to the meeting at which the application will be considered;
- (d) After the PPC recommendation is made, the application will be scheduled for a first reading of the ordinance at the next available meeting of the County Council. A staff report presenting the PC findings of fact and a draft ordinance shall be provided to the County Council at that time;
- (e) The County Council shall conduct three readings of the ordinance and hold a public hearing;
- (f) The Plan amendment decision shall be based on findings of fact and the public testimony received at the public hearing; and
- (g) The County Council decision shall be immediately effective.

### **Section 96.03 Decision criteria**

In order to be approved, the evaluation of an amendment, as evidenced in the written findings of fact, shall demonstrate the proposed plan amendment is consistent with all the relevant Goals, Objectives and Policies of the Comprehensive Plan.

### **Section 96.04 Approval expiration**

A Comprehensive Plan amendment shall be permanent unless changed pursuant to the process described in this Section.

## **SECTION 97 CONDITIONAL USE PERMITS**

### **Section 97.01 Intent**

It is the intent of this section to recognize that certain types of land uses are so unique that they require special consideration and to provide the standards by which such uses shall be evaluated. Unless specifically stated otherwise in the conditions of approval, the CUP applies to subsequent property owners operating the same business.

### **Section 97.02 Comprehensive Plan consistency**

No CUP application can be accepted unless the use is permitted by a zoning district that is consistent with the Objectives and Policies of the Comprehensive Plan.

### **Section 97.03 Procedures**

- (a) The public notice for a conditional use permit shall be as provided in Table IX-1;
- (b) Upon receipt of a complete application and relevant supporting material, the Department staff will transmit the application to the TRC members for comment;
- (c) The TRC shall evaluate the technical aspects of the proposed conditional use permit and make written recommendations;
- (d) After the TRC completes its recommendations regarding the conditional use permit, the matter will be scheduled for consideration by the ZBA at their next available meeting;
- (e) A staff report recommending findings of fact shall be provided to the ZBA and the applicant not less than seven (7) days prior to the public hearing at which the application will be considered;
- (f) The ZBA shall provide written findings of fact regarding their decision to approve, deny, or modify the applicant's request; and
- (g) The ZBA decision shall be final unless appealed to the circuit court system.

#### **Section 97.04 Decision criteria**

In order to be approved, the ZBA shall find that the proposed conditional use permit:

- (a) Is compatible with land uses in the general area;
- (b) Provides adequate on-site lighting shielded from adjacent uses, where appropriate;
- (c) Provides safe access for pedestrians and vehicles, both on-site and off-site;
- (d) Presents no operational problems that could adversely affect public health or safety; and
- (e) Is generally consistent with the applicable regulations for the zoning district in which it is located.
- (f)

#### **Section 97.05 Authority**

- (a) The Conditional Use Permit may set reasonable time limits, renewal conditions, and/or operational restrictions;
- (b) In most cases, a conditional use permit shall also require completion of the site plan review process described in Section 93 above. However, this requirement may be waived when a conditional use permit is located within a legal existing structure; and
- (c) Specific identified requirements may be waived, if the applicant agrees to install additional landscaping, reduce/or relocate signage, or make other improvements benefiting the appearance and/or public safety on the subject parcel.

#### **Section 97.06 Approval expiration**

Unless specifically stated otherwise, a conditional use permit shall expire 90 days after the final action, unless a building permit, or certificate of occupancy, has been issued by that date.

#### **Section 97.07 Reconsideration**

A denied conditional use permit shall not be eligible for resubmission for a period of 365 days after the date of denial.