

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

ORDINANCE NUMBER: 21-23-786

**AN ORDINANCE TO AMEND CHAPTER 24 OF THE EDGEFIELD COUNTY CODE
OF ORDINANCES**

**Application, Major Subdivisions, Land Development other than a subdivision, County
Planning Administrator, and County Planning Commission.**

WHEREAS, the Edgefield County Planning Commission, based upon the recommendations of the Building and Planning Department staff and input from the public, reviewed proposed changes to Chapters 24 of the Edgefield County Land Development Ordinance, and;

WHEREAS, the Planning Commission had determined that the current Edgefield County Ordinances need to be updated to reflect the need for changes to the application and administration of the County land development regulations,

WHEREAS, it is in best interest of the current and future citizen of Edgefield County, that the Application as well as other sections of the Land Development Ordinance be updated,

NOW THEREFORE BE IT ENACTED BY THE EDGEFIELD COUNTY COUNCIL THAT:

1. Chapters 24 of the Edgefield County Code of Ordinances are amended as per the highlighted terms outlined in Exhibit A, attached hereto.
2. Under the pending ordinance doctrine, this ordinance will be effective after advertisement for the public hearing.
3. All provisions in other County Ordinances in conflict with this Ordinance are hereby repealed.
4. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

Edgefield County Council

Dean Campbell, Chair

ATTEST:

Aretha Eubanks, Clerk to Council

First Reading: December 5, 2023

Second Reading: January 2, 2024

Third Reading: February 6, 2024

Sec. 24-248. Application.

- (a) Applications will be assigned to one of the following five categories, as determined by the administrator, and processed accordingly:
- (1) An exempt subdivision;
 - (2) A minor subdivision;
 - (3) A major subdivision; or
 - (4) A land development.
- (b) The designated responsibility for reviewing and approving each of the above is as follows:
- (1) Exempt subdivisions: planning administrator.
 - (2) Minor subdivisions: planning administrator.
 - (3) Major subdivisions: ~~planning commission~~ planning administrator.
 - (4) Land development: ~~planning commission~~ planning administrator.

(Code 1999, § 152.128; Ord. No. 99-00-380, § 8.6-2, 4-4-2000; Ord. No. 12-13-660, § 43, 4-2-2013)

Sec. 24-251. Major subdivisions.

Applications requesting approval of a major subdivision, as defined by this chapter, shall submit a preliminary and then a final plat in accordance with the following procedures (steps):

- (1) *Preliminary plat (plan) approval.*
 - a. *Step 1. Materials submitted.* The applicant shall submit to the planning administrator ten copies of the preliminary plat, and all materials stipulated by section 24-253.
 1. The planning administrator shall review the plat for compliance with the requirements of this chapter, and submit copies to all affected county agencies for review and comment.
 2. Upon completion of these reviews, the administrator shall forward the preliminary plat to the planning commission, for public hearing, together with all staff and agency comments and recommendations. ~~The planning commission shall act on the application within 60 days of receipt of the application. In its deliberation, the planning commission shall approve, approve conditionally, or disapprove the plat. If the preliminary plat is disapproved or approved conditionally, the reasons for such action shall be conveyed to the applicant. The reasons for disapproval shall refer specifically to those parts of the comprehensive plan or ordinance or regulation with which the plat does not conform. On conditional approval, the commission may require the applicant to resubmit the preliminary plat with all recommended changes before approving the plat.~~
 3. If the preliminary plat is found to conform to all requirements of this chapter, approval shall be given by the planning administrator ~~commission and shall be noted in writing by the chairperson~~ on at least two copies of the preliminary plat. One copy shall be retained by the planning administrator and one copy given to the applicant.

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- b. *Step 2. Effect of preliminary plat approval.* Preliminary plat approval shall confer upon the applicant the following rights for two years from the date of the approval, unless extended by the county upon written request by the applicant.

1. To proceed under the supervision of the county, with the installation of site improvements; and
2. To proceed with the preparation of a final plat.

Preliminary plat approval shall not authorize the applicant to sell or otherwise transfer lots or parcels within the platted subdivision.

(2) *Final plat approval.*

- a. *Step 3. Final plat approval.*

1. Final plat approval is an administrative action. No public notice or hearing is required in connection with approval proceedings in the final plat.
2. An applicant requesting final plat approval shall submit to the planning administrator five copies of the material specified in this chapter, which shall show all streets and utilities in exact location, identifying those portions already installed and, where approved by the planning commission and council, those to be installed and/or certified in the amount of improvement guarantees required to ensure completion of those improvements not yet installed.
3. Final plat approval shall be granted or denied within 60 days after submission of a complete application to the planning administrator or within such further time as may be consented to by the applicant.
4. No subdivision or land development plat, portion, or phase thereof shall be accepted for filing by the office of clerk of court until it has been approved by the planning administrator, and so indicated on the plat by the signature of the authorized agent. No such signature shall be affixed to the plat until the developer has completed all required improvements or has posted a letter-of-credit, cashier's check, performance bond or other acceptable security with the county in the amount of 125 percent of the estimated cost of the improvements, guaranteeing the completion of the improvements in compliance with the requirements herein.
 - (i) The county shall have the right to refuse such security for any and/or all required improvements and require construction and installation thereof by the developer.
 - (ii) Where accepted by the county, the security shall empower the county, or if applicable, any other governmental unit having a legal responsibility for the construction and completion of the improvements to draw on funds on deposit in an institution of the developer's choice, or accept such funds for deposit to its own account.

If it appears to the applicant that they may not complete construction of the required improvements before expiration of the performance guarantee, it shall be the applicant's obligation, at least 45 days prior to the expiration date, to submit an extended guarantee request. Such extension, if approved by the county attorney and the planning administrator shall be for a period of six months. A maximum of two such six months extensions shall be allowed.

- b. *Step 4. Effect on final plat approval.* Final plat approval shall confer upon the applicant the following rights:

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1. To record the plat with the county clerk of court; and
 2. To proceed with the sale and/or transfer of lots and parcels in accordance with the approved and recorded plat.
- (3) Any Party in Interest in a Preliminary Plat decision of the Planning Administrator regarding a complete or incomplete application may appeal the decision to the Planning Commission by filing an appeal with the Planning Administrator within 30 calendar days of the date of the decision.
- a) **Appeal Powers.** In exercising its appeal power the Planning Commission may reverse or affirm, wholly or partly, or may modify the decision on appeal. In acting upon the appeal, the Planning Commission shall be authorized only to determine whether the decision of the Planning Administrator was made in error. The Planning Commission shall not be authorized to approve modifications or waivers of Ordinance standards through the appeal process. If the Planning Commission determines that it is necessary to obtain additional evidence in order to resolve the matter it may remand the matter to the Planning Administrator with directions to obtain such evidence and to reconsider the decision in light of such evidence.
 - b) **Consideration of Evidence.** The decision of the Planning Commission shall be a matter of record; it shall consider only the same application, plans, and related project materials that were the subject of the original decision and only the issues raised by the appeal.
 - c) **Burden of Persuasion of Error.** In acting on the appeal, the Planning Commission shall grant to the decision of the Planning Administrator a presumption of correctness, placing the burden of persuasion of error on the appellant.
 - d) **Approval Criteria.** An appeal shall be sustained only if the Planning Commission finds that the decision of the Planning Administrator was in error.
 - e) **Vote Required.** A quorum of the Planning Commission shall be achieved when the number of members in attendance equals more than one-half of its total membership. ~~At least two-thirds of the members~~ shall be required to reverse a Final Plat decision of the Planning Administrator.

(Code 1999, § 152.131; Ord. No. 99-00-380, § 8.6-5, 4-4-2000; Ord. No. 12-13-660, § 46, 4-2-2013)

Sec. 24-252. Land development other than a subdivision.

- (a) No building permit shall be issued for a shopping center; apartment or condominium complex; commercial, business, or industrial park; manufactured home park; or other multi-use or multi-occupant project, unless and until an applicant for such use submits to the planning administrator the following:
 - (1) A plat and/or site plan with date and scale, showing the actual shape and dimensions of the lot to be built upon; the size, height, and location on the lot of existing and proposed buildings and structures; the intended use of each building, the number of units the building is designed to accommodate; storm water analysis and control plan, flood and wetland areas; **traffic study**, proposed parking, driveways, street ROW and interior circulation pattern, proposed bufferyard, open space and landscaping; building elevations; and contiguous off-site development.
 - (2) Grading, erosion and sediment control plan.
 - (3) All required permits of other state and local agencies.
- (b) The planning ~~commission administrator~~ shall hear and evaluate the application in relation to the following design and improvement criteria.

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- (1) Ingress and egress to the project site shall be designed to maximize automotive and pedestrian safety and facilitate traffic flow.
 - (2) Off-street parking, off-street loading, refuse, and service areas shall be designed to minimize their visual and physical impact on neighboring property.
 - (3) Street right-of-way and pavement construction shall be adequate to accommodate the type and volume of traffic anticipated.
 - (4) The project shall be designed in harmony with its physical surroundings and in such a manner as to ensure land use compatibility.
- (c) If, upon review of these standards, the project is determined to be in compliance, the planning commission shall approve the land development application and cause the issuance of a building permit.
- (d) Any proposed changes to an approved project shall be resubmitted and reevaluated in light of the above.
- (Code 1999, § 152.132; Ord. No. 99-00-380, § 8.6-6, 4-4-2000; Ord. No. 12-13-660, § 47, 4-2-2013)

Sec. 24-285. County Planning Administrator

- (a) The Planning Administrator shall at in a review capacity on the following matters:
1. Comprehensive Plan Amendments;
 2. Zoning and Land Development Regulation text amendments;
 3. Zoning Map amendments;
 4. Planned Development Plans and Map amendments;
 5. Preliminary Subdivision Plats;
 6. Final Subdivision Plats;
 7. Special Exceptions;
 8. Variances; and
 9. Public Project Reviews.
- (b) The Planning Administrator shall have final (local) decision-making authority on the following matters:
1. Written Interpretations;
 2. Zoning Permits;
 3. Preliminary Subdivision Plats;
 4. Final Subdivision Plats;
 5. Site Plan Review; and
 6. All other sections of this Ordinance and applications that require approval and/or interpretation by the Planning Administrator.
- (b) The Planning Administrator shall have the following powers and duties in addition, to those otherwise set out under this Ordinance:
1. Maintaining permanent and current records of this Ordinance including, but not limited to, all zoning maps, amendments, Special Exceptions, Variances, appeals, and applications thereof and records of hearings thereon. Such records shall be open to public inspection during business hours;
 2. Providing such clerical, technical, and consultative assistance as may be required by the Board of Zoning Appeals, Planning Commission, County Council, and other boards, commissions, and officials in the exercise of their duties relating to this Ordinance;
 3. Enforcing all provisions of this Ordinance;

4. Maintaining a record of all applications for Zoning Permits, including all Plats and plans submitted therewith, which record shall be open to public inspection during business hours;
5. Conducting inspections of Structures, land, and the uses thereof to determine compliance with this Ordinance; and
6. Reviewing, approving, and issuing Administrative Permits as authorized by this Ordinance and maintaining records of these permits.

Sec. 24-286. County planning commission.

- (a) *Reestablishment of planning commission.* The Edgefield County Planning Commission is hereby reestablished under the provisions of the S.C. Code 1976, § 6-29-320.
- (b) *Powers and duties of the planning commission.*
 - (1) The planning commission shall have the powers and duties provided in S.C. Code 1976, § 6-29-310 et seq.; and
 - (2) To grant specified variances, where the power to grant such variances is explicitly stated within this chapter.
- (c) The Planning Commission acts in a review and recommending capacity on the following matters:
 - (1) Comprehensive Plan Amendments;
 - (2) Zoning and Land Development Regulations Text Amendments;
 - (3) Zoning Map Amendments (Rezoning);
 - (4) Planned Development (PD) Development Plans and PD Zoning Map Amendments; and
 - (5) Public Project Reviews.
- (d) The Planning Commission shall have final (local) decision-making authority on the following matters:
 - (1) Appeals of Administrative Decision on Preliminary Subdivision Plats;
 - (2) Appeals of Administrative Decisions on Final Subdivision Plats;
 - (3) Appeals of Administrative Decisions on Subdivision Matters; and
 - (4) Any other matters pursuant to Chapter 29, Title 6, Sec. 6-29-340 of the Code of Laws of South Carolina, as amended.
- (e) *Established; composition.*
 - (1) The county planning commission shall be comprised of seven members, with two members being appointed to serve at-large and one member being appointed to serve from each of the five county council districts. Members shall serve two-year, staggered terms without regard to term limitations. Terms for the two at-large appointees shall begin on November 1 in odd-numbered years. Terms for council district appointees shall begin on November 1 in even-numbered years. All members shall be eligible to succeed themselves, subject to the appointive powers of the county council.
 - (2) To the extent possible, membership should be representative of the racial and gender composition of the county, and represent a broad cross section of the interests and concerns of the county. No member shall be the holder of an elected public office in the county.
 - (3) Members shall serve until their successors are appointed and qualified.
- (f) *Removal of members.* Members of the planning commission may be removed at any time by the county council for cause. The existence of cause shall be discussed by the council in executive session as permitted by the Freedom of Information Act, S.C. Code 1976, § 30-4-70(a)(1), and the determination of removal shall

be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of the council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.

(g) *Bylaws and procedures.* The county planning commission shall adhere to the provisions set forth in S.C. Code 1976, title 6, ch. 29 with respect to its bylaws, procedures, and other activities.

(Code 1999, § 152.150; Ord. No. 99-00-380, § 9.1, 4-4-2000; Ord. No. 00-01-386, 10-3-2000; Ord. No. 01-02-413, 11-5-2002; Ord. No. 12-13-660, § 54, 4-2-2013)

State law reference(s)—Local planning commissions, S.C. Code 1976, § 6-29-310 et seq.