

Council Members

District 1: Terry Graham
District 2: Charlene McGriff
District 3: Billy Mosteller, Secretary
District 4: Jose Luis
District 5: Steve Harper, Chair
District 6: "Vacant"
District 7: Brian Carnes, Vice-Chair

**County Administrator**

Dennis E. Marstall

County Attorney

Ginny L. Merck-Dupont

Clerk to Council

Sherrie Simpson

July 17, 2024

4:00 PM

**101 North Main Street
Lancaster, SC 29720**

**LANCASTER COUNTY COUNCIL
COMMITTEE OF THE WHOLE
County Council Chambers, County Administration
Building, 101 North Main Street, Lancaster, SC 29720**

AGENDA

1. **Call to Order - Chairman Steve Harper**
2. **Welcome and Recognition - Chairman Steve Harper**
3. **Pledge of Allegiance and Invocation - Council Member Jose Luis**
4. **Approval of Agenda**

[deletion and additions of non-substantive matter]

5. **Citizens Comments**

*[Lancaster County Council welcomes comments and input from citizens who may not be able to attend Council meetings in person. Written comments may be submitted via mail to ATTN: Sherrie Simpson, Post Office Box 1809, Lancaster, SC, 29721, by email to Sherrie Simpson at ssimpson@lancastercountysc.gov or by online submission by selecting the "Citizens Comments" quick link located on the County website homepage at <https://www.mylancastercsc.org/>. Comments must be no longer than approximately 3 minutes when read aloud. Comments received will be acknowledged during the Citizens Comments portion of the meeting. Comments will need to be received prior to 4:00 p.m. on the day before the meeting. Please use the same link above in order to submit input/comments for Public Hearings. *Please note that any handouts presented to Council or Council Boards and Commissions become an official part of the record and a copy is attached to the legal minutes for the meeting.]*

6. **Discussion and Action Items**

- a. Update on the Carolina Heelsplitter Ordinance and Procedures - Allison Hardin, Development Services Director
- b. Review of the Administrative and Definition Sections on the Re-write of the Unified Development Ordinance (UDO) - Allison Hardin
- c. Overview of the Sign Code Section on the Re-write of the Unified Development Ordinance (UDO) - Allison Hardin
- d. County Code Amendments to Correct Conflict with State Building Codes - Allison Hardin

- e. Nuisance Abatement Program Update - Allison Hardin
- f. Discussion of Speed Limit Changes for Niven Road and Regent Parkway - Jeff Catoe

7. **Adjournment**

The County Administration building elevator will not be in service due to maintenance for this meeting. Anyone requiring special services to attend this meeting should contact 285-1565 at least 24 hours in advance of this meeting. Lancaster County Council agendas are posted at the Lancaster County Administration Building and are available on the Website: www.mylancastersc.org

Meetings are live streamed and can be found by using the following link:
<https://www.youtube.com/@LancasterCoSCGov/streams>

Agenda Item Summary

Ordinance # / Resolution #: Not Yet Assigned
Contact Person / Sponsor: A. Hardin / Planning
Department: Planning
Date Requested to be on Agenda: 7/17/2024

Council Action Requested:

Receive information about the Carolina Heelsplitter habitat protection ordinance and consider changes to the Ordinance and program from a conservation bank to a local program.

Strategic Plan Focus Area Alignment:

Points to Consider:

The Carolina Heelsplitter is an endangered species whose habitat in Lancaster County is protected under US Fish & Wildlife regulations. The heelsplitter population has been impacted by poor water quality and habitat conditions, as well as deforestation in the watersheds that abut the habitat.

In 2006, a discovery of new populations of heelsplitters in the Six Mile Creek drainage basin, Lancaster County prompted action from US Fish & Wildlife to protect these habitats. Subsequent work by developers to achieve approval from US Fish & Wildlife led to long delays in the development process.

To avoid delays and stay within Federal regulations for endangered species, Lancaster County adopted a protective ordinance for the heelsplitter that requires mitigation for projects and worked with the US Fish & Wildlife's Charleston office for two years on an aquatic species conservation bank that would satisfy US Fish & Wildlife.

The result of the two-year process between Lancaster County and US Fish and Wildlife's Charleston office was a conservation bank to help protect the heelsplitter from development impacts in their habitat. Ordinance #901 (adopted April 28, 2008) required mitigation for projects within the Six Mile Creek watershed, and Ordinance #963 provided further restrictions in 2011.

The mitigation was achieved by project work done through US Fish & Wildlife. The project included purchasing land and/or land rights along Six Mile Creek where heelsplitters were found or areas that were suitable for new heelsplitter habitats; funding a nursery to breed new heelsplitters before relocating them to the creek; and monitoring the progress, growth, and health of the heelsplitter population. The project was paid for by developers in the area via "heelsplitter credits," which essentially were a portion of the project cost based on the predicted impact to the Six Mile Creek watershed in the heelsplitter habitat areas.

The project needed funding prior to the purchase of credits, so the credits were secured by a conservation bank that was tied to financial markets. The Environmental Bank and Exchange (EBX) was the first financial body to manage the project credits; in 2014, EBX was acquired by Resource Environmental Solutions (RES), who currently manages the bank credits.

Initial purchases of the credits were slow, but picked up in 2016. Phase 1 of the project was successfully completed in 2017 (388 credits), and Phase 2 was installed in early 2018 (573 credits). Sales were steady from 2018 – early 2020, then recovered in 2022. In June 2023 the staff received word from a developer that the County was close to running out of credits. This was our first indication of the situation. Within a week, we were told that there were no credits left.

The presentation will build on this information to examine proposed changes to the program.

Funding and Liability Factors:

The heelsplitter habitat protection ordinance has a cost impact to area developers, depending on the amount of acres and impact to the watershed that they are wanting to develop.

Proposed changes to the heelsplitter habitat protection ordinance may have an impact on the current costs of obtaining the credits for the habitat protection.

Recommendation:

Receive the Heelsplitter information and provide feedback on proposed changes to the .protective ordinance for the Heelsplitter.

ATTACHMENTS:

Description	Upload Date	Type
Draft Code Amendments	7/12/2024	Backup Material

4.2.2 CAROLINA HEELSPLITTER OVERLAY DISTRICT (CHO)

The Carolina Heelsplitter Overlay District is hereby established. The natural habitat of the Carolina Heelsplitter, which is a federally endangered species, is in waters that are cool, clean, and well-oxygenated. Stable, silt free stream bottoms appear to be critical to the continuation of the species.

Typically, stable areas occur where the stream banks are well-vegetated with trees and shrubs. Like other freshwater mussels, the Carolina Heelsplitter feeds by siphoning and filtering food particles from the water in the creek, stream, or river in which they are located.

The decline in the numbers of Carolina Heelsplitter is related to changes in their natural environment.

These changes can occur from clear-cutting trees and other vegetation near creek, stream, and river banks which increases erosion and silt in these water bodies. Some activities that can cause this to occur are residential, commercial, and industrial development and road construction and maintenance. Additionally, the discharge of pollutants into these water bodies, habitat alterations from impoundments and uncontrolled stormwater, as well as other man-made changes can negatively impact the natural habitat of the Carolina Heelsplitter. Any one of these activities or a combination of these activities can negatively impact the Carolina Heelsplitter's natural environment, which has contributed to the decline of the species. A number of studies have shown that stream habitat and water quality degradation occurs with increased coverage by impervious surfaces in a watershed.

This overlay district was created to help protect the natural habitat of the Carolina Heelsplitter and, therefore, maintain the existing populations of Carolina Heelsplitter located in Lancaster County.

A. REGULATIONS THAT APPLY

1. **Basin** means the Six Mile Creek drainage basin, as designated by the United States Geologic Survey (USGS), and any successor entity, hydrographic unit number 03050103030010.
2. **Best management practices (BMPs)** include but are not limited to practices defined in the South Carolina Department of Health and Environmental Control (SCDHEC) Stormwater Management BMP Handbook.
3. **Carolina Heelsplitter Overlay District** means an overlay district that imposes certain restrictions and limitations on development in the basin. The boundaries of the district are outlined on the official zoning map for Lancaster County.
4. **Development** means the creation of impervious surfaces or any master planned development.
5. **Impervious surface** means a hard surface which slows or prevents water from infiltrating the soil and/or causes water to run off surface more rapidly or in greater quantities than under natural conditions. Impervious surfaces include, but are not limited to, asphalt and concrete surfaces, building footprints, sidewalks, rooftops, patios, pools, sport surfaces, garages, carports, sheds, driveways, parking lots, streets, and

compacted roadways. Those surfaces excluded from the measurement of impervious surface would include, but are not limited to, landscaped areas, grass fields, golf courses, playgrounds, agricultural fields, and non-compacted roads. Advanced building materials such as porous concrete and porous asphalt, under laid with sand or similar materials to match infiltration characteristics of surrounding lands, would also be considered porous.

6. **Intermittent streams** are streams that generally have defined natural watercourses that do not flow year-round, but beyond periods of rainfall and with greater frequency than similarly located ephemeral streams. Designation of a stream as intermittent shall be confirmed by using stream delineation techniques as outlined in the document titled "U.S. Army Corps of Engineers Jurisdictional Determination Guidebook". For the purposes, hereof, the term "intermittent stream" shall not include any waters that the U.S. Army Corps of Engineers has determined or shall determine are not subject to its jurisdiction.

7. **Land development** means development activities which cause a change in land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, manufactured home parks, or similar developments for sale, lease, or any combination of owner and rental characteristics.

8. **Perennial streams** means, generally, those blue lined streams indicated on a USGS 1:24,000 topographical map. Designation of a stream as perennial shall be confirmed by using stream delineation techniques as outlined in the document titled "U.S. Army Corps of Engineers Jurisdictional Determination Guidebook". For the purposes, hereof, the term "perennial stream" shall not include any waters that the U.S. Army Corps of Engineers has determined or shall determine are not subject to its jurisdiction.

9. **Riparian buffer** means an area of natural vegetation that is adjacent to a body of water and which is managed to maintain the integrity of stream channels and shorelines, to reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover, and thermal protection to fish and other wildlife.

10. **Riparian buffer impact** means any activity within 200 feet of any perennial stream or 100 feet of any intermittent stream, excluding agricultural practices, except clear cutting and grading, which removed vegetation with the riparian buffer, as defined in these regulations, or the prevention of re-growth of the natural vegetation within these areas. Where riparian buffers have been impacted due to agricultural practices, these areas will be expressly allowed to revert to their natural state in the event of any transition of land use.

B. RESTRICTIONS AND LIMITATIONS

1. When the development involves either the creation of less than 8,000 square feet of new impervious surface (gravel roads located outside of the riparian buffer are excluded from this calculation) or land development project with 10 percent or less impervious surface, and existing riparian buffers are not disturbed, then the development may proceed as of right, subject to:

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- a. Adherence to ordinary requirements for development approval or permitting;
 - b. Maintenance of a native forested buffer, and no disturbance of the natural vegetation within a distance of two hundred feet (200') of the edge-of-bank for perennial streams or within one hundred feet (100') of any intermittent stream within the basin. The 100-foot or 200-foot native forested buffer shall be measured from the top of the bank on either side of the intermittent/perennial creek or stream and wraps around the head of the stream at the intermittent/ephemeral breakpoint.
 - c. A fence shall be allowed in the buffer areas, as long as the fence is either part of an agricultural practice, does not impede the re-growth of a natural vegetation, and/or does not prevent the flow of water across the property.
 - d. Curb and gutter are not required within the CHO. The use of grass swale, etc. is encouraged, and the use of sidewalks is considered optional.
 - e. A pond shall require a 100-foot riparian buffer only if it is an integral part of a stream and the stream section immediately below the pond is classified as perennial. Other types of ponds, such as catch basins and stormwater ponds which only drain out intermittently, shall not require a riparian buffer.

2. When the development involves the creation of 8,000 or more square feet of new impervious surface (gravel roads located outside of the riparian buffer are excluded from this calculation) or any land development project with more than 10 percent impervious surface, or disturbs existing riparian buffers, then the development may proceed, subject to:

- a. Adherence to ordinary requirements for development approval or permitting;
- b. Maintenance of a native forested buffer, and no disturbance of the natural vegetation within a distance of two hundred feet (200') of the edge-of-bank for perennial streams or within one hundred feet (100') of any intermittent stream within the basin. The 100-foot or 200-foot native forested buffer shall be measured from the top of the bank on either side of the intermittent/perennial creek or stream and wraps around the head of the stream at the intermittent/ephemeral breakpoint.
- c. A fence shall be allowed in the buffer areas, as long as the fence is either part of an agricultural practice, does not impede the re-growth of a natural vegetation, and/or does not prevent the flow of water across the property..
- d. Curb and gutter are not required within the CHO. The use of grass swale, etc. is encouraged, and the use of sidewalks is considered optional.
- e. A pond shall require a one-hundred--foot (100') riparian buffer only if it is an integral part of a stream and the stream section immediately below the pond is classified as perennial. Other types of ponds, such as catch basins and stormwater ponds which only drain out intermittently, shall not require a riparian buffer.

f. The purchase of Carolina Heelsplitter credits from Lancaster County shall be required. Purchase of these credits shall be in accordance with criteria agreed to by the Lancaster County Council and the United States Fish and Wildlife Service as noted in Section B, Restrictions and Limitations.

Credit discounts can be given to projects at the discretion of the Lancaster County Planning and Zoning Department staff, with consult from the Lancaster County Stormwater Department and guidance from the United States Fish and Wildlife Service. Examples of activities which may qualify for discounts are: pre and post construction stormwater BMPs planned for and/or implemented in excess of SCDHEC permit requirements, projects with minimal site grading, projects incorporating low impact development practices, and projects with total impervious surface of less than 20 percent. Other activities may qualify for credit discounts based on consensus of the Lancaster County Planning and Zoning and Stormwater Departments. This determination shall be made on a case by case basis. The purchase of credits is intended to offset water quality and hydrologic impacts to the Carolina Heelsplitter and its habitat. These credits shall be purchased when the grading permit for the project is obtained from SCDHEC, prior to site plan or subdivision plat approval by Lancaster County. Proof that the required credits were purchased at the time the grading permits were issued shall be provided to Lancaster County prior to any building permits being issued from the County. This shall be done by providing the County a credit affidavit dated on or before the issuance of the grading permit. If the credits were not purchased at the time the grading permit was issued, then a 20 percent per year penalty shall be added to the cost of the credits for the project. For example, if two credits were required for a project and the cost of these original two credits was not paid to the County Finance Department at the time of the issuance of the grading permits, then the new payment to the County would be the cost of the two original credits plus the cost of the original two credits multiplied by 20 percent. The penalty shall be prorated on a monthly basis.

3. The CHO is defined by the Six Mile Creek watershed boundary, not property (parcel) boundaries. This means a few parcels located within the overlay district could have a portion of the parcel drain within the Six Mile Creek watershed boundary and another portion of the same parcel drain outside the Six Mile Creek watershed boundary. When this happens, the portion of the parcel which drains outside the Six Mile Creek watershed shall not be subject to the terms of this overlay district.

C. RESTRICTIONS AND LIMITATIONS EXCLUSIONS

The purchase requirement of credits from Lancaster County does not apply to the installation, maintenance, or operation of water and sewer services by Lancaster County Water and Sewer District. Although not subject to the purchase of credits, all projects conducted by the Lancaster County Water and Sewer District are required to be submitted to the Lancaster County Stormwater Department for review and assurance of appropriate BMPs and other applicable regulations as noted in Section 4.2.2.A.

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: A. Hardin / Planning

Department: Planning

Date Requested to be on Agenda: 7/17/2024

Council Action Requested:

Provide feedback related to the administrative and definition sections of the UDO. Council already has drafts of the Administration and Definition sections of the UDO with proposed edits marked.

Strategic Plan Focus Area Alignment:

Quality Development

Consider the adoption and implementation of a revised Unified Development Ordinance.

Points to Consider:

For the administration section, some notable changes proposed:

- Change BZA variance questions to match state law.
- Separates stormwater review from public works and sets the stormwater department up for administration roles.
- Established timeline under which to determine if applications are complete.
- Defines a survey.
- Better identifies rights of Administrators when investigating a nuisance.

Funding and Liability Factors:

Council budgeted \$248,000 for the UDO rewrite,

Recommendation:

Provide input and feedback to the administrative and definition sections of the UDO.

ATTACHMENTS:

Description	Upload Date	Type
Draft of Administrative Code, June 2024	7/8/2024	Backup Material

9 ADMINISTRATION

9.1 REVIEW AGENCIES

9.1.1 DESIGNATION OF ADMINISTRATOR

- A.** The various provisions of this ordinance shall be administered under the general direction of the County Administrator and Development Services Director, and under the specific direction of the Lancaster County Planning and Zoning Department, , Lancaster County Stormwater Department, Lancaster County Public Works Department, Lancaster County Building Department, and the Fire Marshal. For the purposes of this ordinance, the Planning Director, the Zoning Official, the Public Services Director, the Building Official, Fire Marshal, Public Safety Communication Director, Stormwater Director and their designees are collectively referred to as the Administrator. The Planning and Zoning Department will serve as the “gatekeeper” for all development applications and will advise applicants on appropriate personnel to contact. Each responsible party designated as the Administrator will review and approve compliance with all Local, State, and Federal development regulations within their area of responsibility. As such, each designated party shall have the following general roles:

1. **Planning Director:** Review and approve compliance with land use, zoning, design and subdivisions standards, development agreements, and review for compliance with the adopted Lancaster County Comprehensive Plan policies.
2. **Zoning Official:** Review and approve compliance with zoning and regulate code enforcement.
3. **Public Works Director:** Review of public services including streets and approve compliance with the policies and standards in the Manual of Specifications, Standards, and Design (MSSD).
4. **Building Official:** Review and approve compliance with building codes certificates of occupancy and enforce property maintenance regulations.
5. **Fire Marshal:** Review of public services related to fire and approved compliance with the Fire Code, as amended.
6. **Public Safety Communications Director:** Review and submit for approval new road names and addressing, and review name changes.
7. **Stormwater Director.** Review and approve compliance with stormwater regulations and approve compliance with the policies and standards in the Manual of Specifications, Standards, and Design (MSSD).

B. POWERS AND DUTIES

In addition to the powers and duties set forth for the Administrator elsewhere in this ordinance and in other laws and regulations of the County, the Administrator shall have the following specific powers and duties, to be carried out in accordance with the terms of this ordinance:

1. To enforce the provisions of this ordinance, unless otherwise specified.
2. To review all applications for land development for compliance with the terms of this ordinance.
3. To provide the Lancaster County Council, the Planning Commission, and the Board of Zoning Appeals (BZA) with reports and recommendations regarding matters before these bodies, either as required by this ordinance, other laws or regulations, or at the request of

the body.

4. To maintain a record of all permits and approvals on file and to make copies available to interested parties.
5. To enact the corrective procedures outlined within this chapter for violations of this ordinance.

9.1.2 MEETING POLICIES FOR ALL AGENCIES

9.1.2.A. STAFF

The Administrator or their designee shall serve as staff to the various boards and commissions as outlined in this chapter. In addition, the County may provide legal and procedural assistance when requested.

9.1.2.B. ATTENDANCE / MALFEASANCE POLICY

All members shall attend board/commission meetings on a regular basis. If any member misses more than 3 meetings in one calendar year, he/she may be replaced at the discretion of the appointing authority. The appointing authority will take into consideration any extraordinary circumstances of board/commission members.

Members of boards/commissions serve at the will of the County Council and maybe removed by the appointing authority for inefficiency, neglect of duty, malfeasance in office, or other just cause. The appointing authority shall file a written statement of reasons for such removal.

9.1.2.C MEETINGS AND GENERAL PROCEDURES

1. ALL MEETINGS TO BE OPEN

- a) All meetings of bodies under this ordinance shall be open to the public in accordance with SC Freedom of Information Act and shall be conducted in accordance with the procedures set forth in the South Carolina Code of Laws, Title 30, Public Records, Chapter 4, as amended.

2. RULES OF PROCEDURE

- a) All Boards shall adopt formal rules of procedure consistent with the level of decision-making vested with that board/commission (e.g., advisory review, quasi-judicial). Any adopted rules of procedure shall be kept on file at the Planning and Zoning Department and shall be made available to the public.

3. MINUTES

- a) Accurate minutes of each meeting shall be maintained, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and the appointed secretary shall keep records of the Board/Commission examinations and official actions, all of which shall be filed in the office of the Administrator for the public record.

4. MEETINGS

- a) All bodies authorized under this ordinance shall meet at regularly scheduled times and at such other times as determined by the chairman as provided for in the rules of procedure.

5. Special meetings may be called at any time by the chairperson or by request of a majority of members of a board or commission in accordance with that group's adopted rules of procedure.

CONFLICTS OF INTEREST

- a) Members of boards and commissions shall not vote on recommendations, permits, approvals, or other issues where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. No member shall be excused from voting except upon those matters as noted above or upon those others involving the consideration of his or her own financial interest or official conduct.

9.1.4 SPECIFIC REVIEW AGENCIES : COUNTY COUNCIL

A. POWERS AND DUTIES

Lancaster County Council shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

1. To conduct any and all business in accordance with their Charter and South Carolina General Statutes.
2. To amend the Comprehensive Plan and other plans, as necessary.
3. UDO Decisions: The County Council shall render final decisions regarding the following permits types:
 - a. Text Amendments
 - b. Map Amendments/Rezoning
 - c. Conditional Uses
 - d. Mixed-Use Districts Master Development Plans
 - e. Development Agreements

9.1.5 SPECIFIC REVIEW AGENCIES : TECHNICAL REVIEW COMMITTEE

A. POWERS AND DUTIES

Lancaster County's Technical Review Committee (TRC) shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

1. To assist in the establishment of technical requirements for all applications, including: submission schedules, size and number of drawings, type of media, etc.
2. **UDO Review:** The Technical Review Committee shall serve as the reviewing entity for the following permit types:
 - a. Site Plan
 - b. Minor Subdivisions Preliminary Plats
 - c. Major Subdivision Preliminary Plats
 - d. Minor Subdivision Final Plat
 - e. Major Subdivision Final Plat
 - f. Mixed-Use Districts/Master Development Plans
 - g. Development Agreements
3. **UDO Decisions:** The Technical Review Committee shall render final decisions regarding the following permits types:
 - a. Minor Subdivisions Preliminary Plats
 - b. Minor Subdivision Final Plat

- c Major Subdivision Final Plat
- d Site Plan
- e All previously approved plats.

B. MEMBERSHIP

1. The Technical Review Committee shall be chaired by the Development Services Director (or designee) and shall consist of members of technical staff and representatives of various County departments that include Planning and Zoning, Public Works, Building, Fire Marshal, Public Safety Director, and at least three outside agencies that include Lancaster County Water and Sewer District (LCWSD), Lancaster County School District, and SCDOT.
2. Other representatives from the following departments and outside agencies may also serve as members of the Technical Review Committee upon request of the Committee Chair:
 - a Parks and Recreation
 - b Economic Development
 - c Lancaster County Natural Gas Authority
 - d SC Department of Health and Environmental Control (SCDHEC)

9.1.6 SPECIFIC REVIEW AGENCIES : PLANNING COMMISSION

A. POWERS AND DUTIES

Lancaster County Planning Commission shall have the following powers and duties to be carried out in accordance with the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (§6-29-310, et seq) and the terms of this ordinance.

1. To perform studies and surveys of the present conditions and probable future development of the County and its environs, including but not limited to, studies and surveys of land uses, population, traffic, parking, etc.
2. Study the resources and needs of the County and prepare maps and plans for the systematic future development and betterment of the County.
3. To formulate and recommend to the County Council the adoption and amendment of a Comprehensive Plan and other plans, as necessary.
4. **UDO Review:** The Planning Commission shall review and make recommendations regarding the following permit types:
 - a Text Amendments
 - b Map Amendments/Rezoning
 - c Conditional Uses
 - d Mixed-Use Districts/Master Development Plans
 - e Vested Rights
 - f Development Agreements
5. **UDO Decisions:** The Planning Commission shall render final decisions regarding the following permits types after proper referral and consideration of recommendations and requirements from appropriate Federal, State, and Local Agencies:

- a** Major Subdivision Preliminary Plats
 - b** Street Names
 - c** Street Name Changes
- 6.** The Planning Commission shall also have any additional powers and duties as may be set forth in other laws and regulations or at the direction of the County Council.

B. MEMBERSHIP AND QUORUM

- 1.** The Planning Commission shall consist of 7 members representing each Lancaster County Council District. A quorum shall consist of a simple majority of the current membership of the board. Vacant seats shall not be counted for the purpose of determining a quorum.
- 2.** A member who has recused themselves from a meeting item shall be counted as present for the purpose of determining whether or not a quorum is present.
- 3.** Vacancies occurring in the membership of the Planning Commission, other than through the expiration of terms, shall be filled for the unexpired term.
- 4.** All members shall serve 4 year terms and may succeed themselves but may not serve more than 2 consecutive full terms.
- 5.** Membership terms shall continue to be staggered so that the Planning Commission will always be served by experienced members.
- 6.** A chairman, and other officers as determined by the Planning Commission, shall be elected in accordance with the adopted rules of procedure. The elected chairman shall preside over the Planning Commission. The term of chairman shall be one year, with eligibility for reelection.
- 7.** All members of the Planning Commission shall have equal rights, privileges, and duties in all matters.

9.1.7 SPECIFIC REVIEW AGENCIES : BOARD OF ZONING APPEALS

A. POWERS AND DUTIES

The Lancaster County Board of Zoning Appeals shall have the following powers and duties to be carried out in accordance with the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (§6-29-780, et seq) and the terms of this ordinance:

- 1.** To hear and decide appeals from any order, requirement, permit, decision, or determination issued by an administrative officer of the County in enforcing any provisions of this ordinance.
- 2.** .
- 3. UDO Decisions:** The Board of Zoning Appeals shall render final decisions regarding the following permits types:
 - a** Appeal of any Administrative Decisions
 - b** Variances
 - c** Special Exceptions
- 4.** The Board of Zoning Appeals shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the County Council.

B. MEMBERSHIP AND QUORUM

1. The Lancaster County Board of Zoning Appeals shall consist of 7 members representing each Lancaster County Council District. Vacant seats shall not be counted for the purpose of determining a quorum.
2. A member who has recused themselves from a meeting item shall be counted as present for the purpose of determining whether or not a quorum is present.
3. Vacancies occurring for reasons other than expiration of term shall be filled as they occur for the remainder of the unexpired term by the body making the original appointment.
4. All members shall serve 4 year terms and may succeed themselves but may not serve more than 2 consecutive full terms.
5. Membership terms shall continue to be staggered so that the Board will always be served by experienced members.
6. A chairman and other officers as needed shall be elected in accordance with the adopted rules of procedure. The chairman will preside over the Board. The term of chairman will be one year, with eligibility for reelection.
7. All members of the Board shall have equal rights, privileges, and duties in all matters,.

9.1.8 SPECIFIC REVIEW AGENCIES : STORMWATER ADVISORY COUNCIL

A. POWERS AND DUTIES

The Lancaster County Stormwater Advisory Council shall have the following powers and duties to be carried out in accordance with terms of this ordinance:

1. To provide input and guidance on the Lancaster County Stormwater Management Plan.
2. To review and consider annual performance measures and practices.

B. MEMBERSHIP

The Lancaster County Stormwater Advisory Council shall consist of seven members representing residents knowledgeable in stormwater and erosion control. The Council shall consist of the Public Works Director, the Development Services Director, the Planning and Zoning Department Director, the Zoning Official, the County Engineer, and 3 Lancaster County residents. County staff members are not considered voting members of the Council.

9.2 REVIEW PROCEDURES

9.2.1 PURPOSE AND INTENT

In order to establish an orderly process to develop land within Lancaster County consistent with standard development practices and terminology, it is the purpose of this chapter to provide a clear and comprehensible development process that is fair and equitable to all interests, including the applicants, affected neighbors, County staff and related agencies, and the County Council.

9.2.2 GENERAL PROVISIONS AND APPLICABILITY

The provisions of this chapter shall be applicable to all development activity under the jurisdiction of Lancaster County.

A. NO CONSTRUCTION TO COMMENCE WITHOUT PERMIT

No land shall be used or occupied, no use shall be established, and no structures shall be erected, moved, extended, enlarged or demolished, nor shall any excavation or filling of any lot for the construction of any building be initiated, until the Administrator has issued an appropriate permit which will certify that the proposed work is in conformity with the provisions of this ordinance.

B. FEE SCHEDULE

As warranted, the County shall adopt a schedule of fees for applications, document processing, and fines specified in this ordinance as part of their annual budgeting process, .

C. APPLICATION COMPLETENESS REVIEW

1. **Application Deadline:** Applications shall be submitted to the Administrator in accordance with submittal dates.
2. **Evidence of Authority:** The Administrator may require an applicant to present evidence of authority to submit the application.
3. **Application Filing Date:** An application shall be considered as “filed” or “submitted” on the date it is received if it is found to be complete and sufficient for processing by the Administrator. The Administrator will have up to five (5) business days to determine if the application is complete. If the application is found to be incomplete and insufficient for processing, it will be rejected with a written notice of the information and/or fees that is/are needed. The applicant may re-apply once the insufficiency has been rectified.
4. **Application Sufficiency to be Determined by the Administrator:** The Administrator or his designee shall review the application and accompanying evidence and thereafter determine if the application is complete and sufficient for processing. The presumption shall be that all of the information required for an application to be considered complete and sufficient for processing is, according to the appropriate permit type, and in the “Application Submittal Requirements” list on file in the Planning and Zoning Department. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case or specific code requirements. In general, an application shall be complete and sufficient for processing when it contains all of the information necessary to decide whether or not the development as proposed will comply with all of the requirements of this ordinance.
5. **Application Processing:** Applications deemed to be sufficient for processing shall be scheduled for review in accordance with the Permit/Process Type Table below. If, in the opinion of the Administrator, a submittal at any stage of review is incomplete, the application shall be removed from the agenda of the appropriate board/commission and not further processed until deemed complete and sufficient for processing. At any stage of

review, the Administrator or any County board or commission, may require, at the applicant's expense, the submission of any plan, study, or other information, in addition to that specified in the submittal requirements, in order to determine the development as proposed will comply with all of the requirements of this ordinance.

9.2.3 PERMIT/PROCESS TYPE TABLE

Permit/ Process Type	Section	Permit/ Process Type	Reviewing Agency	Public Notification	Approving Agency	Appeal Process	Permit Period	Permit Extension
Zoning Permit	9.2.7.A	Administrative	Admin	None	Admin	BZA	6 months	6 months
Temporary Use Permit	9.2.7.B	Administrative	Admin/TRC	None	Admin	BZA	See Chapter 5	n/a
Certificate of Occupancy or Certificate of Completion	9.2.7.C	Administrative	Admin	None	Admin	None	n/a	n/a
Modification of Dimensional Standards	9.2.7.D	Administrative	Admin	None	Admin	BZA	n/a	n/a
Sedimentation & Erosion Control Plan/Grading Permit	9.2.8.A	Administrative	Admin	None	Admin	BZA, SCDHEC	3 years	Re-submit
Stormwater Management Permit	9.2.8.B	Administrative	Admin	None	Admin	BZA	1 year	1 year
Floodplain Development Permit	9.2.8.C	Administrative	Admin	None	Admin	BZA	1 year	Re-submit
Site Plan	9.2.9.A	Administrative	TRC	None	TRC	PC	1 year	1 year
Subdivision (Minor & Recombination)	9.2.10.A	Administrative	TRC	None	TRC	BZA	180 days to record Plat	n/a
Subdivision (Major) – Preliminary Plat	9.2.10.B	Administrative	TRC	Yes (1, ,3)	PC	CT	2 years to Final Plat	1 year
Subdivision (Major) – Final Plat	9.2.10.C	Administrative	TRC	None	PC	CT	60 days to record Plat	n/a
Street Names	9.2.11	Legislative	PC	None	PC	CT	n/a	n/a
Street Name Changes	9.2.11	Legislative	PC	Yes (1,2,3)	PC	CT	n/a	n/a
Variances	9.2.12	Quasi-Judicial	BZA	Yes (1,2,3)	BZA	CP	30 days to Appeal	n/a
Special Exceptions	9.2.13	Quasi-Judicial	BZA	Yes (1,2,3)	BZA	CP	2 years	6 months
Appeal of Administrative Decisions	9.2.14	Quasi-Judicial	BZA and/or PC	Yes (1,2,3)	BZA	CP	30 days to Appeal	n/a
Text Amendments & Rezoning	9.2.15	Legislative	TRC, PC, CC	Yes (1,2,3)	County Council	CP	n/a	n/a
Conditional Use	9.2.16	Legislative	PC, CC	Yes (1,2,3)	County Council	CP	May be rescinded	n/a
Mixed-Use District/Master Development Plan	9.2.9.B	Legislative	PC, CC	Yes (1,2,3)	County Council	CP	2 years	1 year
Vested Rights	9.2.17	Legislative	PC	Yes (1, 2)	County Council	None	2 years	5 years
Development Agreements	9.2.18	Legislative	TRC, PC, CC	Yes (1,2,3)	County Council	CP	n/a	n/a

Admin – Administrator \ County Council \ TRC – Technical Review Committee \ PC – Planning Commission \ BZA – Board of Zoning Appeals \ SCDHEC – South Carolina Department of Health and Environmental Control \ CP – Court of Common Pleas \ CC – County Council / CT – Circuit Court

9.2.4 PUBLIC NOTIFICATION

The following procedures have been established for development applications/petitions that require notification of the public prior to consideration and/or approval.

A. LEVEL 1 – FREEDOM OF INFORMATION ACT LIST

- Required Notification Type:** A notice of the pending application/meeting shall be posted in a prominent location in the County Administration Building and on the County's website, and a notice of such meeting shall be sent to each person and media provider that has filed a written request for notice with the Clerk to Council. Non-media members may join this list on an annual renewal basis beginning January 1 of each year. Members of this distribution list must renew their participation in this distribution on an annual basis.

2. **Delivery Method:** Notices shall be distributed by email unless otherwise stipulated by members of the list.
3. **Required Period of Notice:** This notice shall be posted and mailed, e-mailed, or delivered at least 24 hours before the time of the meeting.

B. LEVEL 2 – GENERAL NOTICE IN NEWSPAPER

1. **Required Notification Type/Delivery Method:** The County shall publish a notice in a newspaper of general circulation. The notices shall include the time, place, and date of the hearing/meeting and include a description of the property and the nature of the proposal.
2. **Required Period of Notice – Comprehensive Plan Amendments:** The County shall publish a notice prior to the hearing date. The publication shall appear at least 30 calendar days prior to the hearing date.
3. **Required Period of Notice – All Other Hearings:** The County shall publish a notice prior to the hearing date. The publication shall appear at least 15 calendar days prior to the hearing date.

C. LEVEL 3 – NOTIFICATION TO AFFECTED AND ADJACENT PROPERTY OWNERS

1. Mailed Notice

- a. **Required Notification Type:** The County shall serve notice by first class mail of the hearing/meeting to each of the following: owners of all property affected by a pending action, all abutting properties as identified by the County tax records, and all properties on all sides of the subject property (including across any adjacent streets). The notices shall include the time, place and date of the hearing/meeting and include a description of the property and the nature of the proposal.
- b. **Required Period of Notice:** Such notification shall be postmarked at least 15 calendar days prior to the date of the meeting at which the matter is to be heard.

2. **Published Notice – Full Community Notification:** As an alternative to the mailed notice requirements in the above paragraph, the County may elect to serve notice through a full community notification for pending actions that affect at least 50 properties or more with at least 50 different property owners or more.

- a. **Required Notification Type:** The County shall publish notice of the hearing/meeting in a newspaper of general circulation in the County. Two advertisements shall be published in separate calendar weeks. Each advertisement shall not be less than ½ of a newspaper page in size. The County may elect to provide notification via digital media, such as webpage, emails, and social media.
- b. **Mailed Notice Required Outside Newspaper Circulation Area:** The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.

3. **Posted Notice:** In addition to providing mailed notice or published notice, as required in Sections 9.2.4.A and B, the County shall place a sign in a prominent location on the subject property(ies) or on an adjacent public street or highway right-of-way with a notice of the pending action and a phone number to contact for additional information. Such posting shall occur at least 15 calendar days prior to the hearing date.

D. NEIGHBORHOOD MEETING

Neighborhood meetings are optional, but are encouraged by the *Comprehensive Plan* and may be

encouraged by the Administrator for certain applications prior to any public hearing or review by a board or commission. Neighborhood meetings allow the applicant to explain the proposed project and hear the concerns of the neighborhood. A summary of the meeting in the form of meeting notes or minutes along with a list and contact information for all attendees may be submitted to the Administrator and/or the appropriate board or commission for their review. Lancaster County is not responsible for organizing or coordinating such neighborhood meetings.

9.2.5 APPLICATION REQUIREMENTS

The following general standards for various applications are intended to require only that data/information necessary to render an informed decision by the reviewing agency. The County has determined that it is unnecessary to require a full set of architectural or engineering drawings for review by the various review and decision-making boards unless the application is such that a specific level of detail is necessary (e.g., floodplain/stormwater variance). The “Application Submittal Requirements” list on file in the Planning and Zoning Department is intended to provide further guidance to applicants as to the necessary level of detail for each application component listed below.

Permit/ Process Type	Section	Site Analysis	Sketch Plan *	Preliminary Plat	Construction Documents	As-Built Drawings	Final Plat	Building Elevations	Sedimentation & Erosion Control Plan	Floodplain Development Plan	Survey
UDO Zoning Permit	9.2.7.A		X (a)								
Temporary Use Permit	9.2.7.B		X (a)								
Certificate of Occupancy/ Completion	9.2.7.C	See Administrator									
Modification of Dimensional Standards	9.2.7.D		X								
Sedimentation & Erosion Control Plan/Grading Permit	9.2.8.A	X			X				X		X
Stormwater Management Permit	9.2.8.B	X			X	X	X (a)		X		X
Floodplain Development Permit	9.2.8.C	X			X	X				X	X
Site Plan	9.2.9.A	X	X (a)**	X	X			X (a)			X
Subdivision (Minor & Recombination)	9.2.10.A	X	X (a)	X			X				X
Subdivision (Major) – Preliminary Plat	9.2.10.B	X	X	X	X						X
Subdivision (Major) – Final Plat	9.2.10.C					X	X				
Street Name Changes	9.2.11	See Administrator									
Variances	9.2.12	See Administrator									
Special Exceptions	9.2.13	X (a)		X (a)				X (a)			X (a)
Appeal of Administrative Decisions	9.2.14	See Administrator									
Text Amendments	9.2.15	See Administrator									
Rezoning	9.2.5		X (a)								X
Conditional Use	9.2.16	See Administrator									
Mixed-Use District/Master Development Plan	9.2.9.B	X	X	X				X	X	X	X
Vested Rights	9.2.17			X							
Development Agreements	9.2.18	See Administrator									

X - Required | X (a) – on an “as needed” basis as determined by the Administrator

*Sketch Plans shall be reviewed as binding documents for Unified Development Ordinance Zoning Permit (Zoning Permits), and for any other permits or approvals for which the Administrator requires only a Sketch Plan to be submitted with the application. Sketch Plans shall be used for non-binding review for all other development application processes in which they are required. ** (Ord. No. 2019-1622, 12.9.19)

A. SITE ANALYSIS

A site analysis is intended to identify forest stands or trees of a uniform size and species;

specimen trees of varying sizes and species, particularly free standing or open-grown or field grown trees; a distinctive tree line or forest edge; existing watercourses; previously documented Federally and State recognized endangered species habitats; and historic or culturally significant areas. Identification of existing trees, understory vegetation, wetlands, perennial streams, floodplains, and topographical features on a site prior to the advanced preparation of development plans enables the reasonable and practical planned preservation of existing and environmentally sensitive areas. This requirement provides the County and the applicant the ability to evaluate the proposed development in order to preserve vegetation, to improve the appearance of the development proposed and to encourage the use of the existing forest and tree canopy, specimen trees, and significant vegetation to satisfy the requirements of this ordinance. It is the expectation that readily available spatial data, including GIS information, will be sufficient for this survey.

B. SKETCH PLAN

The Sketch Plan shall show in simple line drawing form the proposed layout of streets, lots, buildings, civic spaces and other features in relation to existing conditions based upon the size of the tract proposed for development. Sketch Plans for districts requiring design review shall also indicate the type, size and design of materials proposed and also the construction techniques to be used. Sketch Plans shall be reviewed as binding documents for Unified Development Ordinance Zoning Permits, and for any other permits or approvals for which the Administrator requires only a Sketch Plan to be submitted with the application. Sketch Plans shall be used for non-binding review for all other development application processes in which they are required. There is a limit of two (2) sketch plan review requests per project.

C. PRELIMINARY PLAT

The Preliminary Plat is intended to provide a detailed two-dimensional drawing that illustrates current land conditions (boundaries, floodplains, wetlands, etc), all of the required site features including buildings, parking areas, streets locations, street sections, conceptual size and location of on-site stormwater facilities, rights-of-way, easements, property lines and setbacks, required or proposed watercourse buffers, site landscaping and lighting (in conceptual form), and all related development calculations (e.g., density, proposed building areas, number of parking spaces, impervious surface allocation, etc.) in sufficient detail to show compliance with this ordinance. Detailed engineering drawings such as subsurface utilities (e.g., water and sewer) and on-site stormwater facilities are not required for Preliminary Plats. Preliminary Plats shall be prepared by a licensed professional land surveyor, licensed architect, licensed landscape architect or licensed engineer.

D. CONSTRUCTION DOCUMENTS

The Construction Documents for Site Plans and Subdivision Plans, along with a survey of the property boundary, shall constitute a full and complete set of engineered drawings necessary for final permitting and construction. All streets, utilities, and stormwater, and other infrastructure systems shall be designed and constructed in accordance with the adopted specifications, standards and design. Construction Documents shall be prepared by a licensed professional land surveyor, licensed architect, licensed landscape architect or licensed engineer.

E. AS-BUILT DRAWINGS

The “as-built” plans shall show the final design specifications for all public infrastructure in accordance with Appendix C, Lancaster County Manual of Specifications, Standards and Design (MSSD). The designer of the infrastructure shall certify, under seal, that the installed infrastructure is in compliance with the approved plans and designs and with the requirements of this ordinance. All building footprints will be properly located and shown on the as-built drawings to allow reviewers to ensure the proper distance between infrastructure and structures. A final inspection and approval by the Administrator shall occur before the release of any performance securities. As-Built Drawings shall be prepared by a licensed professional land

surveyor, licensed architect, licensed landscape architect or licensed engineer.

F. FINAL PLAT

The final plat shall be prepared by a registered land surveyor, licensed to practice in the State of South Carolina and shall meet the requirements of the Lancaster County Register of Deeds Office and the standards for surveys in SC Code of Regulations §49-460, et seq. The final plat shall constitute an accurate survey of the entire phase as shown on the approved preliminary plat and shall include all the relevant notes and certifications.

G. BUILDING ELEVATIONS

In order to reasonably evaluate the building, it is necessary to submit scaled drawings of each elevation visible from a street or civic space (or, when the code requires certain materials or design elements, all sides of the building shall be shown, regardless of where the side faces). These drawings are not required to be in color but should accurately represent the building heights, floor levels, and building materials, and should include written identification of building materials. If necessary, the Administrator may require up to 3 drawings from different perspectives that will show how the building fits into the context of the block or surrounding developments. Elevations for renovated buildings should focus on illustrating the proposed changes in relation to the existing structure.

H. SEDIMENTATION AND EROSION CONTROL PLAN

The Sedimentation and Erosion Control Plan shall constitute a full and complete set of engineered drawings necessary for the issuance of a grading permit to assure that land-disturbing activity undertaken in Lancaster County does not result in **damage to land, water and property from erosion, sediment, and stormwater**. The Sedimentation and Erosion Control Plan shall be submitted as a part of the review process.

I. FLOODPLAIN DEVELOPMENT PLAN

A plot plan drawn to scale shall be submitted to the Administrator prior to any development activities proposed to be located within flood prone areas. The plan shall identify all flood zones, their boundaries, and whether or not the zone has elevations. When the zone has elevations, the plan will also show the cross-sections as found in the Flood Insurance Study (FIS) for Lancaster County, SC. **The Floodplain Administrator must be notified in writing, including a project description and sketch plan, prior to commencement of construction or development within flood prone areas.**

J. SURVEY

An orderly study or inspection of land that includes dimensions and details for subsequent use, with information gathered through observations, measurements in the field, and/or research of legal instruments in support of planning, designing, and establishing property boundaries. The survey shall be conducted by an SC-licensed surveyor, architect, or engineer, and must meet the standards of the General Property Survey as outlined in §49-460(a), including a seal and signature of the surveyor responsible for the survey.

9.2.6 GENERAL REQUIREMENTS FOR QUASI-JUDICIAL HEARINGS AND DECISIONS

A quasi-judicial decision is a process that involves the finding of facts regarding a specific application of an ordinance and the exercise of discretion when applying the standards of the ordinance. Quasi-judicial decisions include decisions involving variances, special exception permits, and appeals of administrative determinations. Decisions on the approval of site plans and subdivisions are quasi-judicial in nature if the ordinance authorizes a decision-making board or commission to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the ordinance, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings of fact to be made by the decision-making board. As a result, the following standard procedures shall be incorporated to

guide all quasi-judicial proceedings as appropriate.

A. STANDARDS FOR CONDUCT OF QUASI-JUDICIAL HEARINGS

1. **Contact with Decision-Making Board Members:** Contact with any members of a decision-making Board prior to the public hearing by any individual regarding the matter is prohibited. If an applicant or appellant comes in contact with a decision-making board member, this information must be disclosed at the beginning of the relevant hearing.
2. **All Participants to be Sworn In:** All participants in the public hearing shall be duly sworn in prior to the submission of any testimony.
3. **Competent Evidence Required:** All decisions shall be based on competent evidence entered in as part of the record. The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making Board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted under oath and without objection, or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making Board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses/general public as to any of the following:
 - a. The use of property in a particular way would affect the value of other property.
 - b. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
 - c. Matters about which only expert testimony would generally be admissible under the rules of evidence.
4. **Calculation of Majority Vote:** The required majority necessary to rule in the affirmative on a quasi-judicial proceeding shall be as follows:
 - a. A simple majority is required to rule in the affirmative on Special Exceptions Permits, Appeals of Administrative Decision and Variances.
 - b. Absent members, vacant positions on boards/commissions, and members who are disqualified from voting on a quasi-judicial matter, shall not be considered members of the board/commission for the purposes of calculating the requisite majority.

B. STANDARDS FOR DECISIONS

Each decision-making Board under the provisions of this section shall ensure that the rights of applicants have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

1. In violation of constitutional provisions, including those protecting procedural due process rights.
2. In excess of the statutory authority conferred upon the County or the authority conferred upon the decision-making Board by ordinance.
3. Inconsistent with applicable procedures specified by statute or ordinance.
4. Affected by other error of law.
5. Unsupported by substantial competent evidence in view of the entire record.
6. Arbitrary or capricious.

C. RECORD OF DECISION

1. The following shall become part of the official record of decision:
 - A detailing of the specific findings of fact made by the decision-making board;
 - Documents and exhibits submitted to the decision-making board;
 - Meeting minutes.
2. **Transcript of Audio:** Any party may request, at their expense, a transcript of the proceedings from any recorded audio/video.

9.2.7 ADMINISTRATIVE PERMITS

A. ZONING PERMIT

A Zoning Permit shall be required for the construction or development of any new use within the land development jurisdiction of Lancaster County, and any other site improvement as indicated in the UDO. In addition to new uses, a Zoning Permit shall be required for expansions of existing uses, changes of use, and any uses permitted with conditional use and special exceptions.

1. **Applicability:**

- a. For the following application types, a Zoning Permit shall be the only development approval required:
 - i. Any uses permitted with review.
 - ii. Home occupations that do not require additional construction.
- b. All other development in Lancaster County shall require a Zoning Permit in addition to other necessary approvals as outlined in this chapter.

2. **Process Type:** Administrative.

3. **Pre-Application Procedure:** No meeting is required but applicants are encouraged to call or visit the Administrator prior to requesting a Zoning Permit to determine what information is required for the application.

4. **Required Application Information:** Sketch Plan and any other relevant information to show compliance (may be waived by Administrator as appropriate).

5. **Determination of Conformity:** Once an application is deemed complete by the Administrator, the Administrator shall review the application and approve or deny it based on compliance with the land development standards contained in this ordinance.

6. **Public Notification:** None required.

7. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals.

8. **Permit Validity:** Upon the approval of the Zoning Permit, the applicant shall have 6 months to obtain a building permit or otherwise begin the permitted use. Failure to secure building permits for the permitted work within this time shall render the compliance void. Upon issuance of a building permit, the Zoning Permit shall remain valid as long as a valid building permit exists for the project. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Zoning Permit and any subsequent building permits.

9. **Permit Extension:** The Administrator may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension.

B. TEMPORARY USE PERMIT

A Temporary Use Permit is required for uses permitted in accordance with Chapter 5 prior to

the commencement of any use or activity.

1. **Process Types:** Administrative.
2. **Pre-Application Procedure:** No meeting is required for events that occur totally within an established structure, but applicants are encouraged to call or visit the Administrator prior to requesting a Temporary Use Permit to determine what information is required for the application. Meetings with the TRC are required for events that will require a permit under Chapter 5.12.13.
3. **Required Application Information:** Sketch Plan and any other relevant information to show compliance (may be waived by Administrator as appropriate).
4. **Determination of Conformity:** Once an application is deemed complete by the Administrator, the Administrator shall review the application and approve, approve it with conditions, or deny it based on compliance with the land development standards contained in this ordinance.
5. **Public Notification:** None required.
6. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals.
7. **Permit Validity:** See Chapter 5.
8. **Permit Extension:** See Chapter 5.

C. CERTIFICATE OF OCCUPANCY, CERTIFICATE OF COMPLETION

Issuance of a Certificate of Occupancy (hereafter referred to as "CO") shall be required prior to the occupancy or use of any new construction and re-occupancy or re-use of any renovation/rehabilitation in Lancaster County. COs insure that a completed development project has complied with all the applicable requirements of the International Building Code, as amended, and all other applicable federal, state and local regulations. COs must be signed by building inspections staff to certify compliance with applicable regulations. Issuance of a Certificate of Completion (hereafter referred to as "CN") will be required prior to the issuance of any permits for upfits in shell buildings or operational permits for relevant non-structural operations.

1. **Process Type:** Administrative.
2. **Pre-Application Procedure:** Not required.
3. **Required Application Information:** None.
4. **Determination of Conformity:** Upon receipt of the request for a CO or CN, the building official, assisted by the Administrator, shall inspect the project site for compliance with the approved site plan and the applicable standards of this chapter and the International Building Code, as amended. The applicant shall be notified of any deficiencies in the building(s) or site that prevents the issuance of the CO or CN, otherwise the CO or CN shall be issued. If final improvements are complete for only a portion of the development, the Administrator, at his/her discretion, may grant a partial CO or CN that allows for a proportional release of the development for occupation.
5. **Public Notification:** None required.
6. **Appeals:** None.
7. **Permit Validity:** N/A.
8. **Permit Extension:** N/A.

D. ADMINISTRATIVE MODIFICATION OF DIMENSIONAL STANDARDS

In keeping with the purpose of these regulations to accomplish coordinated, balanced, and harmonious development in a manner which will best promote the health, safety, and general welfare while avoiding undue and unnecessary hardships, the Administrator is authorized to approve certain requests for deviation from dimensional standards.

1. **Process Type:** Administrative.
2. **Pre-Application Procedure:** Not required.
3. **Required Application Information:** Sketch Plan and any other relevant information to demonstrate undue and unnecessary hardship (may be waived by Administrator as appropriate).
4. **Conditions for Modification of Setbacks:** Requests for the deviation from required setbacks set forth in this ordinance by up to 10 percent of the required setbacks or 24 inches, whichever is greater, but no more than 24 inches, may be considered upon determination that one or more of the following conditions exists:
 - a. There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally-established wall or walls of a principal structure already within the minimum setback area.
 - b. The part of the proposed structure that would encroach into the minimum setback area is less than 50 percent of the width of the affected building facade(s), provided the part of the structure that would encroach into a front setback shall either be open (such as a porch or screen room) or not subject to occupancy (such as a chimney).
 - c. The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirements.
 - d. The proposed structure will allow the preservation of significant existing vegetation.
 - e. A good faith error was made in the location of a building foundation not exceeding 24 inches due to either field construction or survey error.
5. **Limitation on Administrative Discretion:** The Administrator has no discretion to modify any requirements found in Chapter 5.
6. **All Decisions to be in Writing:** Prior to rendering a decision, the Administrator shall notify the County Administrator in writing of any minor deviation for approval.
7. **Administrative Authority is Permissive Only:** The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory, and the Administrator may decline to make such modification. In the event denial occurs, the applicant shall have the right to submit an application to the Board of Zoning Appeals to grant a variance to these requirements. Nothing in this section shall be construed as limiting the Administrator's duties and rights under this chapter, or an applicant's right to apply for a variance.

9.2.8 ENVIRONMENTAL PROTECTION PERMITS

A. SEDIMENTATION AND EROSION CONTROL PLAN/GRADING PERMIT

1. **Applicability:** To assure that land-disturbing activity undertaken in Lancaster County does not result in accelerated erosion and sedimentation, no such land-disturbing activity shall take

place until plans for controlling erosion associated with the activity have been reviewed and approved in accordance with the procedures set forth below. Land-disturbing activity on development 1 acre or greater in area shall also require approval of a Sedimentation and Erosion Control Plan.

2. **Process Type:** Administrative.
3. **Pre-Application Procedure:** Prior to applying for a Grading Permit and submitting plans, the applicant is required to meet with the Administrator. The purpose of this meeting is to discuss the project, the proposed land development strategies, and to answer questions of the applicant regarding the application and schedules for review.
4. **Required Application Information:** Site Analysis (may be waived by Administrator as appropriate) & Construction Documents. For applications involving development of 1 acre or greater a Sedimentation and Erosion Control Plan shall also be required according to the review and approval procedures set out for such plans in this chapter.
5. **Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Once an application is deemed complete and accepted by the Administrator it shall be reviewed and acted on within 30 days of the date it is accepted.
6. **Public Notification:** None required.
7. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals at its next regularly scheduled meeting, but not less than 60 days, after receipt of written notice of disapproval or conditional approval that is unsatisfactory to the applicant. Appeals from the decision of the Board of Zoning Appeals may be taken to the South Carolina Department of Health and Environmental Control (SC DHEC).
8. **Permit Validity:** When work under a Grading Permit is not initiated within 2 years following the date of issuance of the Grading Permit, the Grading Permit shall be deemed expired.
9. **Permit Extension:** Renewal of an expired Grading Permit shall require the same application procedure as the initial permit. No further grading is to be performed until the new permit is issued.

B. STORMWATER MANAGEMENT PERMIT

To ensure that development in the County does not result in increased stormwater runoff which adversely impacts adjacent property and stormwater systems convey appropriate storm events, no development to which this ordinance applies shall be commenced without the issuance of a Stormwater Permit by the Administrator.

1. **Process Type:** Administrative.
2. **Pre-Application Procedure:** Applicants are encouraged to meet with the Administrator prior to submitting an application for development. This pre-submittal meeting should take place prior to submission of an application for the Preliminary Plat of the subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:
 - a. Existing conditions/proposed site plans;
 - b. Natural resources inventory;
 - c. Stormwater management system concept plan.

3. **Required Application Information:** Site Analysis and Construction Documents (may be waived by Administrator as appropriate). An approved Site Plan, Preliminary Plat, or Final Plat may also be required as appropriate.
4. **Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Once an application is deemed complete and accepted by the Administrator it shall be reviewed and acted on within 60 days of the date it is accepted. The Administrator may impose reasonable conditions upon the issuance of the permit to ensure compliance with this section including, but not limited to, specifications of the materials to be used and the manner in which the work or alteration is to be performed. If the Administrator finds that the application fails to comply with the standards of this section, the Administrator shall notify the applicant in writing, and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.
5. **Public Notification:** None required.
6. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals.
7. **Permit Validity:** An issued permit shall become null and void if the applicant fails to secure a building permit, record a final plat or initiate construction on the site within 1 year after the date of approval. In addition, when a Stormwater Permit is issued in association with a Preliminary Plat or Final Plat, the Stormwater Permit shall expire if said plan expires, is significantly modified, or is revoked.
8. **Permit Extension:** The Administrator may grant a single extension of this time limit of 1 year, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan. In granting an extension, the Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.
9. **As-Builts Required:** After final construction of a project is completed, and before a Final Plat is granted, the applicant shall certify that the post-construction stormwater management measures have been completed in accordance with the approved plans and designs by submitting actual "as-built" plans prepared by or under the direct supervision of an SC-registered land surveyor or professional engineer and certified by the same. No Final Plat shall be granted without completed as-built plans.

C. FLOODPLAIN DEVELOPMENT PERMIT

1. **Designation of Local Floodplain Administrator:** The Zoning Official or his/her designee is hereby appointed to administer and implement the provisions of this ordinance.
2. **Adoption of Letter of Map Revisions (LOMR):** All LOMRs that are issued in the areas identified in Section 8.1.7.A of this ordinance are hereby adopted.
3. **Development Permit and Certification Requirements:** No approval shall be granted for construction in a Flood Hazard Area Overlay District, as outlined in Chapter 8, without the issuance of a Floodplain Development Permit.
 - a. **Development Permit:** Application for a development permit shall be made to the local floodplain administrator on forms furnished by him or her prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

- i. A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either the Duties and Responsibilities of the local floodplain administrator of Section 9.2.8.C.4.k or the Standards for Subdivision Proposals of Section 8.2.2 and the Standards for streams without Estimated Base Flood Elevations and Floodways of Section 8.2.3. The plot plan must be prepared by or under the direct supervision of an SC- registered land surveyor or professional engineer and certified by it. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either the duties or responsibilities of the local floodplain administrator of Section 9.2.8.C.4.k or the standards for subdivision proposals of Section 8.2.2.L and the standards for streams without estimated base flood elevations and floodways of Section 8.2.3.
 - ii. A completed and certified copy of the most recently approved FEMA Elevation Certificate [Form FF-206-FY-22-152 (formerly 086-0-33)] with the required information based on project design.
 - iii. Where base flood elevation data is provided as set forth in Section 8.1.7.A or the duties and responsibilities of the local floodplain administrator of Section 9.2.8.C.4.k the application for a development permit within the flood hazard area shall show:
 - The elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures, and
 - If the structure will be floodproofed in accordance with the Non-Residential Construction requirements of Section 8.2.2.B the elevation (in relation to mean sea level) to which the structure will be floodproofed.
 - iv. Where base flood elevation data is **not** provided as set forth in Section 8.1.7.A or the duties and responsibilities of the local floodplain administrator of Section 9.2.8.C.4.k, then the provisions in the standards for streams without estimated base flood elevations and floodways of Section 8.2.3 must be met.
 - v. Alteration of Watercourse: Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation, an engineering study to demonstrate that the flood-carrying capacity of the altered or relocated watercourse is maintained, and a map showing the location of the proposed watercourse alteration or relocation.
- b. Certifications**
- i. **Floodproofing Certification**: When a structure is floodproofed, the applicant shall provide certification from an SC- registered, professional engineer or architect that the non-residential, floodproofed structure meets the floodproofing criteria in the non-residential construction requirements of Section 8.2.2.B and Section 8.2.5.B.2.
 - ii. **Certification During Construction**: A lowest floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local floodplain administrator an elevation certificate and certification of the elevation

of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of an SC- registered land surveyor or professional engineer and certified by it. Any work done prior to submission of the certification shall be at the permit holder's risk. The local floodplain administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

- iii. **As-Built Certification:** Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with SC law, shall certify according to the requirements of Section 9.2.8.C.3.b.i, b.ii, b.iii that the development is built in accordance with the submitted plans and previous pre-development certifications.

4. Duties and Responsibilities of the Local Floodplain Administrator: Duties shall include, but not be limited to:

- a. **Permit Review:** Review all development permits to assure that the requirements of this ordinance have been satisfied.
- b. **Requirement of Federal and/or State Permits:** Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.
- c. **Watercourse Alterations**
 - i. Notify adjacent communities and the South Carolina Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - ii. In addition to the notifications required watercourse alterations per Section 9.2.8.C, written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.
 - iii. If the proposed project will modify the configuration of the watercourse, floodway, or base flood elevation for which a detailed Flood Insurance Study has been developed, the applicant shall apply for and must receive approval for a Conditional Letter of Map Revision with the Federal Emergency Management Agency prior to the start of construction.
 - iv. Within 60 days of completion of an alteration of a watercourse, referenced in the certification requirements of Section 9.2.8.C.3.b.iv, the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.
- d. **Floodway Encroachments:** Prevent encroachments within floodways unless the

certification and flood hazard reduction provisions of Section 8.2.2.E are met.

- e. **Adjoining Floodplains:** Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- f. **Notifying Adjacent Communities:** Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.
- g. **Certification Requirements**
 - i. Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in Section 9.2.8.C.3.b.ii.
 - ii. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in Section 9.2.8.C.3.b.i.
 - iii. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in Section 8.2.2.B.
- h. **Map Interpretation:** Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
- i. **Prevailing Authority:** Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in Section 8.2.2.G.2.
- j. **Use Of Best Available Data:** When base flood elevation data and floodway data has not been provided in accordance with Section 8.1.7.A, obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to the standards for subdivision proposals outlined in Section 8.2.2.L, in order to administer the provisions of this ordinance. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data from a federal, state, or other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.
- k. **Special Flood Hazard Area/Topographic Boundaries Conflict:** When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site: the site information takes precedence when the lowest adjacent grade is at or above the BFE, and the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. The local floodplain administrator in the permit file will maintain a copy of the Letter of Map Amendment issued from FEMA.
- l. **On-Site inspections:** Make on-site inspections of projects in accordance with the administrative procedures outlined in Section 9.2.8.C.5.a.
- m. **Administrative Notices:** Serve notices of violations, issue stop-work orders, revoke

permits and take corrective actions in accordance with the administrative procedures in Section 9.2.8.C.5.

- n. **Records Maintenance:** Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.
- o. **Annexations and Detachments:** Notify the South Carolina Department of Natural Resources Land, Water and Conservation Division, State Coordinator for the National Flood Insurance Program within six (6) months, of any annexations or detachments that include special flood hazard areas.
- p. **Federally Funded Development:** The President issued *Executive Order 11988, Floodplain Management May 1977*. E.O. 11988 directs federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.
- q. **Substantial Damage Determination:** Perform an assessment of damage from any origin to the structure using FEMA's Substantial Damage Estimator (SDE) software to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.
- r. **Substantial Improvement Determinations:** Perform an assessment of permit applications for improvements or repairs to be made to a building or structure that equals or exceeds 50 percent of the market value of the structure before the start of construction. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur

The market values shall be determined by one of the following methods:

- i. The current assessed building value as determined by the County's assessor's office or the value of an appraisal performed by a licensed appraiser at the expense of the owner within the past 6 months.
- ii. One or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, *less the cost of site improvements and depreciation for functionality and obsolescence.*
- iii. Real Estate purchase contract within 6 months prior to the date of the application for a permit.

5. Administrative Procedures

- a. **Inspections of Work in Progress:** As the work pursuant to a permit progresses, the local floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- b. **Stop-Work Orders:** Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order

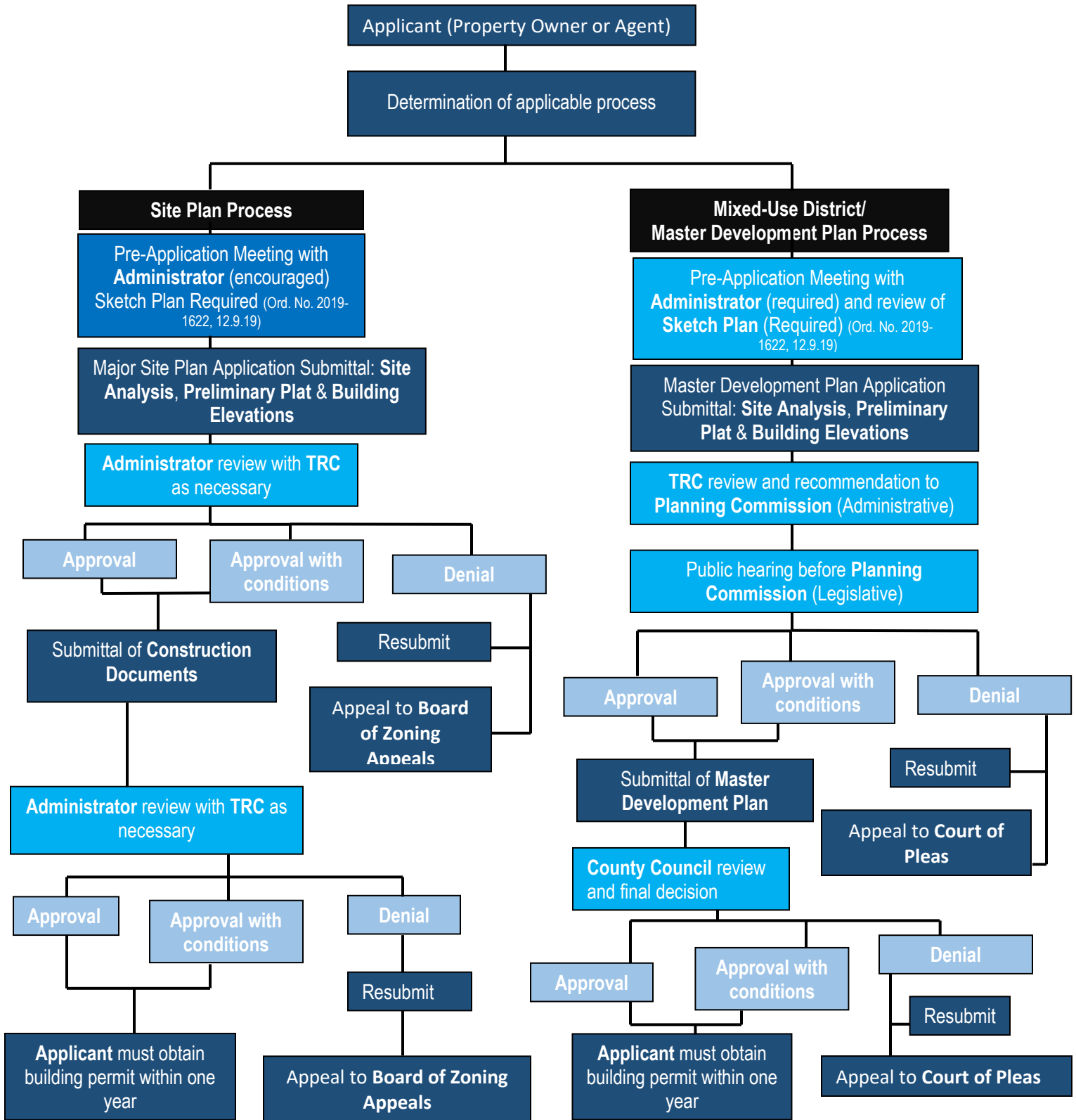
shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

- c. **Revocation of Permits:** The local floodplain administrator may revoke and require the return of the development permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- d. **Periodic Inspections:** The local floodplain administrator and each member of his/her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- e. **Violations to be Corrected:** When the local floodplain administrator finds violations of applicable state and local laws, it shall be his/her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property he owns.
- f. **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give him written notice, by certified or registered mail to his last known address or by personal service, that:
 - i. The building or property is in violation of the Flood Damage Prevention Ordinance,
 - ii. A hearing will be held before the local floodplain administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - iii. Following the hearing, the local floodplain administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- g. **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he/she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the floodplain administrator may prescribe; provided that where the floodplain administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
- h. **Appeal:** Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- i. **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a

misdemeanor and shall be punished in the discretion of the court.

- j. **Denial of Flood Insurance under the NFIP:** If a structure is declared in violation of this ordinance and after all other penalties are exhausted to achieve compliance with this ordinance then the local floodplain administrator shall notify the Federal Emergency Management Agency (FEMA) to initiate a Section 1316 of the National Flood Insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with the ordinance. Once a violation has been remedied the local floodplain administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.
- k. The following documents are incorporated by reference and may be used by the local floodplain administrator to provide further guidance and interpretation of this ordinance as found on FEMA's website at www.fema.gov:
 - i. FEMA Elevation Certificate and Instructions
 - ii. FEMA forms for Letters of Map Revision, Letters of Map Amendment, Letter of Map Revision-Based on Fill, and Relevant InstructionsAll FEMA Technical Bulletins
 - iii. All FEMA Floodplain Management Bulletins
 - iv. FEMA P-55 Coastal Construction Manual
 - v. FEMA P-312 Homeowner's Guide to Retrofitting
 - vi. FEMA P-347 Elevating Your Floodprone House
 - vii. FEMA P-348 Protecting Building Utilities from Flood Damage
 - viii. FEMA P-499 Home Builder's Guide to Coastal Construction Technical Fact Sheet
 - ix. FEMA P-758 Substantial Improvement/Substantial Damage Desk Reference
 - x. FEMA P-936 Floodproofing Non-Residential Buildings
 - xi. FEMA P-1037 Reducing Flood Risk to Residential Buildings that Cannot Be Elevated
 - xii. NFIP Flood Insurance Manual

9.2.9 SITE PLAN & MASTER DEVELOPMENT PLAN PROCESS CHART



A. SITE PLAN

1. **Applicability:** The Site Plan process shall apply to all development types for which discretionary review is NOT required unless a discretionary review is requested by the applicant.
2. **Process Type:** Administrative.
3. **Pre-Application Procedure:** No meeting is required, but applicants are encouraged to call or visit the Administrator to determine what information is required for the application. If the site plan involves a property or properties which plan to have more than 40,000 square feet of building space a sketch will be required. (Ord. No. 2019-1622, 12.9.19)
4. **Required Application Information:** Site Analysis, Preliminary Plat & Building Elevations, (may be waived by Administrator as appropriate) and a Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the Administrator and TRC shall review the application and approve, deny, or approve with conditions the Site Plan based on compliance with the standards contained in this ordinance. All decisions shall be in writing. Following an approval or approval with conditions, the applicant shall be directed to prepare detailed Construction Documents for final approval by the Administrator and TRC (as necessary).
6. **Public Notification:** None required.
7. **Appeals:** Appeals of the decisions of the Administrator or TRC shall be heard by the Board of Zoning Appeals.
8. **Permit Validity:** Upon the approval of the Site Plan, the applicant shall have one year to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Site Plan and any subsequent building permits.
9. **Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

B. MIXED-USE DISTRICT/MASTER DEVELOPMENT PLAN

1. **Applicability:** The Mixed-Use District/Master Development Plan process shall apply to all development types for which discretionary review is required, and in any other instance where discretionary review is requested by the applicant.
2. **Process Type:** Legislative.
3. **Pre-Application Procedure:** It is required that every applicant for a Mixed-Use District/Master Development Plan meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. The applicant will be required to provide a Sketch Plan to the Administrator prior to the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Site Plan.
4. **Required Application Information:** Site Analysis, Preliminary Plat & Building Elevations for Design Review (may be waived by Administrator as appropriate) and a Schematic Stormwater Design shall be required as prerequisite approvals as per the following table (Ord. No. 2017-1468, 9.25.17):

Mixed-Use District Master Development Plan / Required Information
General Information
Date, north point, and scale
Name and firm address of the professional individual responsible for preparing master development plan
Name and address of the property owner or applicant
Location sketch
Legal description of the subject property
Size of subject property in acres (square feet if less than two (2) acres)
Boundary survey
Preparer's professional seal
Existing Conditions
Existing zoning classification of subject property
Property lines and required setbacks (dimensioned)
Location, width and purpose of all existing easements
Location and dimension of all existing structures on the subject property
Location of all existing driveways, parking areas and total number of existing parking spaces on subject property
Abutting street right-of-way width
Location of all existing structures, driveways, and parking areas within 100 feet of the subject property's boundary
Location of all existing structures, driveways, and parking areas within 300 feet of the subject property's boundary
Existing water bodies (lakes, rivers, creeks, wetlands, etc.)
Existing landscaping and vegetation on the subject property, including a tree survey, if required
Size and location of existing utilities
Location of all existing surface water drainage facilities
Proposed Development
Location and dimensions of all proposed buildings
Location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, walls, fences, signs, exterior lighting, curbing, parking areas (including dimensions of a typical parking space and the total number of spaces to be provided), and unloading areas
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use
Floodplain areas and basement and finished floor elevations of all buildings
Landscape plan (showing location of proposed materials, size and type)
Layout and typical dimensions of proposed parcels and lots
Number of proposed dwelling units (by type)
Number and location of affordable dwelling units
All deed restrictions or covenants
Brief narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet), and any change in the number of parking spaces
Lighting plan
Engineering
Location and size of proposed utilities, including connections to sewer and water supply systems
Location and spacing of fire hydrants
Location and type of all proposed surface water drainage facilities

Grading plan at no more than two foot contour intervals ¹
Proposed streets (including pavement width, materials, and easement or right-of-way dimensions)
Mixed-Use District Master Development Plan / Required Information
Building Details
Typical elevation views of all sides of each building type
Gross and net floor area
Elevation views of building additions
Building height
Building materials
Additional Information
Any other information required by the planning director or planning commission to demonstrate compliance with other applicable provisions of this ordinance including, but not limited to, traffic impact analysis, environmental impact assessment and market feasibility studies.

5. **Determination of Completeness:** The Technical Review Committee (hereafter referred to as the “TRC”) shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Planning Commission.
6. **Public Notification:** Level 1, 2 and 3.
7. **Neighborhood Meeting:** Required.
8. **Public Hearing:** The Planning Commission shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
9. **Decisions/Findings of Fact:** Following the public hearing the Planning Commission may recommend the County Council approve, deny, or approve with conditions the application for a Mixed-Use District/Master Development Plan. No Mixed-Use District/Master Development Plan shall be granted unless the following “findings of fact” can be made:
 - a. **Consistency with Comprehensive Plan.** All mixed use development shall be designed, constructed and maintained in conformance with the applicable guidelines and standards established by the Lancaster County Comprehensive Plan.
 - b. **Integration with Transportation System.** Mixed use developments shall be designed to integrate into the adjacent transportation system relative to:
 - i. Pedestrian connections to ensure accessibility to current or future transit service, if applicable;
 - ii. Connectivity to existing and future roadways, sidewalks and pathways;
 - iii. Complete streets roadway design that accommodates multiple transportation modes;
 - iv. Strategic locations of parking lots and structures;
 - v. Compatibility with the regional transportation system of arterials and collectors; and
 - vi. Access management to provide internal connections between uses and prohibit individual driveway access to perimeter roads.
 - c. **Impact on Infrastructure.** The development is staged in a manner that allows for and facilitates the timely provision of public utilities, facilities and services.
 - d. **Compatibility of Uses and Structures.** The mixed use development is planned so land uses and densities create an appropriate transition to existing or planned uses and densities on

adjoining properties.

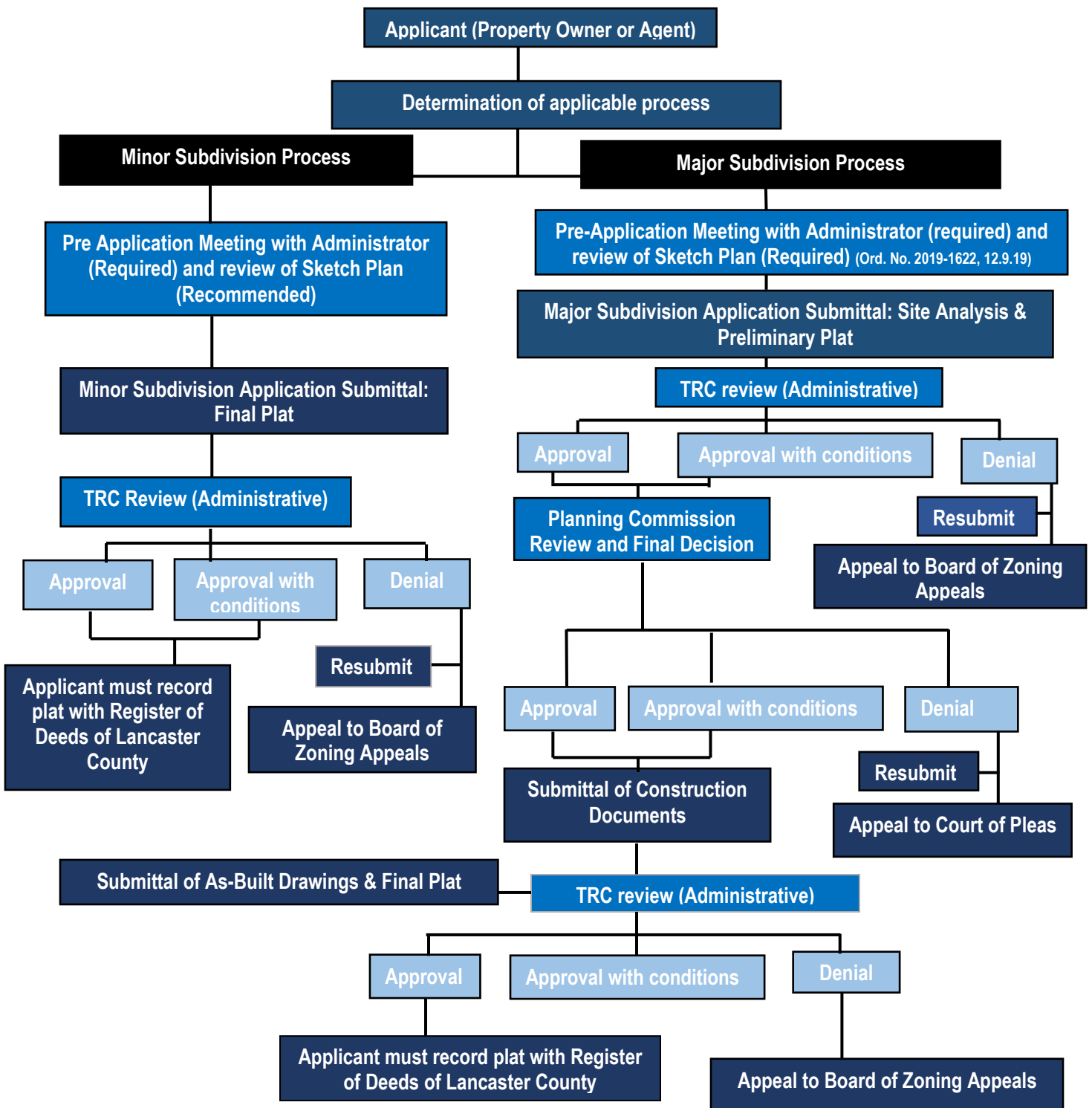
- e. General Site Design:** The following characteristics shall be incorporated into the mixed-use development:
- i.** Pedestrian accessibility/concentration of development (critical mass) in a compact, walkable area.
 - Uses are concentrated to promote convenient pedestrian access. Large projects concentrate uses in multiple nodes, each preferably within a quarter-mile diameter.
 - Pedestrian circulation is clearly defined and connects all uses.
 - Bicycle and pedestrian access are provided to adjacent developments.
 - Sidewalks are provided on each side of rights-of-way or private streets throughout the development.
 - Strip commercial development characterized by single story uncoordinated, unconnected buildings with large street frontage parking lots is specifically prohibited. Strip malls with uncoordinated, unconnected out parcels are prohibited. All structures are fully integrated into the mixed use project through common design themes (including, but not limited to, lighting, benches, landscaping, other decorative features but not necessarily building design), integration with a variety of uses, nonlinear arrangement, common spaces, pedestrian walkways, vehicular access connections and other features.
 - ii.** Plazas, courtyards and other common areas are provided for public gathering and interaction. Amenities, such as benches, planters, lighting, fountains, art and landscaping that further the design theme of the project and encourage interaction shall be provided.
 - iii.** Mixed use projects require special attention to building design because of the relationship of land uses in close proximity. Functional integration of residential and commercial uses shall be considered during design of mixed use projects. The following standards are intended to guide development of mixed-use projects:
 - The mixed use development shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development through the use of complementary materials, unified streetscape treatment, buffering, connectivity for vehicular and pedestrian movement, building orientation, parking location and height transition.
 - Residential and commercial uses may be located within the same or adjoining structures, provided applicable health and safety regulations are followed.
 - Structures shall provide architectural relief and interest, with emphasis at building entrances and along sidewalks, to promote and enhance a comfortable pedestrian scale and orientation. Structures shall have consistent scale and massing to create a unified project. Compatibility with the immediate context is required. However, gradual transitions in scale and massing are permitted.
 - Blank walls shall be avoided by including ground floor windows, recesses, extensions and breaks in roof elevation.
 - Design shall provide differentiation between ground level spaces and upper stories. For example, bays or balconies for upper levels, and awnings, canopies or other similar treatments for lower levels can provide differentiation. Variation in building materials, trim, paint, ornamentation, windows, or other features such as public art, may also

be used.

- Design shall ensure privacy in residential sectors through effective window placement, soundproofing, landscape screening or orientation of outdoor living areas (e.g., balconies, porches and patios). Opposite facing windows at close distances should be offset vertically or horizontally, or employ appropriate materials (e.g., glazed or tinted) to protect privacy.
 - f. Housing diversity shall be required within the district - At least two (2) different residential types (attached, detached, multiple family, or two family) with a range of prices and sizes shall be incorporated into the development. Single-family lot sizes shall be varied to provide a mixture of lot sizes.
 - g. Permitted flexibility in lot sizes, setbacks, street widths and landscaping shall result in a more livable development, preservation of natural features and creation of open space consistent with the policies of the comprehensive plan and this ordinance.
 - h. Mixed-use developments shall not be gated and shall be interconnected to surrounding developments. Mixed-use projects shall be designed as an integral part of the surrounding community and not as an isolated development.
- 10. Review by Planning Commission:** Applications for Mixed-Use District/Master Development Plan are heard by the Planning Commission, who conveys recommendations for action to the County Council. Following an approval or approval with conditions, the applicant shall be directed to submit the Mixed-Use District/Master Development Plan for final approval by the County Council.
- 11. Appeals:** An appeal from the decision of the County Council regarding a Mixed-Use District/Master Development Plan request may be made by an aggrieved party and shall be made to the Court of Common Pleas in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the County Council.
- 12. Permit Validity:** Upon the approval of the Mixed-Use District/Master Development Plan, the applicant shall have one year to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Zoning Permit and any subsequent building permits.
- 13. Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

9.2.10 SUBDIVISIONS

SUBDIVISION PROCESS CHART



A. SUBDIVISION (MINOR AND RECOMBINATION)

1. **Applicability:** The Minor Subdivision review process is allowed for any recombination of land, and for those divisions of land which:

- do not require dedication of public utilities or public streets, or changes to existing streets, and
- subdivide land into 5 or fewer lots, and
- do not result in an increase in the number of lots/parcels included in a subdivision previously approved by Lancaster County, and
- do not involve any other conditions that require any additional approval(s) from any County board or commission, as determined by the Administrator or TRC.

Any division of land which does not meet all of the above criteria shall be required to use the Major Subdivision process, except that multi-family buildings with units under separate individual ownership including, but not limited to, townhome and condominium developments, may also submit minor subdivision plats after the common walls of the building are established.

2. **Process Type:** Administrative.
3. **Pre-Application Procedure:** No meeting is required but, applicants are encouraged to call, email, or visit the Administrator for clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a Sketch Plan to the Administrator prior to or at a pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Minor Subdivision Plan.
4. **Required Application Information:** Final Plat by an SC-registered land surveyor. A Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the TRC shall review the application and approve, deny, or approve with conditions the Minor Subdivision Plat based on compliance with the land development standards contained in this ordinance within 60 working days of its submittal. If no action is taken by the TRC within this time period, the Minor Subdivision Plat shall be deemed approved.
6. **Public Notification:** None required.
7. **Appeals:** Appeals of the decisions of the TRC staff regarding subdivision of land shall be heard by the Planning Commission. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner's agent, and the Planning Commission must act on the appeal within sixty (60) days.
8. **Permit Validity:** Upon approval of a plat for a Minor Subdivision, said plat shall be signed in the appropriate place by the Administrator and the owner(s). Minor Subdivision plats that have been granted approval shall be recorded within 180 days following approval or the approval becomes invalid. A plat for Minor Subdivision must be recorded in the office of the Register of Deeds of Lancaster County. No lots shall be sold prior to approval by the County and the recording of the plat for the subdivision.
9. **Permit Extension:** The TRC may grant a single extension of this time period of up to 180 days upon submittal by the applicant of sufficient justification for the extension.

10. **Revisions of Plat After Approval:** Where minor lot line measurements or other minor deviations from the approved Minor Subdivision Plat occur in association with in-the-field construction adjustments, such minor modifications may be approved at the discretion of the Administrator before the plat is recorded. Changes other than minor ones associated with in the field construction adjustments shall be subject to approval by the TRC.

B. SUBDIVISION (MAJOR) – PRELIMINARY PLAT

1. **Process Type:** Administrative.
2. **Permit Required Before Any Land Disturbing Activity:** No land-disturbing activity shall take place until a Preliminary Plat has been approved.
3. **Pre-Application Procedure:** It is required that every applicant for a Major Subdivision meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. The applicant will be required to provide a Sketch Plan to the Administrator prior to the pre-application conference. (Ord. No. 2019-1622, 12.9.19) The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Subdivision Plan.
4. **Required Application Information:** Site Analysis & Preliminary Plat and a Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the TRC shall review the application and approve, deny, or approve with conditions the Preliminary Plat based on compliance with the land development standards contained in this ordinance within 65 working days of its submittal. If no action is taken by the Planning Commission within this time period, the Preliminary Plat shall be deemed approved.
6. **Public Notification:** 1, 2, and 3.
7. **Decisions:** Following an approval or approval with conditions of the Preliminary Plat by the Planning Commission, the applicant will be directed to prepare detailed Construction Documents for review by the Administrator and members of the TRC (as necessary). If the TRC disapproves or approves the Construction Documents, the reasons for such action shall be stated in writing. The applicant may make changes and submit a revised plan which revision shall be submitted, reviewed and acted on in accordance with the procedures set forth in this section. Once the applicant secures an approved Preliminary Plat and Construction Documents, the applicant will be directed to proceed to the preparation of a Final Plat.
8. **Appeals:** Appeals of the decisions of the Planning Commission shall be heard by the Circuit Court, per SC Code of Laws §6-29-1150 (D) (1). Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner's agent.
9. **Permit Validity:** Approval of a Preliminary Plat shall be valid for 2 years from the date of approval. If the approved Preliminary Plat provides for multiple phases within the subdivision, a Final Plat approval for any one phase shall extend the Preliminary Plat approval for all other phases for a period of up to 2 years from the date of the Final Plat approval for that phase. If a Final Plat approval has not been obtained prior to the end of this 2 year period, the Preliminary Plat approval shall become void.
10. **Permit Extension:** The Administrator may grant a single extension of this time period of

up to one year upon submittal by the applicant of sufficient justification for the extension.

C. SUBDIVISION (MAJOR) – FINAL PLAT

1. **Process Type:** Administrative.
2. **Improvements to Be Installed or Guaranteed:** All required infrastructure improvements shall be either installed or financially guaranteed in accordance with Chapter 6 and all other local, State and Federal regulations.
3. **Revisions of Preliminary Plat After Approval:** Where minor lot line measurements or other minor deviations from the approved Preliminary Plat occur in association with in-the-field construction adjustments, such minor modifications may be approved at the discretion of the Administrator before the plat is recorded. Changes other than minor ones associated with in-the-field construction adjustments shall be subject to approval by the TRC.
4. **As-Built Required:** Upon completion of required improvements, and before a Final Plat shall be granted (unless financially guaranteed), the applicant shall certify that the completed improvements are in accordance with the approved plans and designs, and shall submit actual “as built” plans for all public infrastructure after final construction is completed.
5. **Required Application Information:** Final Plat and a Stormwater Permit shall be required as prerequisite approvals.
6. **Determination of Conformity:** The Final Plat of a Major Subdivision shall be reviewed by the TRC for compliance with the requirements of this chapter and for conformity with the approved Preliminary Plat. Provided the application has been deemed complete, the TRC shall approve, deny, or approve with conditions the Final Plat within 65 working days of its submittal. If no action is taken by the TRC within this time period, the Final Plat shall be deemed approved.
7. **Public Notification:** None required.
8. **Appeals:** Appeals of the decisions of the TRC staff regarding subdivision of land shall be heard by the Planning Commission. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner’s agent, and the Planning Commission must act on the appeal within sixty (60) days.
9. **Effect of Approval:** The approval of a Final Plat does not constitute acceptance for maintenance or other purposes of improvements in rights-of-way, such as utility lines, street paving, drainage facilities or sidewalks. Such improvements, when located within the unincorporated areas of Lancaster County, may be accepted only by action of the County following inspection and approval. Land designated as public open space or a park on a plat shall be considered to be offered for dedication, but not accepted until County Council has by expressed action done so.
10. **Phasing:** Final plats for phased subdivisions shall be reviewed and recorded individually in accordance with the schedule presented by the applicant during the Preliminary Plat approval.
11. **Permit Validity:** Final plats for Major Subdivisions that have been granted approval must be recorded within 180 days following approval or the approval becomes invalid. No lots shall be sold prior to approval by the County and recording of the Final Plat for the subdivision.
12. **Permit Extension:** The TRC may grant a single extension of this time period of up to 180 days upon submittal by the applicant of sufficient justification for the extension.

9.2.11 STREET NAMES Reserved

9.2.12 VARIANCES

A. PURPOSE/LIMITATIONS

1. **Purpose:** The variance process administered by the Board of Zoning Appeals is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance.
2. **Financial Hardship Not Sufficient Ground for Variance:** It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general or to increase the profitability of a proposed development.
3. **Use Variances Not Permitted:** In no event shall the Board of Zoning Appeals grant a variance which would allow the establishment of a use which is not otherwise allowed in a land development district or which would change the land development district classification or the district boundary of the property in question. Nor shall the Board grant a variance which would allow the establishment of a use set forth herein as requiring certain conditions or standards under conditions or standards less than those minimums.
4. **Authority Limited to this Ordinance/ Conflicts with other Laws Prohibited:** In no event shall the Board of Zoning Appeals grant a variance which would conflict with the International Building Code, as amended, or any other state code unless otherwise authorized by duly enacted applicable laws and regulations.

B. FILING PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Pre-Application Procedure:** Every applicant for a variance is strongly encouraged to meet with the Planning and Zoning Department in a pre-application conference prior to the submittal of a request for a variance. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
3. **Filing Procedure:** An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application.
4. **Required Application Information:** All information relevant to describing the applicant's request to the Board of Zoning Appeals.
5. **Public Notification:** Level 1, 2, and 3.
6. **Determination of Completeness:** Staff shall review an application for a variance to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Board of Zoning Appeals. The Administrator shall prepare a staff report regarding the submitted variance application.

C. FORMAL REVIEW

1. **Action by the Board of Zoning Appeals**
 - a. Upon receipt of the request for a variance from the Administrator, the Board of Zoning Appeals shall hold a quasi-judicial hearing on the request.
 - b. After conducting the hearing, the Board of Zoning Appeals may: deny the application; conduct an additional public hearing on the application; or grant the application. It shall take a majority vote of the Board to grant a variance.
 - c. A decision by the Board of Zoning Appeals shall be made within 30 days of the date of the hearing.

- d. The Board of Zoning Appeals, as established by Lancaster County, shall hear and decide requests for variances from the requirements of the standards for the Flood Damage Prevention standards located in Chapter 8.

2. Standard of Review

- a. **General Variance Requests:** The Board of Zoning Appeals shall not grant a variance unless and until it makes all of the following findings:

- b. (i) there are extraordinary and exceptional conditions pertaining to the particular piece of property;

(ii) these conditions do not generally apply to other property in the vicinity;

(iii) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(iv) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. **Floodplain Variance Procedures:** Variances from the standards set forth in this ordinance for flood damage prevention may be granted according to the following provisions.

- i. **Floodways:** Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to ensure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100 percent of the cost to perform the development.
- ii. **Conditions:** Upon consideration of the factors listed above and the purposes of this ordinance, the BZA may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. The following conditions shall apply to all variances:
 - Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
 - Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk. Such notification shall be maintained with a record of all variance actions.
 - The local Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

- Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Section 9.2.8.5.e of this ordinance.
- iii. **Considerations:** In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance and:
 - The danger that material may be swept onto other lands to the injury of others;
 - The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - The importance of the services provided by the proposed facility to the community;
 - The necessity to the facility of a waterfront location, where applicable;
 - The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
 - The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and
 - Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.
- iv. **Historic Structures:** Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- v. **Functionally Dependent Uses:** Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Section are met, no reasonable alternative exist, and the development is protected by methods that minimize flood damage and create no additional threat to public safety.
- vi. **Agricultural Structures:** Variances may be issued to wet floodproof an agricultural structure provided it is used solely for agricultural purposes. In

order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of Section 9.2.12.C.2.b.i, this section, and the following standards:

- Use of the structure must be limited to agricultural purposes as listed below:
 - Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;
 - Steel grain bins and steel frame corncribs;
 - General purpose barns for the temporary feeding of livestock that are open on at least one side;
 - For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures that were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of Section 8.2.2.B of this ordinance.
- The agricultural structure must be built or rebuilt, in the case of an existing building that is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation.
- The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood velocities exceed 5 feet per second, fast-flowing floodwaters can exert considerable pressure on the building's enclosure walls or foundation walls.
- The agricultural structure must meet the venting requirement of Section 8.2.2.D of this ordinance.
- Any mechanical, electrical, or other utility equipment must be located above the base flood elevation, plus any required freeboard, or be contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 8.2.1.E of this ordinance.
- The agriculture structure that comply with the floodway encroachment provisions of Section 8.2.2.E of this ordinance.
- Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risks to lives and that the contents will be located to a specified site out of the floodplain.

- vii. **Findings:** Findings listed above shall be submitted to the BZA, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.

D. APPEALS

An appeal from the decision of the Board of Zoning Appeals regarding a variance request may be made by an aggrieved party and shall be made to the Court of Common Pleas in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Zoning Appeals.

E. LEGAL STATUS PROVISIONS

1. Effect on Rights and Liabilities under the Existing Flood Damage Prevention

Ordinance: This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted March 23, 2011 and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Lancaster County enacted on March 23, 2011, as amended, which are not reenacted herein, are repealed.

2. Effect upon Outstanding Building Permits:

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Official or authorized agents before the time of passage of this ordinance; provided, however, that when start of construction has not occurred under such outstanding permit within a period of 60 days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

9.2.13 SPECIAL EXCEPTIONS (SE)

Special exceptions are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special exceptions ensure the appropriateness of the use at a particular location within a given zoning district. Applications requiring a Special Exception Permit are noted in the Use Table – Section 2.5.3. Specific additional standards related to Special Exception Permit approval are located in Chapter 3.

A. APPLICATION PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Pre-Application Meeting:** Every applicant for a Special Exception Permit is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
3. **Required Application Information:** An application for a Special Exception Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Each application for a Special Exception Permit shall contain, at a minimum, a Site Analysis, Preliminary Plat and Building Elevations for Design Review (may be waived by Administrator as appropriate). Other information necessary to show that the use or structure complies with the standards set forth in this ordinance shall also be provided.
4. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Board of Zoning Appeals.

B. REVIEW PROCESS

1. **Public Notification:** Level 1, 2, and 3.

2. **Neighborhood Meeting:** Optional.
3. **Public Hearing:** The Board of Zoning Appeals shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
4. **Board of Zoning Appeals Decision:** Following the public hearing, the Board of Zoning Appeals may approve, deny, or approve with conditions the application for a Special Exception Permit within 35 days of the date of the public hearing.
5. **Findings of Fact:** In addition to determining that the application meets all other requirements of this ordinance (no variances are permitted), the Board of Zoning Appeals must find the following:
 - a. That the proposed special exception conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site;
 - b. That adequate measures will be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads;
 - c. That adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use;
 - d. That the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;
 - e. That the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the land development district; and
 - f. That the establishment, maintenance and/or operation of the proposed use will not be detrimental to or endanger the public health, safety or general welfare.
 - g. That the establishment will be operated in compliance with all local, state and federal laws and will not become a nuisance by creating criminal activity or public disturbance.
6. **Additional Conditions:** The Board of Zoning Appeals may place conditions on the use as part of the approval to assure that appropriate mitigation measures are associated with the use. The conditions shall become part of the Special Exception Permit approval and shall be included in the final site plan application.
7. **Revocation of Special Use Permits:** If at any time after a Special Exception Permit has been issued for any special use, the Board of Zoning Appeals finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a Special Exception Permit, the permit shall immediately be terminated and the operation of such a use discontinued. Any such "finding" shall be made in an open meeting of the Board in full compliance with the review process herein described, and the permit holder's right to due process shall be maintained. If a Special Exception Permit is terminated for any reason, it may be reinstated only after a public hearing is held.

C. EFFECT OF DECISIONS

1. **Appeals:** An appeal from the decision of the Board of Zoning Appeals regarding a Special Exception Permit application may be made by an aggrieved party and shall be made to the Circuit Court of Lancaster County in the nature of certiorari. Any such petition to the Circuit Court shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Zoning Appeals.
2. **Permit Validity:** Following the approval of a Special Exception Permit the applicant shall

have 2 years to obtain a building permit or the Special Exception Permit shall become void. Such permit shall remain valid as long as a valid building permit exists for the project.

3. **Permit Extension:** The Board of Zoning Appeals may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension.

9.2.14 APPEAL OF ADMINISTRATIVE DECISIONS

A. APPLICABILITY

This process is hereby established to provide an appeal process for parties aggrieved by any administrative order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this ordinance.

B. FILING PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the County. Such an appeal shall be made to the County within 30 days of the receipt of the written notice of decision from the County.
3. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Court of Common Pleas on notice to the administrative official from whom the appeal is taken with due cause shown.
4. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Zoning Appeals is required. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
5. **Public Notification:** Level 1 and 3.

C. FORMAL REVIEW

1. Upon receiving the application, the Board shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
2. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a 4/5ths vote of the Board to reverse or modify the contested action.
3. The Board, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.
4. The decision of the Board must be in writing and permanently filed in the minutes of that reviewing body as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board, which must be delivered to parties of interest by certified mail.

D. APPEALS

Any appeal from a decision of the Board of Zoning Appeals may be made by an aggrieved party and shall be made to the Circuit Court of Lancaster County in the nature of certiorari. Any such petition shall be filed no later than 30 days after the applicant receives a written copy of the decision of the Board of Zoning Appeals.

9.2.15 TEXT AMENDMENTS AND REZONINGS

The County Council may from time to time amend any part of the text of this ordinance or amend the Zoning Map of the County.

A. APPLICATION PROCEDURES

1. **Process Type:** Legislative.
2. **Applicants:** Map or text amendments may be submitted by any of the following:
 - The County Council.
 - The Planning Commission.
 - The Board of Zoning Appeals.
 - The Planning and Zoning Department.
 - Any owner of property within the land use jurisdiction of the County.
3. **Pre-Application Procedure:** Before filing a petition of an amendment, an applicant (if an owner requesting a map amendment) shall meet with the Administrator to discuss the proposed amendment or request and to become more familiar with the applicable requirements and approval procedures of the County.
4. **Content of Application:** A petition for an amendment to the County's official land development map or text shall be filed on a form provided by the Administrator. Such a petition shall contain all the information required on the form and must be determined to be complete by the Administrator prior to advancing it through the review process.
5. **Determination of Completeness:** Staff shall review an application for amendment to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Planning Commission. The Administrator shall prepare a staff report and recommendation on the matter.

B. REVIEW BY PLANNING COMMISSION

1. **Public Notification (Prior to Planning Commission):** Levels 1 and 2, are required for all amendments to the UDO. Level 3 is required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to, map amendments (rezonings), amendments to zoning district boundaries, and the application of new overlay zones.
2. **Neighborhood Meeting:** Optional.
3. **Consideration by Planning Commission:** The Planning Commission shall conduct a public hearing and receive public input on the proposed amendment and shall provide a written recommendation to the County Council regarding whether to approve or deny each proposed amendment within 30 days of its first consideration on the matter. The recommendation shall address consistency with the Comprehensive Plan and other matters deemed appropriate by the Commission. A recommendation for denial of the petition shall not preclude consideration or approval of the proposed amendment by the County Council.

C. CONSIDERATION BY COUNTY COUNCIL

1. **Public Notification (Prior to Planning Commission):** Level 1 and 2 are required for all amendments to the UDO. Level 3 is required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to, map amendments (rezonings), amendments to zoning district boundaries, and the application of new overlay zones.
2. **Consideration by the County Council:** Following receipt of a recommendation or appeal of a proposed amendment, the County Council may:

- a. Adopt the proposed amendment.
- b. Adopt the proposed amendment with modifications.
- c. Reject the proposed amendment.
- d. Refer the proposed amendment back to the Planning Commission for further consideration.
- e. Refuse to take any further action.

D. WAITING PERIOD FOR SUBSEQUENT APPLICATIONS

When an application for an amendment has been denied by the County Council, no application shall be considered on the same zoning amendment request affecting the same property or part thereof within the next 12 months after denial. This 12 month period does not apply to action initiated by either the County Council or Planning Commission. (Ord. No. 2019-1599, 8.26.19)

9.2.16 CONDITIONAL USE

The County Council may from time to time approve Conditional Use permits.

A. APPLICATION PROCEDURES

1. **Process Type:** Legislative.
2. **Applicants:** Conditional Use permits may be submitted by any of the following:
 - Any owner of property within the land use jurisdiction of the County.
3. **Pre-Application Procedure:** Before filing a petition for a Conditional Use, an applicant shall meet with the Administrator to discuss the proposed Conditional Use request and to become more familiar with the applicable requirements and approval procedures of the County.
4. **Content of Application:** A petition for a Conditional Use shall be filed on a form provided by the Administrator. Such a petition shall contain all the information required on the form and must be determined to be complete by the Administrator prior to advancing it through the review process.
5. **Determination of Completeness:** Staff shall review an application for a Conditional Use to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Planning Commission. The Administrator shall prepare a staff report and recommendation on the matter.

B. REVIEW BY PLANNING COMMISSION

1. **Public Notification (Prior to Planning Commission):** Levels 1, 2, and 3 are required for Conditional Use applications.
2. **Neighborhood Meeting:** Optional.
3. **Consideration by Planning Commission:** The Planning Commission shall conduct a public hearing and receive public input on the proposed use and shall provide a written recommendation to the County Council regarding whether to approve or deny the proposed use within 35 days of its first consideration on the matter. The recommendation shall address consistency with Chapter 5 and the surrounding neighborhood and other matters deemed appropriate by the Commission. A recommendation for denial of the petition shall not preclude consideration or approval of the proposed use by the County Council.

C. CONSIDERATION BY COUNTY COUNCIL

1. **Public Notification (Prior to Planning Commission):** Level 1 and 2 are required for

all conditional uses to the UDO. Level 3 is also required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to, Conditional Use.

2. **Consideration by the County Council:** Following receipt of a recommendation of a proposed amendment, the County Council may:
 - a. Approve the proposed use.
 - b. Approve the proposed use with restrictions.
 - c. Reject the proposed use.
 - d. Refer the proposed use back to the Planning Commission for further consideration.

(Ord. No. 2018-1521, 7.16.18)

D. WAITING PERIOD FOR SUBSEQUENT APPLICATIONS

When an application for a use has been approved or denied by the County Council, no application shall be considered on the same issue within the next 12 months after approval or denial.

9.2.17 VESTED RIGHTS

A. ESTABLISHMENT OF VESTED RIGHTS

1. A vested right is established for two years upon the approval of a Site-Specific Development Plan.
2. The landowner of real property with a vested right may apply in writing before the end of the vesting period or within 30 days after the expiration of the vesting period or any extension thereof but not thereafter to the Lancaster County Planning Commission for an annual one-year extension of the vested right. The Planning Commission must approve applications for at least five annual extensions of the vested right if a timely and proper application has been filed with the Planning Commission unless an amendment to the UDO has been adopted that prohibits approval. If no timely and proper written application is made by the landowner to the Planning Commission for an annual extension, the vesting period or annual extension applicable to such real property shall expire at the end of the vesting period or the annual extension thereof.
3. The Planning Commission shall not provide for or approve the establishment of a two-year vested right in a conditionally approved site-specific development plan. No two-year vested right is established in a conditionally approved site-specific development plan until such vested right is specifically and expressly approved by the Planning Commission in writing when a site-specific development plan is approved without conditions.
4. The Planning Commission shall not approve the establishment of a vested right in an approved phased development plan but may approve and establish a vested right in any phase of a phased development plan which conforms to, complies with, and satisfies all state statutes and county codes and ordinances including, but not limited to, planning, zoning, subdivisions, stormwater management and control, building, fire, water and sewer, road, and other state and county codes applicable to such development.
5. No vested right in a site-specific development plan shall attach or be established until plan applications and required documents have been received, all required approvals have been given or granted, and all fees have been paid in accordance with the procedures outlined in this code. No vested right attaches or is established until a final decision has been rendered favorable to the applicant on all administrative appeals.

6. The Lancaster County Board of Zoning Appeals is not authorized to grant or approve a vested right and no vested right shall be established, created, or accrue as a result of any decision of the Board of Zoning Appeals.

B. CONDITIONS AND LIMITATIONS

1. A vested right established in Chapter 9-and in accordance with the UDO is subject to the following conditions and limitations:
 - a. The form and content of a site-specific development plan submitted by a landowner must conform and comply with county planning, zoning, subdivision, stormwater management and sediment control, building, electrical, mechanical, life safety, fire, water and sewer, road, and other codes, ordinances, and regulations applicable to such development or development plan;
 - b. No vested right in a site-specific development plan shall be established except in conformity with county planning, zoning, subdivision, stormwater management and sediment control, building, electrical, mechanical, life safety, fire, water and sewer, road, and other land use codes, ordinances, and regulations;
 - c. If the Planning Commission approves a vested right for one or more phases of a phased development plan, a site-specific development plan shall be required for approval with respect to each phase in accordance with regulations in effect at the time of vesting;
 - d. No vested right is established under a conditionally approved site-specific development plan or conditionally approved phased development plan. Any approved site-specific development plan or approved phased development plan or phase thereof may be terminated by the Planning Commission upon its determination, following notice and a public hearing, that the landowner has failed to meet the terms of the approval; and
 - e. A vested right established in accordance with the provisions of Chapter 9 shall be vested upon approval by the Planning Commission of the site-specific development plan or specific phase of a phased development plan that authorizes the developer or landowner to proceed with investment in grading, installation of utilities, streets, and other infrastructure and to undertake other specific expenditures necessary to prepare for application for a building permit. No developer or landowner shall proceed with investment in grading, installation of utilities, streets or other infrastructure, or shall undertake other significant expenditures necessary to prepare for application for a building permit before a site-specific development plan or phased development plan or phase thereof authorizing such improvements and expenditures has been approved by the Planning Commission. No investment in grading, installation of utilities, streets or other infrastructure, or other significant expenditures shall give rise to or establish a vested right until the Planning Commission has approved the site-specific development plan or phased development plan or phase thereof that authorizes the developer or landowner to proceed with improvements or undertake other significant expenditures on the real property which is proposed for development.
2. A site-specific development plan for which a variance, regulation, or special exception is necessary, does not qualify and may not claim or receive vested right status unless and until the variance, regulation, or special exception is obtained and the site-specific development plan has been approved without conditions or exceptions. A phased development plan for which a variance, regulation, or special exception is necessary does not qualify and may not obtain a vested right until the variance, regulation, or special exception is obtained and the phase of the phased development plan has been approved without condition or

exception.

3. A vested right for a site-specific development plan expires two years after vesting; provided, however, that the landowner of real property with a vested right may apply to the Planning Commission before the end of the vesting period or within 30 days after the expiration of the vesting period or any extension thereof, but not thereafter, for an annual extension of the vested right for a period of one year. If a timely and proper written application is made, the Planning Commission must approve applications for no more than five successive annual extensions unless an amendment to the UDO has been adopted that prohibits approval of such annual extension applications. The Planning Commission shall designate the vesting point for a phased development plan as the date of approval of each phase of the phased development plan. The Planning Commission may extend the time for a vested site-specific development plan to a total of five years upon a determination that there is just cause for the extension and that the public interest is not adversely affected. Upon expiration of a vested right, a building permit may be issued for development only in accordance with the applicable UDO regulations.
4. .
5. A validly issued building permit does not expire or is not revoked upon expiration or termination of a vested right, except for public safety reasons or as prescribed by the applicable building code. Vested right to a site-specific development plan or a phase of a phased development plan may be revoked by the Planning Commission upon its determination, after notice and a public hearing, that there was a material misrepresentation by the landowner or substantial non-compliance with the terms and conditions of the original or amended approval.
6. A vested site-specific development plan or a vested phase of a phased development plan is subject to later enacted Federal, State, or local laws or ordinances adopted to protect public health, safety, and welfare, including, but not limited to, building, fire, plumbing, electrical and mechanical codes, and non-conforming structure and use regulations which do not provide for the grandfathering of the vested right. The issuance of a building permit vests the specific construction project authorized by the building permit to the building, fire, plumbing, electrical and mechanical codes in force at the time of the issuance of the building permit.
7. A vested site-specific development plan or vested phased development plan or phase thereof is subject to later local governmental overlay zoning that imposes site plan-related requirements but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses.
8. A change in the zoning district designation or land use regulations made subsequent to vesting that affects real property does not operate to affect, prevent, or delay development of the real property under a vested site-specific development plan or vested phase of a phased development plan without the consent of the landowner.
9. The Lancaster County Council; the Planning Commission; and local zoning, planning, and codes officials must not require a landowner to waive his or her vested rights as a condition of approval or conditional approval of a site-specific development plan or phased development plan or phase thereof.

C. NATURE OF VESTED RIGHT

A vested right pursuant to this subchapter or the Vested Rights Act, being S.C. Code § 6-29-1520 *et seq.*, is not a personal right but attaches to and runs with the applicable real property. The landowner and all successors to the landowner who secure a vested right pursuant to the Vested Rights Act or this subchapter may rely upon and exercise the vested right for its

duration, subject, however, to applicable Federal, State, and local laws adopted to protect public health, safety, and welfare, including, but not limited to, building, fire, plumbing, electrical and mechanical codes, and non-conforming structure and use regulations which do not provide for grandfathering of the vested right. Nothing contained herein shall preclude judicial determination that a vested right exists or does not exist pursuant to other statutory provisions.

D. LANDOWNER RIGHTS DEEMED VESTED

1. The landowner's rights are considered vested in the types of land use and density or intensity of uses defined in the development plan, and the vesting is not affected by later amendments to the UDO if the landowner:
 - a. Obtains or is the beneficiary of a significant affirmative government act that remains in effect allowing development of a specific project;
 - b. Relies in good faith on the significant affirmative government act; and
 - c. Incurs significant obligations and expenses in the diligent pursuit of the specific project in reliance on the significant affirmative government act.
2. For purposes of this section, the following are significant affirmative governmental acts allowing development of a specific project:
 - a. The Lancaster County Council has accepted exactions or issued conditions that specify a use related to a zoning amendment;
 - b. The Lancaster County Council has approved an application for a rezoning for a specific use;
 - c. The Lancaster County Council or Planning Commission has approved an application for a density or intensity of use;
 - d. The Lancaster County Council or Planning Commission has granted a use permit with conditions;
 - e. The Lancaster County Council or Planning Commission has approved a variance;
 - f. The Planning Commission has approved a preliminary subdivision plat, site plan, or plan of phased development for the landowner's property and the applicant diligently pursued approval of the final plat or plan within a reasonable period of time under the circumstances; or
 - g. The Planning Commission has approved a final subdivision plat, site plan, or plan of phased development or phase thereof for the landowner's property.

9.2.18 DEVELOPMENT AGREEMENTS

A. APPLICABILITY (Ord. No. 2019-1623, 12.9.19)

1. Development Agreements are permitted in all residential zoning districts and in association with all residential uses or developments regardless of zoning districts.
2. Development Agreements are required for all land development projects that wish to develop property utilizing the Cluster Subdivision Overlay District.
3. Development Agreements are required for all land development projects that seek rezoning to a mixed-use zoning district.

4. At the time a developer makes application for a development agreement, the developer shall submit to the clerk:
 - a. A letter stating that the developer is seeking a development agreement;
 - b. A proposed agreement containing, at a minimum, the information required by Section 9.2.18.C; and
 - c. A check as required by Section 9.2.18.F.
5. Upon receipt by the clerk, the clerk shall provide copies of the developer's letter and proposed agreement to each member of the council.
6. Council may, in its discretion:
 - a. Provide for the appointment of an ad hoc committee of the council, to review and make recommendations to the council on the content and disposition of the proposed agreement;
 - b. Request the review by and comment of any county agency, department, board or commission and such agency, department, board or commission shall, upon request of the council, make appropriate resources and personnel available to the council to facilitate the council's review and consideration of the proposed agreement;
 - c. Make arrangements as may be necessary or proper to enter into agreements, including negotiating and drafting of agreements; and
 - d. Engage such consultants and professional service providers as may be needed including, but not limited to, engineering, financial, legal or other special services.
7. The clerk shall forward a copy of the proposed agreement to the planning commission. The planning commission shall review the proposed agreement and make recommendations to the council not later than the time the planning commission makes its recommendations to the council on any proposed rezoning sought by the developer, if any rezoning request is applicable.
8. At least two public hearings on the proposed agreement shall be conducted. One of the two required public hearings shall be held by the planning commission and the other shall be held by council. Not less than 15 days' notice of the time and place of each hearing shall be published in at least one newspaper of general circulation in the county. The notices published for the public hearings must include the information required to be published by Code Section 6-31-50(B).
9. No agreement may be entered into by the county unless the agreement has been approved by council through the adoption of an ordinance. Any agreement approved by council must contain the information required by Section 9.2.18.C.

B. FILING PROCEDURES

1. **Process Type:** Legislative.
2. **Public Notification:** Level 1 and 2.

C. REQUIRED AGREEMENT INFORMATION (Ord. No. 2019-1623, 12.9.19)

The proposed agreement filed by the developer, as provided in Section 9.2.18.A, must include:

1. A legal description of the property subject to the agreement and the names of the property's legal and equitable owners;

2. The duration of the agreement which must comply with Code Section 6-31-40;
3. A representation by the developer of the number of acres of highland contained in the property subject to the agreement (minimum 25-acres highland) (Ord. No. 2019-1623, 12.9.19);
4. The then current zoning of the property and a statement, if applicable, of any proposed rezoning of the property;
5. The development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities and height;
6. A description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the county shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer;
7. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement;
8. A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the 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 finding that the development permitted or proposed is consistent, or will be consistent by the time of execution of the agreement, with the county's comprehensive plan and land development regulations;
10. A description, where appropriate, of any provisions for the preservation and restoration of historic structures;
11. A development schedule including commencement dates and interim completion dates at no greater than five year intervals;
12. If more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement;
13. A listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers or portions of the County Code of Ordinances or both;
14. A provision, consistent with Code Section 6-31-80, addressing the circumstances under which laws and land development regulations adopted subsequent to the execution of the agreement apply to the property subject to the agreement;
15. A provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly-incorporated area and, if so, that the provisions of Code Section 6-31-110 apply;
16. A provision that:
 - a. The agreement may be amended or cancelled by mutual consent of the parties to the agreement or their successors in interest;

- b. If the amendment constitutes a major modification of the agreement, the major modification may occur only after public notice and a public hearing by the council, provided, that, for purposes of this subitem, a "major modification" means: (i) significant changes to the development scheduled time-frames set forth in the agreement; (ii) density modifications; (iii) land use changes; (iv) any major miscalculations of infrastructure or facility needs which create demand deficiencies; or (v) any other significant deviation from the development as contained in the agreement;
 - c. If the developer requests an amendment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified by the council if the developer is able to demonstrate and establish that there is good cause to modify those dates; and
 - d. The agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the agreement is entered into which prevents or precludes compliance with one or more of the provisions of the agreement;
- 17. A provision for periodic review, consistent with the provisions of Section 9.2.18.G;
 - 18. A provision addressing the effects of a material breach of the agreement, consistent with the provisions of Section 9.2.18.E;
 - 19. A provision that the developer, within 14 days after the county enters into the agreement, will record the agreement with the county clerk of court;
 - 20. A provision that the burdens of the agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement; and
 - 21. A provision addressing the conditions and procedures by which the agreement may be assigned; and
 - 22. For properties proposed to be rezoned to one of the Mixed-Use Districts in UDO Chapter 3, a complete Mixed-Use District Master Development Plan prepared in accordance with UDO Chapter 9.2.9(B); and
 - 23. For properties proposed to be rezoned to a non-mixed use residential district, a conceptual master plan showing the overall design intent of the project including, but not limited to subject property boundary, proposed street and pedestrian network, proposed lots, proposed open space and amenity features, preliminary stormwater improvements, environmentally sensitive areas, and any offsite improvements; and
 - 24. A traffic impact analysis prepared in accordance with UDO Chapter 6.8 and SCDOT standards.

D. OPTIONAL AGREEMENT INFORMATION

The agreement approved by the council must include the information listed in Section 9.2.18.C and, in addition, may include:

- 1. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the council for the public health, safety, or welfare of the county's citizens;
- 2. Requirements that the entire development or any phase of it be commenced or completed within a specified period of time;
- 3. Defined performance standards to be met by the developer;
- 4. Identification of any laws or land development regulations anticipated to be adopted by the council subsequent to the execution of the agreement and made applicable to the property subject to the agreement;

5. Any other matter not inconsistent with the Act not prohibited by law.

E. BREACH OF AGREEMENT

1. If, as a result of the periodic review provided for in Section 9.2.18G, the zoning administrator finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the zoning administrator shall serve notice in writing, within 30 days after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer 30 days to respond with a corrective action plan to cure the material breach. The zoning administrator may approve a corrective action plan which provides for a cure of the material breach in one year or less. Corrective action plans providing for a cure of the material breach in excess of one year must be reviewed and approved by the council. The zoning administrator and council may establish a time for the cure of the material breach different from that proposed by the developer.
2. If the developer fails to respond to the zoning administrator's notice within 30 days or cure the material breach within the time approved by the zoning administrator or council, the council unilaterally may terminate or modify the agreement, provided, that the council has first given the developer the opportunity:
 - a. To rebut the finding and determination; or
 - b. To consent to amend the agreement to meet the concerns of the council with respect to the findings and determinations.
3. The failure of a developer to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the agreement, but must be judged based on the totality of the circumstances.

F. COST OF CONSIDERATION

The developer must pay a fee, to defray the cost of consideration of the proposed agreement by the council, and the amount of the fee shall be determined in the following manner: \$25.00 per acre for each acre of highland proposed to be included in the agreement with the total fee not to exceed twenty thousand dollars (\$20,000). The developer shall pay the fee by check made payable to Lancaster County and the check shall be included with the material submitted to the clerk as provided in Section 9.2.18.A. The fee shall be deposited in a special account and used at the direction of the council only for the purpose of defraying expenses incurred by the county in the review and consideration of the proposed agreement. Any unused fee shall be returned to the developer within six months of the county's disposition of the proposed agreement.

G. REVIEW BY ADMINISTRATOR

At least every 12 months, the zoning administrator must review compliance with the agreement by the developer. At the time of review the developer must demonstrate good faith compliance with the terms of the agreement.

9.3 NONCONFORMITIES

9.3.1 PURPOSE AND APPLICABILITY

The purpose of this section is to regulate and limit the continued existence of uses and structures established prior to the effective date of this ordinance (or any subsequent amendment) that do not conform to this ordinance. Any nonconformity created by a change in the classification of property or the text of these regulations shall also be regulated by the provisions of this section. The provisions of this chapter are intended to limit substantial investment in nonconformities and to bring about their eventual elimination and/or lessen their impact upon surrounding conforming uses in order to preserve the integrity of the areas in which they are located. The thresholds

established in this chapter at which nonconforming uses or structures must be brought into compliance shall apply to the cumulative expansion, reconstruction or other modification of nonconforming uses or structures from the condition in which they existed on the date of adoption of this ordinance.

9.3.2 GENERAL PROVISIONS

A. APPEALS AND MODIFICATIONS

1. **Board of Zoning Appeals:** The Board of Zoning Appeals shall hear and determine appeals from administrative decisions of the zoning administrator, grant or deny appeals from administrative decisions of the zoning administrator, grant or deny applications for variances, and grant or deny applications for special exception.
2. **Criteria for Approval:** The Board of Zoning Appeals may only grant a change for a nonconforming use or replacement of a nonconforming structure which has been destroyed after having first held a public hearing and having determined that:
 - a. Said change will be more suitable and appropriate for the lot(s) on which it is located than the existing situation; and,
 - b. The proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question; and,
 - c. The decision to grant the change will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.
 - d. **Conditions of Approval:** The Board of Zoning Appeals, in granting such changes, may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms upon which the change was granted, shall be deemed a violation of this ordinance and shall be subject to enforcement provisions Violations and Penalties.

B. UNSAFE STRUCTURES

1. **Deficiencies Due to Lack of Maintenance:** Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming feature that is declared unsafe by the building inspector because of lack of repairs and maintenance shall not be restored, repaired, reconstructed, or used except in conformity with the provisions of this ordinance.
2. **Other Deficiencies:** Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming structure that is declared unsafe by the building inspector, but not because of lack of repairs and maintenance, may be repaired and restored subject "Schedule of Repairs" shall be submitted to the Administrator within 30 days of notice.

C. DISCONTINUANCE

A nonconforming use of a building or premises which has been discontinued shall not thereafter be returned to such nonconforming use except in accordance with the provisions of this section.

1. **Determination of Discontinuance:** A nonconforming use shall be presumed discontinued when any of the following has occurred:
 - a. The owner has, in writing or by public statement, indicated intent to abandon the use.
 - b. A conforming use has replaced the preceding nonconforming use. All of the buildings

or structures on the subject property housing the nonconforming use have been removed.

- c. The owner has physically changed the building or structure, or its permanent equipment, in such a way as to clearly indicate a change in use or activity to something other than the nonconforming use.
- d. Any basic utilities including water, electric and sewer service are disconnected by the utility provider.
- e. The property, structure or use has been vacant or inactive for a continuous period of more than 180 days.
 - i. This may be implied from acts or the failure to act, including, but not limited to: the removal of and failure to replace the characteristic equipment and furnishings; lack of utility consumption necessary to maintain the use at an operable level; documented vacancy; or other circumstances.
 - ii. If operations have ceased for more than 180 consecutive days, the presence of characteristic equipment and furnishings is not, in and of itself, sufficient to establish the continuity/operation of the use.
 - iii. The mere vacancy of a structure for a period exceeding 180 consecutive days that was initially constructed as a single-family dwelling and whose most recent use was as a single-family dwelling shall not constitute a discontinuance of the use.

9.3.3 NONCONFORMING PLANS

A. APPROVED SITE-SPECIFIC PLANS

1. **Previously-Approved Plans Grandfathered:** Any site specific plan (including but not limited to master plans, preliminary plats, final plats, special use permit plans) for the development of property and/or construction of a building which has been submitted as part of a complete application submittal to Lancaster County for development and/or construction, but does not conform to this ordinance and has not expired, may be developed and/or constructed in accordance with the ordinance, rules, and regulations, including any conditions imposed upon approval. Any plan approved prior to the adoption of this ordinance, but which conforms to its provisions, shall be administered, interpreted, amended and implemented in accordance with the provisions of this ordinance. Any conditions imposed as part of a previously approved Special Use Permit or Conditional Use Permit shall continue as approved. Approved Subdivision Preliminary Plats, with or without multi-year phasing schemes, shall continue to regulate the development as approved as long as sufficient progress is made according to the terms of the ordinance under which the plans were approved.
2. **May Choose New Ordinance:** A property owner with an approved site-specific plan, as identified above, may elect to develop such property and/or construct such building in accordance with the terms and provisions of this ordinance in lieu of the rules and regulations upon which the plan was approved. The Administrator shall notify the property owner in writing of any additional required procedures or modifications which may be necessary in order for the plan to conform to the ordinance.
3. **Amendments or Modifications of Previously-Approved Plans:** Any amendment or modification to an approved site specific plan, which would have required approval pursuant to the ordinance, the rule or regulation by which the plan was originally approved, shall be reviewed and considered in accordance with the terms and provisions of this ordinance as if it were an amendment or modification to a plan originally approved under this ordinance.
4. **Maximum Build-Out Period:** If construction is not begun under such an outstanding

permit within a period of one year subsequent to the passage of this ordinance, or where it has not been completed within 2 years subsequent to passage of this ordinance, any further construction or use shall be in conformity with the provisions of this ordinance.

B. VESTED RIGHTS

This section does not prohibit the exercise of any vested right established by common law ordinance or statute.

9.3.4 NONCONFORMING LOTS

A. DEFINITION AND APPLICABILITY

A nonconforming lot is a lot that was lawfully created prior to the effective date of this ordinance, but that does not meet the dimensional requirements of Chapter 2 for the zoning district in which it is located. A nonconforming vacant lot of record is one that was recorded by plat or description in the Office of the Register of Deeds of Lancaster County prior to the adoption of this chapter or prior to the time that the lot was brought into the County's jurisdiction.

B. STANDARDS

1. **Lot May Be Developed:** A nonconforming vacant lot may be developed for any of the uses permitted by these regulations in the district in which it is located, provided that any use, development, required feature (parking, buffers, etc.), and/or structure meets all applicable yard and setback requirements for the district in which the lot is located. A variance shall not be required for a substandard lot width or lot size for such lots of record.
2. **Lots to Be Combined if Possible**
 - a. A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot under the same ownership on or after the effective date of these regulations in order to create a single conforming or substantially conforming lot. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street. All other minimum requirements for the particular land development district and proposed use must be met or a variance obtained from these requirements through an action of the Board of Zoning Appeals. This shall include meeting the requirements for additional lot size for increased densities of residential development (duplexes, multi-family dwellings, etc.).
 - b. For lots that are nonconforming because they do not meet the minimum required lot width or square footage requirements, the above combination or recombination of lots shall not be required if the lot is no less than 90 percent of the minimum requirements.
 - c. Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.
3. **Exceptions for Previously Approved Plats:** A nonconforming lot may be developed if, at the effective date of this ordinance, the lot is located in (i) a subdivision that had received preliminary plat approval; or (ii) a subdivision in which had received final plat approval.
4. **Existing Structures on Non-Conforming Lots:** Any structure on a nonconforming occupied lot may be occupied, without expansion, by a conforming use or may be improved or expanded in accordance with the standards listed in this section. Structural alterations or remodeling of structures on nonconforming lots required by an authorized public official shall be permitted. Routine maintenance shall also be permitted so long as no expansion of the nonconformity occurs as a result of the maintenance.
5. **Expansion of Structures:** Any improvement or expansion of any structure on a

nonconforming occupied lot must comply with all other minimum requirements of this ordinance or a variance must be obtained from these requirements through an action of the Board of Zoning Appeals. This shall include meeting the requirements for additional lot size for increased densities of residential development (duplexes, multi-family dwellings, etc.). Note that a structure housing a nonconforming use may not be expanded except with the intention to bring the use into conformity with the minimum requirements of Section 9.3.5.

9.3.5 NONCONFORMING USES & STRUCTURES

A. DEFINITION AND APPLICABILITY

1. **Nonconforming Use:** A nonconforming use is a use of land, buildings, or structures that was lawfully established prior to the effective date of this ordinance, or a subsequent amendment thereto, but does not conform to the use regulations of Chapter 2 for the zoning district in which it is located. This definition includes open uses of land (e.g., storage yards and golf driving ranges) as well as the structures that contain nonconforming uses. The nonconformity may result from the adoption of this ordinance or any subsequent amendment.
2. **Nonconforming Structure:** A nonconforming structure is a physical feature or characteristic of a use, building, structure, or other development of land that was lawfully established prior to the effective date of this ordinance, but does not conform to dimensional, design, locational, or other requirements of this ordinance. This also includes nonconforming features such as buffers, landscaping, mechanical and utility structures, and parking. The nonconformity may result from adoption of this ordinance or any subsequent amendment.

B. STANDARDS FOR NONCONFORMING USES

1. **Continuation Permitted:** Any legally established nonconforming use may be continued subject to the standards listed in this chapter. Expansions of such uses are not permitted. Once a nonconforming use is discontinued it may not later be reestablished or converted to any other nonconforming use.
2. **Expansion of Use:** Except as otherwise stated below, no building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved, reinforced, or structurally altered unless such building or structure is thereafter devoted to a conforming use. However, routine maintenance of any structure containing a nonconforming use is permitted.
3. **Damage or Destruction**
 - a. When a building or structure devoted to a nonconforming use is damaged to the extent of more than 50 percent of the property's "total improvements full market value" as shown on the County tax records at the time of such damage, such a building, if restored, shall thereafter be devoted to conforming uses.
 - b. If a building or structure devoted to a nonconforming use is damaged to a lesser extent than designated above, it may be repaired and continued in accordance with this ordinance provided that any such repair does not increase the degree of any nonconformance and a building permit for the reconstruction or repair work is obtained within 180 days of the date of such damage.
 - c. The Administrator is authorized to grant in writing one or more extensions of time for periods not more than 180 days each. The extension shall be requested in writing and a justifiable cause must be demonstrated.

C. STANDARDS FOR NONCONFORMING STRUCTURES

1. **Continuation Permitted:** Any legally established nonconforming structure may be

continued subject to the standards listed in this section. However, once a nonconforming structure is made conforming, it may not later be altered, modified or expanded in violation of this ordinance.

- 2. Expansions of Structure:** A nonconforming principal building may be enlarged, extended, or structurally altered only if such enlargement, extension, or structural alteration complies with all of the following requirements:

- a** The use of the building must be a conforming use or a single-family residential use;
- b** The enlargement, extension, or structural alteration may extend or project no further than the legally established building line(s) of the subject building;
- c** The enlargement, extension, or structural alteration may not encroach into required building perimeter landscaping areas, parking lot landscaping areas or any required buffer yards.
- d** The enlargement, extension, or structural alteration shall create no additional nonconforming features;
- e** If the subject building lies in a historic district, the enlargement, extension, or structural alteration shall comply with all applicable requirements of that district; and
- f** If the subject building, and/or its proposed enlargement, extension, or structural alteration, lies in a special flood hazard area, the enlargement, extension, or structural alteration shall comply with all applicable requirements of this ordinance.

3. Damage or Destruction

- a** When a nonconforming structure is damaged to the extent of more than 50 percent of the property's "total improvements full market value" as shown on the County tax records at the time of such damage, such a structure, if restored, shall thereafter conform to all applicable development standards contained in this ordinance.
- b** If a nonconforming structure is damaged to a lesser extent than designated above, it may be reconstructed or repaired having the same nonconforming feature(s) as before the damage, or having those same features being more conforming (but still nonconforming) than before the damage, provided that a building permit for the reconstruction or repair work is obtained within 1 year of the date of such damage, or at the discretion of the Administrator.

D. STANDARDS FOR NONCONFORMING ACCESSORY USES AND STRUCTURES

Must Terminate When Principal Use/Structure is Terminated: No nonconforming accessory use shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use is made to conform to the standards for the zoning district in which it is located. No nonconforming accessory structure shall become or replace any terminated principal nonconforming structure.

9.3.6 NONCONFORMING MANUFACTURED HOMES AND MOBILE HOME PARKS

A. NONCONFORMING MANUFACTURED HOUSING ON INDIVIDUAL LOTS

1. Replacement Home

- a** A nonconforming manufactured home on an individual lot outside of a manufactured home park may only be replaced with a unit that does not create more nonconformity.

- b.** Manufactured homes may only be replaced with equivalently sized units or larger.
 - c.** Replacement units shall meet all applicable standards of Chapter 8, Flood Damage Prevention.
- 2. Expansions Prohibited:** A nonconforming manufactured home on an individual lot may not be enlarged or altered externally in any way except where such alteration is required by law or an order from the Building Inspector, Fire Marshal, or the Administrator to ensure the safety of the structure, or where such alteration increases the degree of conformance of the home.
- 3. Routine Maintenance Permitted:** Routine maintenance of such manufactured housing is permitted so long as no expansion of the nonconformity occurs as a result of the maintenance.

B. NONCONFORMING MANUFACTURED HOME PARKS AND HOUSING WITHIN PARKS

Continuation Permitted: Manufactured home parks which are nonconforming, either as to use or development standards, may continue to operate provided that replacement of manufactured housing units are as follows:

- Only existing spaces as of the effective date of this ordinance may be used. No additional spaces may be created or occupied.
- Replacement units may not increase the degree of nonconformity of setbacks from streets, property lines, structures, or watercourses.
- Replacement units shall meet all applicable standards of Chapter 8, Flood Damage Prevention.
- Replacement unit shall not be one that has a construction date of/was constructed prior to the existing unit.
- Replacement unit shall not be constructed/built prior to June 15, 1976 and shall meet the Department of Housing and Urban Development standards pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 for single family manufactured homes.

9.3.7 NONCONFORMING SIGNS

A. STANDARDS

- 1. Determination of Nonconformity:** Existing signs which do not conform to the specific provisions of the ordinance may be eligible for the designation "legal nonconforming" provided that:
 - a.** Such signs are properly maintained and do not in any way endanger the public.
 - b.** The sign was installed in conformance with a valid permit or variance, or complied with all applicable laws on the date of adoption of Chapter 7 of this ordinance.
- 2. Loss of Legal Nonconforming Status:** A legal nonconforming sign may lose this designation if:
 - a.** The sign is relocated or replaced.
 - b.** The structure or size of the sign is altered in any way. This does not refer to change of copy or normal maintenance.
 - c.** The sign is an independent freestanding structure that has been unused for a period of 2 years.

- d** The sign is damaged by any means, to more than 50 percent of the value of the structural components.
- 3. Maintenance and Repair of Nonconforming Signs:** The legal nonconforming sign is subject to all requirements of this ordinance regarding safety, maintenance, and repair. However, if the sign suffers more than fifty (50) percent damage or deterioration, as based on appraisal, or requires maintenance and/or repair to the extent that a Building, Electrical, Zoning or other permit is required to legally perform such maintenance and/or repair, it must be brought into conformance with this ordinance or removed.
- 4. Signs Associated with Nonconforming Uses:** New signs related to legally established nonconforming uses may be erected provided they comply with the sign requirements of the district in which the use is located.

9.4 VIOLATIONS AND PENALTIES

9.4.1 NOTICE OF VIOLATIONS

A. ADMINISTRATOR AUTHORITY FOR ALL VIOLATIONS

- 1.** Unless specifically set forth otherwise in this ordinance, the Administrator is hereby authorized to enforce the provisions of this ordinance.
- 2.** The Administrator shall have the power to conduct such investigation as he/she may reasonably deem necessary to carry out his/her duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property or premises, public or private, to perform any duty imposed upon them by this ordinance.
- 3.** The Administrator shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to violations of this ordinance.

B. COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a complaint. Any complaint stating fully the cause and basis of the complaint shall be filed with the Administrator who shall properly record such complaint, investigate in a timely manner, and take appropriate action as provided by this ordinance.

C. NOTICE OF VIOLATION; OPPORTUNITY TO CURE

- 1.** In any case where the Administrator finds that any provision of this ordinance is being violated, he/she shall deliver a written notice to the person responsible for such violation(s) and to the owner of record of the property on which the violation occurs. This notice shall:
 - a** Indicate the nature of the violation(s),
 - b** Order the action necessary to correct the violation(s), and
 - c** State the opportunity for an administrative hearing and subsequent appeal and
 - d** State what action the Administrator intends to take if the violation is not corrected.
- 2.** Such notice of violation shall be served by personal delivery or certified or registered mail, return receipt requested. The notice shall be mailed to the property address indicated on the County's official tax notice address of record. Notice will also be delivered to the occupant(s) of the property in violation, either by personal delivery or certified or registered mail.

3. The notice of violation shall include an opportunity to cure or correct the violation within a period of time, not less than 5 days or more than 30 days, as determined by the Administrator, without penalty. Either party (owner or occupant) may participate in the cure or corrective action.
4. Additional written notices may be sent at the Administrator's discretion.
5. The violator may request a hearing with the Administrator within the term prescribed for correction of the violation, during which the violator may propose a schedule for correction of the violation(s).

D. NOTICE OF VIOLATION; OPPORTUNITY TO APPEAL

1. The Administrator's order to correct a violation may be appealed to the Board of Zoning Appeals, provided that the violator must have requested a hearing with the Administrator prior to filing an appeal.
2. A Level 1 and 2.

E. SUMMARY REMOVAL OF VIOLATIONS

1. The Administrator shall have the authority to summarily remove, abate, or remedy a sign or sign structure which the building inspector has determined to be dangerous or prejudicial to the public health or safety, or any signs or sign structures prohibited.
2. In cases where temporary uses were established without the proper permit(s), and in any cases where delay would pose a danger to the public health safety or welfare, the violation(s) can be ordered removed/ceased immediately. The Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies.
3. Upon proper notice being given to the violator, or if the violator cannot be ascertained, to the property owner, the reasonable expense to the County in remedying the situation may be assessed.

9.4.2 PENALTIES FOR VIOLATIONS AND ENFORCEMENT MECHANISMS

Unless otherwise specified for specific types of violations, the following procedures, penalties and enforcement mechanisms for violations of this ordinance shall apply.

A. LIABILITIES FOR VIOLATIONS

Any person who erects, constructs, reconstructs, alters, repairs, converts, or maintains any building, structure, sign or sign structure or develops, grades or otherwise alters property in violation of this ordinance, and any person who uses any building, structure, sign or sign structure or land in violation of this ordinance shall be subject to civil and/or criminal penalties.

B. CIVIL PENALTIES

1. Civil Citations Following a Notice of Violation

- a. Following the delivery of a notice of violation if the alleged violator or property owner does not correct the violation within the time period determined by the Administrator, a citation subject to the following schedule of civil penalties shall be issued.

Notice/Citation	Penalty
Notice of Violation	No penalty if the violation is corrected within the time period determined by the Administrator as identified in the written notice.
Citation (for each uncorrected offense)	\$500.00; per day (as defined as the 24-hour period after which the notice has been delivered) that the violation continues to exist.

- b. If the Administrator notifies a party of a violation, and that violation is remedied but subsequently reestablished (committed by the same violator at the same location and being of the same nature as the original violation) within a period of 12 months, the violator shall incur the fines prescribed above without the need of a notice of violation.

2. **Violation Assumed to be Continued until a Request for Compliance Inspection Is Made:** It is the responsibility of the party in violation to submit a request for an inspection for compliance to the Administrator upon correction of the violation. The violation will assume to be continued, and penalties assessed according to the schedule above, until an inspection is requested and the property is found to be in compliance.
3. **Recovery of Civil Penalties:** The County may recover penalties in a civil action in the nature of a debt if the offender does not pay the penalty within 3 regular business days (excluding weekends and holidays) after being cited for a violation.
4. **Limitation on Appeal of Civil Penalties:** These civil penalties may not be appealed to the Board of Zoning Appeals if the violator received a notice of violation and did not attend the hearing with the Administrator.

C. CRIMINAL PENALTIES

Any person, firm, or corporation convicted of violating the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount consistent with the General Statutes.

D. INJUNCTIVE OR OTHER RELIEF

1. In addition to, or in lieu of, the other remedies set forth in this chapter, the Administrator, in the event of a violation of this ordinance, may request that the County Attorney institute, in a court of competent jurisdiction, an injunctive action, mandamus action, or other appropriate proceeding to prevent the completion or occupation of such building or structure, or use of land.
2. Upon determining that an alleged violation is occurring or is threatened, a court hearing an appeal for relief shall enter such orders and/or judgments as are necessary to abate or prevent the violation.
3. The institution of an action for injunctive or other relief under this sub-section shall not relieve any party to such proceeding from any civil or criminal penalty prescribed by this chapter for violations of this ordinance.

E. EQUITABLE REMEDY

In addition to the civil penalties set out above, any provision of this ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The Administrator may apply to a judicial court of law for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Administrator's application for equitable relief that there are other remedies provided under general law or this ordinance.

F. ORDER OF ABATEMENT

In addition to an injunction, the Administrator may apply for, and the court may enter into, an order of abatement as part of the judgment in the case. An order of abatement may direct any or all of the following actions:

1. Buildings, foundations, or other structures on the property be closed, demolished, or removed;
2. Fixtures, furniture, or other moveable personal property be moved or removed entirely;

3. Improvements alterations, modifications or repairs be made; or
4. Any other action be taken that is necessary to bring the property into compliance with this ordinance.

G. EXECUTION OF COURT DECISIONS

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt. The Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order, any attorney's fees and court costs incurred by the County, any unpaid fines due to the County, and any other reasonable administrative costs as necessary. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the Clerk of the Court of Common Pleas in an amount approved by the judge before whom the matter was heard and shall be conditioned for the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

H. REVOCATION OF PERMITS

In the event of a violation of any provision of this UDO, the Administrator may stop any development of, use of, or activity on property by revoking the applicable permit.

1. **Grounds for Revocation:** Permits may be revoked when:
 - a. False statements or misrepresentations were made in securing the permit;
 - b. Work is being or has been done in substantial departure from the approved application or plan;
 - c. There has been a failure to comply with the requirements of this ordinance or any additional requirements lawfully imposed by the permit issuing authority, including but not limited to specific conditions of approval; or
 - d. The permit was been mistakenly issued in violation of this ordinance.
2. **Written Notice and Hearing Required:** Before a development-related permit (e.g. Building Certificate of Occupancy) may be revoked, the Administrator shall give the permit recipient notice of intent to revoke the permit, inform the recipient of the reasons for the revocation and hold a hearing at a specified time and place as set forth in the notice of intent to revoke, at which time the recipient, if present, shall be given opportunity to be heard. If, after the hearing, the permit is revoked by the office of the Administrator for reasonable cause, the Administrator shall provide to the recipient a written statement of the decision to revoke the permit and the reasons therefore.
3. **Appeals of Revocation:** The recipient may appeal the decision of the Administrator to the Board of Zoning Appeals.
4. **Continuation of Use Not Allowed Following Revocation:** No person may continue to make use of land or buildings in the manner authorized by any development-related permit on or after the date such permit has been revoked in accordance with this section. Such use shall constitute a violation and subject the responsible party to the penalties.
5. **Resubmittal:** Any resubmittal of a request for permit upon the same property shall meet all the provisions of the ordinance as adopted at the time of the submittal, and shall go through the full submittal process for the appropriate permit type.

9.4.3 STOP WORK ORDER

Whenever the administrator or designee finds a violation of this Section or of any permit or order issued pursuant thereto, within their respective jurisdiction, the administrator or designee may issue a stop work order on all development activity on the subject property or on the portion of the activity in direct violation of the Section. In every case, the administrator or designee shall issue an order that:

- Describes the violation;
- Specifies the time period for remediation; and
- Requires compliance with this Section prior to completion of the activity in violation.

9.4.4 FINE

Failure to comply with any of the requirements of this Section, including conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation. Any violation thereof shall be subject to a fine of not more than \$1,000.00, or such additional maximum amount as may become authorized by state law, for each violation. Each day the violation continues shall be considered a separate offense.

9.4.5 CIVIL PENALTY

Any person who violates any provision of this Section shall be subject to a civil penalty of not more than \$1,000.00, or such additional maximum amount as may become authorized by state law, provided the owner or other person deemed to be in violation has been notified of a violation. Notice shall be deemed achieved when sent by regular United States mail to the last known address reflected on the County tax records, or such other address as has been provided by the person to the County.

9.4.6 OTHER LEGAL ACTION

The County may also take any other legal action necessary to prevent or remedy any violation, including appropriate equitable or injunctive relief and, if applicable, an assessment to the violator for the removal, correction, or termination of any adverse effects upon any property resulting from any unauthorized activity for which legal action under this section may have been brought.

9.4.7 REGULATIONS SPECIFIC TO ENVIRONMENTAL VIOLATIONS

A. STORMWATER

1. A person shall be in violation of this Section when he or she:
 - a. Commences or conducts an activity described in this Section without prior approval from the appropriate agencies;
 - b. Deviates from an approved stormwater permit or drainage plan;
 - c. Fails to maintain drainage facilities under that person's ownership or control; or
 - d. Changes the drainage patterns along the property line or stormwater conveyance system and as a result water has flooded or is reasonably likely to flood land or a building other than that of the property owner.
2. Any activity undertaken in violation of this Section shall be halted immediately after written notice by the County is issued. The violator shall be required to restore any altered land to its undisturbed condition or restore it to such condition in which it would not shed stormwater in violation of the control requirements for stormwater runoff. In the event that restoration is not undertaken within 30 days, the County may perform restoration on the property. The cost of the restoration shall become a lien upon the real estate where such restoration occurred and shall be collectable in the same manner as the municipal taxes.

1. NOTICE OF VIOLATION

- i. If land has been altered in violation of this section or drainage facilities are not maintained as required by this Section, the record owner of the property shall be notified in writing and the notice shall demand that such

owner cause the condition to be remedied. Notice shall be deemed achieved when sent by regular United States mail to the last known address reflected on County tax records, or such address as has been provided by the person to the County. Notice shall also be posted upon the property on which the violation exists. Notice may be served by hand delivery to the owner of record of the property in lieu of mailing.

2. RECORDED VIOLATION

- i. The County may record a notice of violation on the title to the property at the Lancaster County recorder of deeds office.

3. APPEALS

- i. Within ten days after the date of the notice, the owner or the designated agent of the owner may file an appeal to show that the violation alleged in the notice does not exist or has not occurred. The appeal shall be in writing and must be provided to the environmental engineering division of public works.

4. CONDITION MAY BE REMEDIED BY COUNTY

- i. If no appeal has been made, the violation has not been remedied within 30 days, or remediation has not commenced within a timeline acceptable to the County, the County may elect to cause the condition to be remedied. The costs of remedying the condition as well as such administrative and other costs as are necessary shall be charged against the property as a lien upon the real estate where such restoration occurred and shall be collectable in the same manner as the municipal taxes.

5. PREPARATION OF LIEN

- i. After causing the condition to be remedied, the County shall determine the cost involved in remedying the condition, including all administrative and other costs as are necessary to correct the violation, and shall determine the proportionate costs that each property should bear.

6. NO DUTY ON THE COUNTY

- i. This section creates no affirmative duty on the County to inspect, and it imposes no liability of any kind whatsoever on the County for omissions in inspecting. The landowner shall hold the County harmless from any liability in the event the stormwater management system fails to operate properly due to the landowner's failure to abide by the terms of this Section.

B. EROSION CONTROL VIOLATIONS

- 1. Notice of Violation:** Any person who violates any of the provisions, or rule or order adopted or issued pursuant to that section, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty and shall be served a notice of violation.

2. Civil Penalties

- a** The maximum civil penalty amount that the County may assess per violation is \$5,000. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.
- b** Any person who fails to submit an erosion control plan for approval in accordance with

this ordinance shall be subject to a single, noncontinuing civil penalty of not more than \$1,000.

- c.** Anyone who violates a stop work order regarding grading and filling control shall be subject to a civil penalty of not more than \$1,500.
- d.** The Administrator shall determine the amount of the civil penalty for other erosion control violations based upon the following factors:
 - i.** The degree and extent of harm caused by the violation,
 - ii.** The cost of rectifying the damage,
 - iii.** The amount of money the violator saved by noncompliance,
 - iv.** Whether the violation was committed willfully, and
 - v.** The prior record of the violator in complying or failing to comply with this section.
- e.** The Administrator shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by the Administrator, and shall direct the violator to either pay the assessment or contest the assessment, within 30 business days after receipt of the notice of assessment, by filing a petition for contested case with the Administrator.
- f.** The decision of the Administrative Law Judge may be appealed to the Court of Common Pleas of the county where the violation occurred.
- g.** If payment is not received within 30 days after it is due, the County may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Court of Common Pleas of the county where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within 3 years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review, if any, of the assessment.
- h.** Civil penalties collected pursuant to this section shall be credited to the Civil Penalty and Forfeiture Fund.

3. Criminal Penalties

Any person who knowingly or willfully violates any provision of this section, or rule or order adopted or issued pursuant to this section, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor.

4. Injunctive Relief

- a.** Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the County or any term, condition, or provision of an approved plan, it may, either before or after the institution of any other action or proceeding authorized by this section, institute a civil action in the name of the County, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Court of Common Pleas of the county in which the violation is occurring or is threatened.
- b.** Upon determination by a court that an alleged violation is occurring or is threatened,

the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this section.

5. Restoration After Non-Compliance

The County may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this section.

B.

C. FLOOD DAMAGE PREVENTION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent Lancaster County from taking such other lawful action as is necessary to prevent or remedy any violation.

C.1 NATIONAL FLOOD INSURANCE ACT

The administrator or designee shall inform the owner that any such violation is considered a willful act to increase flood damages and, therefore, may cause FEMA to initiate a Section 1316 of the National Flood Insurance Act of 1968 action.

C.2 EXCLUSIVITY

The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state, or local law and is within the discretion of the authorized enforcement agency to seek cumulative remedies.

C.3 DISCLAIMER OF LIABILITY

It is recognized that although the degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations, on occasions greater floods can and will occur, and flood heights may be increased by manmade or natural causes. These provisions do not imply that land outside the floodplain areas or that uses permitted within such areas will be free from flooding or flood damages. These provisions shall not create liability on the part of the Lancaster County nor any officer or employee thereof, for any claims, damages or liabilities that result from reliance on this Section or any administrative decision lawfully made hereunder.

C.4 SEPARABILITY

The provisions of this Section shall be deemed separable and the invalidity of any portion of this Section shall not affect the validity of the remainder.

C.5 ABROGATION AND GREATER RESTRICTIONS

This Section is not intended to repeal, abrogate or impair any existing deed or plat restrictions. Where this Section and other ordinance deed or plat restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This Section is intended to repeal the original ordinance or

resolution which was adopted to meet the National Flood Insurance Program regulations, but is not intended to repeal the resolution which the Lancaster County passed in order to establish initial eligibility for the program.

- A. Violations to be Corrected:** When the Floodplain Administrator finds violations of this ordinance or any other applicable state and local laws it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.
- B. Actions in the Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
1. That the building or property is in violation of the flood damage prevention provisions of this ordinance;
 2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard, in person or by counsel, and to present arguments and evidence pertaining to the matter; and
 3. That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- C. Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time, said period to be not less than 60 days nor more than one year. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
- D. Appeal:** Any owner who has received an order to take corrective action may appeal the order to the Board of Zoning Appeals by giving notice of appeal in writing to the Floodplain Administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Zoning Appeals shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E. Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Zoning Appeals following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: A. Hardin / Planning

Department: Planning

Date Requested to be on Agenda: 7/17/2024

Council Action Requested:

Review the preliminary information and provide feedback related to the sign code section of the UDO.

Strategic Plan Focus Area Alignment:

Quality Development

Consider the adoption and implementation of a revised Unified Development Ordinance.

Points to Consider:

Attached is the draft of the sign code section of the UDO with proposed edits marked.

The overall focus of the sign codes chapter is to:

- A. Provide a comprehensive and balanced system to regulate signs;
- B. Encourage the effective use of signs as a means of communication in the unincorporated areas of Lancaster County;
- C. Maintain and enhance the aesthetic environment to support residents' quality of life and the County's goals to attract sources of economic development and growth;
- D. Improve pedestrian and traffic safety by reducing visual obstructions and distractions;
- E. Minimize the possible adverse effect of signs on nearby public and private property;
- F. Provide for fair and consistent enforcement of these sign regulations; and G. Protect state and federal constitutional rights to free speech by:
 - 1. Providing ample opportunities for expression through signs;
 - 2. Avoiding regulatory triggers or distinctions based on a sign's content; and 3. Providing clear standards for approval of signs.

Funding and Liability Factors:

Council budgeted \$248,000 for the UDO rewrite.

Recommendation:

Provide feedback and input for the signs section of the UDO.

ATTACHMENTS:

Description	Upload Date	Type
Sign Code Draft	7/8/2024	Backup Material



UNIFIED DEVELOPMENT ORDINANCE UPDATE

CHAPTER 7: SIGNS
LAST SAVED: 2024-07-08

Prepared By:

WHITE &
SMITH, LLC
PLANNING AND
LAW GROUP

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7 SIGNS¹

7.1 PURPOSE²

The purposes of this Chapter are to:

- A. Provide a comprehensive and balanced system to regulate signs;
- B. Encourage the effective use of signs as a means of communication in the unincorporated areas of Lancaster County;
- C. Maintain and enhance the aesthetic environment to support residents' quality of life and the County's goals to attract sources of economic development and growth;
- D. Improve pedestrian and traffic safety by reducing visual obstructions and distractions;
- E. Minimize the possible adverse effect of signs on nearby public and private property;
- F. Provide for fair and consistent enforcement of these sign regulations; and
- G. Protect state and federal constitutional rights to free speech by:
 - 1. Providing ample opportunities for expression through signs;
 - 2. Avoiding regulatory triggers or distinctions based on a sign's content; and
 - 3. Providing clear standards for approval of signs.

¹ This Chapter significantly revises current § 7.4: *Signs*. Major changes include 1) comprehensive revisions to ensure content neutrality, primarily focused on exempt signs, temporary signs, and incidental signs 2) re-organization of district allowances for signs based on the intensity of the uses; 3) integration of HCO sign standards into the primary sign regulations; 4) prohibition of all signs in right-of-way; 5) relocation of current § 7.4.6: *Other Permitted Signage Standards* to other sections and deletion of several for content neutrality; 6) relocation of § 7.4.11: *Violations* to Chapter 11: *Administration*.

² This Section expands and updates current § 7.4.1: *General Purpose and Intent* by adding a provision for content-neutral intent for interpretation.

7.2 APPLICABILITY³

A. Generally.

1. This Chapter applies to UDO Zoning Permit applications for signs and to new and existing signs within Lancaster County.
2. UDO Zoning Permit Required.
 - (a) Unless otherwise provided by this ordinance, no sign may be constructed, erected, placed, moved, enlarged, illuminated, or substantially altered within the County unless and until a UDO Zoning Permit has been obtained and the provisions of this Chapter have been met.
 - (b) Additional permits may be necessary pursuant to the regulations in the state building code or other sections of this UDO.
3. A person may not erect, operate, display, or otherwise use any sign that this Chapter prohibits.
4. A person may not erect, operate, display, or otherwise use any sign at a time, place, or manner that this Chapter prohibits.
5. This Chapter does not prohibit signs required by state or federal law and does not authorize signs prohibited by state or federal law.

B. Repair and Maintenance of Existing Signs.

1. Repairs, changes of parts, and preventative maintenance of existing signs do not require a UDO Zoning Permit unless they:
 - (a) Expand the sign face area;
 - (b) Include structural modifications to the sign support structure; or
 - (c) Change the method of lighting or add other features, such as electronic message centers.
2. Generally, ordinary maintenance, such as repainting a sign or changing the panels on the sign face, does not require a permit.

³ This Section significantly expands current § 7.4.2: *Applicability*. It expands and clarifies an exemption for sign maintenance and repair based on staff input. It also eliminates unnecessary language about payment of permit fees.

C. **Historic Signs.**

1. The restoration and preservation of signs over 50 years old do not require a Zoning Permit.
2. However, such signs may not be enlarged, moved, illuminated, or otherwise altered except in conformance with an approved UDO Zoning Permit and the provisions of this Chapter.

7.3 EXEMPT SIGNS⁴

A. **Generally.** The signs listed in this Section do not require a UDO Zoning Permit and are not counted against the sign allowances provided for the display of signs regulated by this Chapter.

B. **Signs not Visible Off-Site.**

1. This Chapter does not apply to signs not visible off-site.
2. A sign is considered not visible where it is fully obstructed by natural changes in grade, buildings, or landscaping that provide a complete year-round visual barrier.
3. "Fully obstructed" means that the signs are not visible at ground level from the edge of the public right-of-way or the property line for an adjacent residential lot.

C. **Indoor Signs.**

1. This Chapter does not apply to the placement of a sign inside a structure not visible from any point outside the structure (for example, inside a shopping center mall).

⁴ This Section significantly updates current § 7.4.7: *Signs Not Requiring a Permit*, with the primary goal of ensuring content neutrality. The revisions include: 1) removing the exemptions for content-based temporary signs, such as political signs, holiday decorations, real estate signs, yard sale signs, special event signs, and construction signs and replacing those standards with a new "Temporary Sign" category regulated by § 7.9; 2) removing exemptions for parking lot directory signs and directional/identification signs that are regulated as the new incidental sign category by § 7.8; 3) replacing the exemption for vending machine, gas pump, and ATM signs with an exemption for all signs less than one sq. ft. in area. This content-neutral exemption provides the flexibility to allow numerous signs that relate to the use of property, including no trespassing, electric fence, etc. 4) Removing the exemption for signs on athletic fields; 5) adding exemptions for indoor signs, signs not visible off-site, and signs not exceeding one sq. ft. based on staff feedback that the regulations apply too broadly.

2. For indoor signs, "visible" includes any sign displayed within three feet of a window or other transparent opening and oriented to the window so that a person outside of the building could see the sign.
- D. **Window Displays.** Merchandise, pictures, or models of products or services that are visible in a window display are exempt from this Chapter.
- E. **Cornerstones and Plaques.** This Chapter does not apply to signs or tablets cut into any masonry surface or constructed of bronze or other noncombustible surface that does not exceed eight square feet in area.
- F. **Architectural Features.** This Chapter does not apply to integral decorative or architectural features of buildings, provided such features do not contain moving parts or lights.
- G. **Signs One Square Foot or Smaller.**
 1. This Chapter does not apply to signs less than one square foot in area that are located on a platted lot.
 2. Such signs may not be placed in the right-of-way of any public street.
 3. However, multiple small signs that effectively function together as a larger sign must comply with the standards of this Chapter.
- H. **Flags.** This Chapter does not apply to flags, provided:
 1. The height of any pole must not exceed the maximum building height for the district; and
 2. Flags do not extend into or over a street or public or private right-of-way.
- I. **Government Signs.** This Chapter does not apply to any sign, symbol, or device erected and maintained by the federal, state, county, or municipal government.
- J. **Private Traffic Control Signs.** This Chapter does not apply to traffic control signs erected on private property that conform with the design and installation requirements stipulated in the latest edition of the *Manual of Uniform Traffic Control Devices*, as amended, and *Standard Highway Signs*, as published and amended by the U.S. Department of Transportation, Federal Highway Administration.
- K. **Hazard Identification Signs.** This Chapter does not apply to hazard identification signs outlined in the National Fire Protection Association *NFPA 704: Standard System for Identification of the Hazards of Materials for Emergency Response*.

7.4 PROHIBITED SIGNS⁵

- A. **Signs On Roadside Appurtenances.** Except as otherwise provided, signs erected, maintained, painted, or drawn on any tree, rock, natural feature, utility pole, overpass, traffic control device, streetlight, or other similar utility pole are prohibited.
- B. **Signs Meant To Be Read In Series.** Signs that use a series of two or more signs placed in a line parallel to a roadway, or in a similar fashion, all carrying a single advertising message, part of which is contained on each sign are prohibited.
- C. **Signs Obstructing Access.** Signs erected or maintained in a way that obstructs any fire escape, window, door, or other opening used as a required means of egress that prevents free passage from one part of a roof to any other part of the roof are prohibited. Signs attached to a fire escape or placed in a way that interferes with any opening required for ventilation are prohibited.
- D. **Signs Resembling Traffic Signals.** Signs that simulate an official traffic control or warning sign that would in any way confuse or mislead drivers of motor vehicles are prohibited.
- E. **Animated and Flashing Signs.** Except as otherwise provided, flashing signs, beacons, signs using intermittent or animated effects, and revolving signs are prohibited.
- F. **Roof Signs.** Signs placed anywhere on the roof of a structure are prohibited.
- G. **Portable Signs.** Portable signs are prohibited except for A-frame signs as provided in Section 7.9: *Temporary Sign Standards*.
- H. **Signs On Motor Vehicles.** A vehicle parked so that it functions primarily as a sign is prohibited.
 - 1. Factors to determine whether a vehicle is being used primarily as a sign include, but are not limited to the following:
 - (a) The vehicle is parked at a prominent location on the lot;

⁵ This Section combines and reorganizes current §§ 7.4.8: *Prohibited Signs* and 4.3.2.H: *HCO Sign Standards*. Several of the prohibited sign types from the HCO district (prohibitions of signs in the right-of-way and signs that are visual obstructions) are relocated here to be County-wide standards based on staff input. Other sign types of signs will be prohibited only in the HCO (see § 7.7). Updates definition of portable signs and adds standards for vehicular signs based on staff input. Removes the prohibition of off-premises advertising signs because they are allowed as billboards.

- (b) The sign is easily read by a person in the right-of-way;
 - (c) The vehicle is parked at the same or similar locations for three consecutive days;
 - (d) There are no stated or apparent reasons, other than its function as a sign, that justify the presence of the vehicle at that location.
 - 2. While other factors may also establish a violation, a vehicle presumptively violates this provision if the first three factors support the use as a sign, and there is no compelling reason provided for the fourth factor to justify the parking location as opposed to some less conspicuous location.
- I. **Signs in the Right-of-Way.** Signs placed within any public or private right-of-way are prohibited.
- J. **Signs Creating a Traffic Hazard.** Any sign that obstructs or impedes traffic safety or obscures traffic signals, signs, or other similar traffic safety devices is prohibited. Signs shall not obstruct the view of motorists using any street, driveway, parking aisles, or the approach to any street intersection that presents a traffic safety hazard. Any sight obstruction determined by the County or SCDOT shall be corrected immediately.
- K. **Other Signs.** Signs that are not permitted, abandoned signs, and structurally unsafe or dangerous signs are prohibited.

7.5 GENERAL PROVISIONS

7.5.1 CONTENT NEUTRALITY AND SUBSTITUTION⁷

- A. **Content Neutrality.** Despite any other provision of this Chapter, the content of a sign's message does not limit its permissibility under this Chapter. However, location-based standards, such as on- and off-premises sign regulations, do apply.
- B. **Off-Premises Signs.** Signs with off-premises messages must comply with the standards in Section 7.10: *Billboard Standards*.
- C. **Substitution Allowed.** Any sign allowed with a commercial message may contain any non-commercial message. Any sign allowed with a non-commercial message may contain any other non-commercial message.

⁷ This new Section clarifies the content-neutral intent of the sign regulations.

7.5.2 STANDARDS APPLICABLE TO ALL SIGNS⁸

- A. **Location.** Unless specifically provided otherwise elsewhere in this Chapter, all signs shall adhere to the following location standards:
1. All signs regulated by this ordinance shall be located on private property;
 2. All signs shall be located outside of the street right-of-way and required sight triangles provided in [Section 6.14.1.J: Sight Triangles](#);
 3. Permitted signs are not allowed in a verge, the area between a public street and a sidewalk, without an encroachment permit; and
 4. No new freestanding sign shall be placed within 20 feet of an existing freestanding sign on an adjoining lot.
- B. **Sign Encroachments.** Where awning signs, canopy signs, projecting/suspended signs, and marquee signs are permitted, they may project over the sidewalk to within 18 inches of the curb line provided that such signs maintain a minimum clearance of eight feet above the sidewalk.
- C. **Removal of Dated Signs.** Any sign face or message relating to a business or other use located on the same lot must be removed by the owner within 120 days after vacating the premises of the particular business or use.

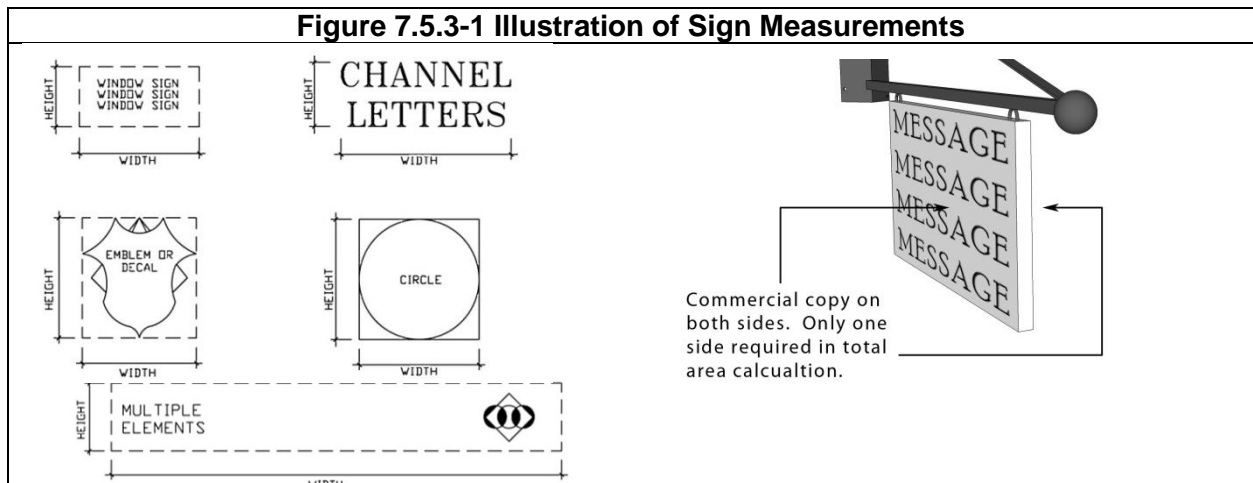
7.5.3 COMPUTATION OF SIGN MEASUREMENTS⁹

- A. **Computation of Sign Area.**
1. The area of a sign face is the entire area within the smallest square or rectangle that will encompass the extreme limits of the writing, representation, emblems, or other display on the sign as illustrated in Figure 7.5.3-1.
 2. The area also includes any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.

⁸ This Section carries forward current § 7.4.4: *General Provisions* with the following changes: 1) increases dated sign threshold from 30 to 120 days based on staff input; 2) relocates substitution of non-commercial content to § 7.5.1; and 3) removes requirement that all signs be on-premises signs because off-premises signs are also regulated by this Chapter.

⁹ This Section carries forward the standards of current § 7.4.3: *Computation of Signage Measurements* and adds standards for measurement of frontage and wall area.

3. Frames or structural members not bearing informational or representational matter are not included in the computation of the area of a sign face.
4. All sides of a multi-sided sign are included in the computation of area, except that the total area of a two-sided back-to-back sign is calculated as the area of one of the sides as illustrated at right.



B. Computation of Height.

1. The height of a sign is computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign.
2. Normal grade is the higher of:
 - (a) The established grade after any construction (exclusive of any filling, berming, mounding, or excavating solely to locate the sign), or
 - (b) The elevation of the nearest point of the crown of the nearest abutting street.

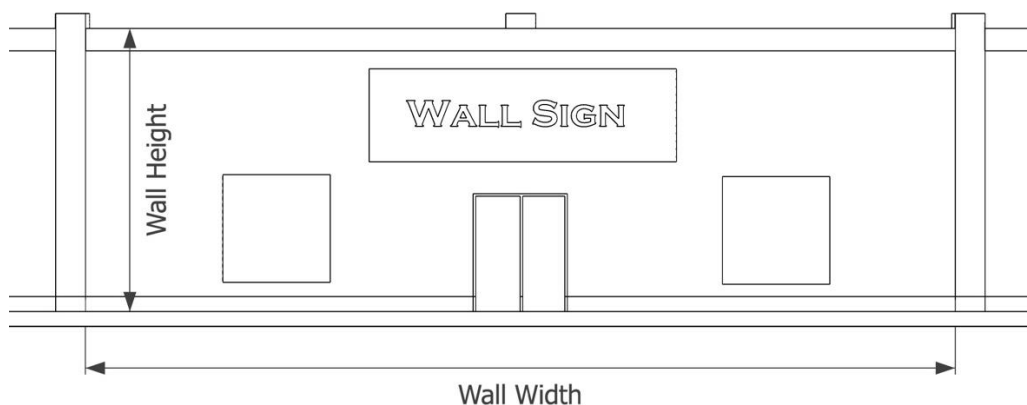
C. Computation of Setback. Unless specifically stated otherwise, setbacks are measured from the nearest point on the sign to the nearest point on a property line, zoning boundary, use, or structure, as appropriate.

D. Frontage Measurement. Where an allowance or standard is based on frontage or street frontage, the measurement is the length of the property line of the parcel adjacent to a public right-of-way.

E. Wall Area.

1. *Generally.* The allowance for attached signs is based on the wall area of the wall where the sign is located. Wall area is the width of a building façade multiplied by the height as measured from an elevation perspective.
2. *For Multi-Tenant Developments.* For commercial centers and multi-tenant developments, tenant separation partitions define the boundary for the wall width used to calculate wall area, as shown in Figure 7.5.3-2: *Wall Area Measurement for Multi-Tenant Development*.

Figure 7.5.3-2: Wall Area Measurement for Multi-Tenant Development



7.5.4 SIGN FEATURES¹⁰

7.5.4.1 Illumination Standards¹²

- A. **Brightness.** Signs that are illuminated at night may not exceed 750 Nits (candelas per square meter) as measured on the face of the sign.
- B. **Shielding Required.** Any external illumination must be effectively shielded to prevent light from being directed at any portion of a street or highway or any residential use.

¹⁰ This new Section consolidates and significantly updates the current standards for lighting of signs and changeable signs in one location. The allowances for these features are included in each sign table for clarity and ease of reference.

¹² This Subsection significantly updates current § 7.4.9: *Sign Illumination* by clarifying the maximum brightness for all signs and by moving the requirement for shielding of lighting billboards in § 7.4.6.F.: *Off-Premises Advertising Signs (Billboards)*. It also changes the measure of brightness from footcandles to Nits (candelas per square meter) to be consistent with the digital sign standards.

- C. **Setback Required.** Except for permitted residential development signs, all illuminated signs must be set back at least 50 feet from any side or rear property line that abuts the AR, RR, RN, LDR, MDR, and MFR Districts.

7.5.4.2 Changeable Signs¹³

A. **Readerboards.**

1. *Definition.* A readerboard is a sign that serves as a display for characters, letters, or illustrations that a sign user can manually change or rearrange without altering the face or surface of the sign.
2. *Area Allowances.* The allowance tables for each sign type state whether readerboards are allowed in the district and the maximum percentage of the sign area allowed for a readerboard.

B. **Electronic Message Centers.**

1. *Definition.* An Electronic Message Center (EMC) is a sign capable of displaying words, symbols, figures, or images, that are changeable electronically or mechanically by remote or automatic means. Examples of EMCs include digital displays using light-emitting diodes (LED) and tri-vision mechanically changeable signs.
2. *Area Allowances.* The allowance tables for each sign type state whether EMCs are allowed in the district and the maximum percentage of the sign area allowed for EMCs.
3. *Operation Standards.*

¹³ This Subsection consolidates several different terms for changeable signs in the current code. The current code refers to “Manually Activated” and “Electrically Activated” changeable signs for standard on-premises signs, refers to reader boards, digital message boards (including LED screens), or other similar commercial electronic variable message signs for the HCO (but does not define these terms) and refers to Commercial Electronic Variable Message Signs (CEVMS) for billboards (but does not define that term). The new framework defines for readerboards as signs that are manually changeable and Electronic Message Centers (EMCs) as digital and electronic signs. Changes include: 1) relocating the allowances to the sign tables; 2) converting the allowance to a % of sign area; 3) providing a uniform 10-second hold time to prevent scrolling and other animation; 4) removing the exception for schools and worship centers and prohibition on commercial messages; and 5) removing the digital allowance for a parcel in any district with more than 500 feet of frontage; and 6) providing one unified set of operation standards for digital signs.

- (a) The message on EMCs must remain fixed for a minimum of 10 seconds. The change sequence must occur in less than two seconds.
- (b) EMCs may not use features that simulate motion, such as dissolve, fade, travel, scroll, animation, and full video displays.
- (c) The luminance of an EMC may not exceed 750 Nits (candelas per square meter) between sunset and sunrise and 7,500 Nits between sunrise and sunset.
- (d) EMCs must automatically adjust or dim due to changes in ambient light, such as inclement weather and time of day.
- (e) EMCs must contain a malfunction display lock that will freeze the sign in one position or shut the sign down if a malfunction occurs.

7.5.5 MAINTENANCE AND UPKEEP OF SIGNS¹⁵

- A. **Generally.** All signs shall be maintained in a state of good repair.
- B. **Removal of Unsafe Signs.**
 - 1. No sign shall be erected or allowed to remain erected that is structurally unsafe, hazardous, or constitutes a danger to public safety.
 - 2. If, in the opinion of the Administrator, any sign should become insecure, in danger of falling, or otherwise unsafe, the owner of the sign or lot must secure or remove the sign within 10 days after written notification is delivered from the Administrator.
 - 3. If the sign is not removed or repaired in a manner approved by the Administrator within 10 days after written notification is delivered, the Administrator may have the sign removed and dispose of the sign.


¹⁵ This Section carries forward the current standards of § 7.4.10: *Maintenance and Upkeep of Signs*.

7.6 PERMANENT SIGN STANDARDS¹⁶

7.6.1 FREESTANDING SIGN STANDARDS¹⁹

A. Freestanding Sign Types.

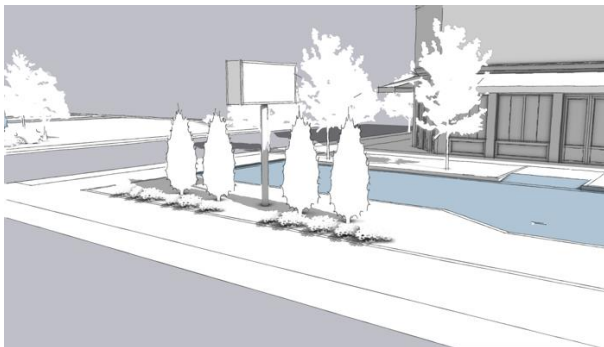
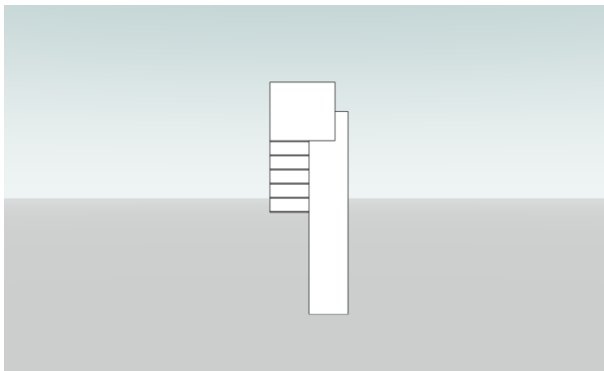
1. *Definition.* A freestanding sign is a permanent on-premises sign supported by its own structure apart from a building and secured in the ground.
2. *Types.* Freestanding sign types include monument, pole, and pylon signs as illustrated in Table 7.6.1-1: *Freestanding Sign Types*.

Table 7.6.1-1: Freestanding Sign Types	
DEFINITION	ILLUSTRATION
<p>Monument Sign: An on-premises permanent freestanding sign with a low profile and having a base and support structure with a solid appearance that is at least as wide as the width of the widest part of the sign's face.</p>	

¹⁶ This Section significantly reorganizes § 7.4.5: *Signage Standards by Category* to the description of the sign type and the standards together for both freestanding and attached signs.

¹⁹ This Section significantly revises and consolidates current § 7.4.5.B. & D. The consolidation locates the sign types and allowance table in the same section with the standards. Other changes include 1) reorganizing the zoning district groups based on intensity; 2) updating the sign types to include monument, pylon, and pole signs based on staff input; 3) increasing the height allowance from 10 to 20 feet for commercial districts; 4) increasing the area allowance to 1 sq. ft. per 1 ft. of frontage with increased district maximums based on staff input; 5) increasing the multi-tenant development allowance to a 25% increase over the district base allowance; 6) removing the general landscaping requirement (but still required for HCO); 7) relocating separate bracket sign allowance to incidental sign allowance (see § 7.8); and 8) relocating A-frame sign allowance to temporary signs (see § 7.9).

Table 7.6.1-1: Freestanding Sign Types

DEFINITION	ILLUSTRATION
<p>Pole Sign: An on-premises permanent freestanding sign supported by one or more visible poles or vertical members.</p>	
<p>Pylon Sign: An on-premises permanent freestanding sign supported by one or more poles or vertical members that are enclosed within fascia or another exterior finish material.</p>	

- B. **Permit Required.** A UDO Zoning Permit is required for all permanent freestanding signs.
- C. **Freestanding Sign Allowances.** All freestanding signs must comply with the allowances and standards in Table 7.6.1-2: *Freestanding Sign Allowances*. Additional allowances are provided for multi-tenant developments.

Table 7.6.1-2: Freestanding Sign Allowances

DISTRICT	MAXIMUM NUMBER	TYPE	SETBACK (MIN.)	AREA (MAX.) ¹	HEIGHT (MAX.) ¹	LIGHTING	READER-BOARD	EMC
AR, RR, RN, OSP (Nonresidential use only)	1 per street frontage	Any	5 ft front 10 ft side	25 sf	6 ft	Yes	100%	No
LDR, MDR, MFR (Nonresidential use only)	1 per street frontage	Monument only	5 ft front 10 ft side	25 sf	6 ft	Yes	50%	No
RUB, NB	1 per street frontage	Any	5 ft front 10 ft side	50 sf for primary frontage 30 sf for secondary frontage	10 ft	Yes	50%	20%
INS, GB, RB	1 per street frontage	Any	5 ft front 10 ft side	40 sf OR 1 sf per linear foot of frontage up to 200 sf	20 ft	Yes	50%	100%
LI, HI	1 per street frontage	Any	5 ft front 10 ft side	40 sf OR 1 sf per linear foot of frontage up to 150 sf	20 ft	Yes	25%	20%

Table 7.6.1-2: Freestanding Sign Allowances

DISTRICT	MAXIMUM NUMBER	TYPE	SETBACK (MIN.)	AREA (MAX.) ¹	HEIGHT (MAX.) ¹	LIGHTING	READER- BOARD	EMC
HCO	1 per public entrance	Monument or pylon only	5 ft front 10 ft side	40 sf OR 1 sf per linear foot of frontage up to 200 sf	20 ft	Yes	25%	50%

Key: Max. = maximum allowed | Min. = minimum allowed | ft = linear feet | sf = square feet | Yes = sign or feature allowed for district | No = Sign or feature not allowed for district | % = percentage of sign face that may include the feature

Notes:

¹ Certain multi-tenant developments qualify for an increased height and area allowance. See Paragraph 7.6.1E.

- D. **Location Standard.** Freestanding signs are not allowed in any required buffer yard or within 20 feet of any right-of-way intersection.
- E. **Multi-Tenant Developments.** Multi-tenant developments of 8 acres or more or with 500 or more feet of street frontage are entitled to the following additional signage.
 - 1. Multi-tenant developments are allowed freestanding signs that exceed the district area and height allowance in Table 7.6.1-2: *Freestanding Sign Allowances* by 50%.
 - 2. Tenants and occupants of shared parcels or buildings in multi-tenant developments are not entitled to a separate freestanding sign in addition to the sign allowance for the development.
 - 3. Tenants and occupants of separately platted lots in multi-tenant developments may display separate freestanding signs as follows:
 - (a) One freestanding sign on the primary frontage with the allowances in Table 7.6.1-2: *Freestanding Sign Allowances*; and
 - (b) One freestanding sign on a secondary frontage not to exceed 10 feet in height and 50 square feet in area.

7.6.2 RESIDENTIAL DEVELOPMENT SIGN STANDARDS.²¹

- A. **Definition.** A residential development sign is a permanent freestanding sign located near the entrance drive or road to a residential development or an optional attached sign for a multi-family residential development. An example of a typical residential development sign is one that identifies the name of the development or phase of development, sometimes incorporating architectural or landscape features. The example is provided to clarify the regulations and does not limit the content of residential development signs. The County will not review the content of residential development signs.
- B. **Permit Required.** A UDO Zoning Permit is required for all permanent residential development signs.
- C. **Sign Allowances.** Each residential development is permitted one of the following options for additional signs.

²¹ This Section revises and clarifies current § 7.4.6.G.: *Residential Development Entry Signage*. Changes include clarification of the allowance for attached signs on multi-family buildings and the addition of a clear allowance for signs located on landscape features based on staff input.

1. *Option One.* One monument sign located in the median of any divided entrance with a maximum height of 6 feet and a maximum size of 32 square feet and subject to the following additional provisions:
 - (a) The sign must be set back 25 feet from the right-of-way of the intersecting street;
 - (b) Any lighting fixtures must be attached to or incorporated in the sign in such a fashion as not to constitute a safety hazard or mowing obstruction;
 - (c) The sign must be maintained by the developer or homeowners' association. The County will not be responsible for any special landscaping on the median or maintenance of the sign.
 2. *Option Two.* A maximum of two permanent monument signs per entrance with a maximum size of 32 square feet for each sign and a maximum height of 6 feet.
 3. *Option Three.* For multi-family uses, a maximum of one attached sign with a maximum area of 32 square feet. This option is an alternative allowance and not additional to the residential development signs provided above.
- D. **Design Standards.** Where entry drives or road frontages include or incorporate decorative features, such as landscaping, walls, gates, or fences, signs attached to a wall or other landscape features are allowed.

7.6.3 ATTACHED SIGN STANDARDS²²



A. **Attached Sign Types.**

1. *Definition.* An attached sign is an on-premises sign that is permanently affixed to a building or structure.
2. *Types.* Freestanding sign types include wall signs, window signs, awning signs, attached canopy signs, freestanding canopy signs, marquee signs, and projecting/suspended signs as illustrated in Table 7.6.3-1: *Attached Sign Types*.

²² Changes include: 1) relocation of address/tenant identification signs to incidental signs (see § 7.8); 2) changes measurement of allowance from a ratio of linear wall frontage to a percentage of wall area; 3) significantly increases wall sign allowances for INS, GB, RB, LI, and HI districts; and 4) adds freestanding canopy signs as an additional allowance; and 4) clarifies allowances for multi-tenant developments.

Table 7.6.3-1: Attached Sign Types	
DEFINITION	ILLUSTRATION OF SIGN TYPE
Wall Sign: An on-premises sign painted or attached to the wall of a building or structure where the face of the sign is parallel to the wall on which it is installed.	Hold for Illustration
Window Sign: An on-premises sign that is painted, hung, or otherwise affixed to the inside or outside of a window of a building or structure.	Hold for Illustration
Awning Sign: An on-premises sign painted, printed, or attached to the cover or frame structure of an awning.	Hold for Illustration
Attached Canopy Sign: An on-premises attached sign that is affixed to an attached canopy.	Hold for Illustration
Freestanding Canopy Sign: An on-premises attached sign that is affixed to a freestanding canopy where the face of the sign is parallel to the face or fascia of the canopy to which it is attached.	Hold for Illustration

Table 7.6.3-1: Attached Sign Types

DEFINITION	ILLUSTRATION OF SIGN TYPE
<p>Marquee Sign: An on-premises sign on a canopy projecting from the side of a building that may include vertical panels that extend above the roofline of the building and frequently includes panels for changeable copy</p>	 <p>Hold for Illustration</p>
<p>Projecting/ Suspended Sign: An on-premises attached sign that is affixed to and projects 12 inches or more from the side of a building or underside of a balcony or arcade, that is generally oriented perpendicular to the front façade of the building, and that displays content on both sides.</p>	 <p>Hold for Illustration</p>
<p>B. Permit Required. A UDO Zoning Permit is required for all permanent attached signs.</p>	
<p>C. Attached Sign Allowances. All attached signs must comply with the allowances and standards in Table 7.6.3-2: Attached Sign Allowances. Additional allowances are provided for multi-tenant developments.</p>	

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Table 7.6.3-2: Attached Sign Allowances

V a r i e t y o f s i g n s	I n s t r u c t i o n s r e q u i r e t h a t a l l s i g n s b e i n s t a l l e d i n a c c o r d a n c e w i t h t h e s t a n d a r d s e x c e p t a s s e s s e d b y t h e c o u n t y c o m m i s s i o n e a r l y 2 0 1 5	No
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Table 7.6.3-2: Attached Sign Allowances

Sign Type	Sign Description	Sign Size	Sign Color	Sign Material	Sign Location	Sign Duration	Sign Cost	Sign Notes
EMC	Emergency Management Center	15' x 15'	Blue	Aluminum	Front of building	5 years	50%	

M a n o c u e s (1 a s i g n a r e a y 1 0 0 %	F o r t i c o n f i d e n t i f i c a t i o n s (1 a s i g n a r e a y 1 0 0 %	100%
F A 1 r l p c l e s j r f s e i p c s	F A 1 r l p c l e s j r f s e i p c s	No

1. Tenants in multi-tenant developments with a separate public entrance may each display the allowed number of attached signs on any wall where a public entrance is located.
2. Multi-tenant developments with common entrances may display the number and size of attached signs as provided in this Section for the entire development. Individual tenants in multi-tenant buildings with common entrances may not display a separate attached sign.

E. Location and Design Standards.

1. *Wall Signs.*
 - (a) A wall sign may not exceed the maximum sign area on any wall. The area allowance for one wall may not be used on another wall.
 - (b) A wall sign may not extend more than 12 inches from the wall to which it is attached.
 - (c) A wall sign cannot extend above the roof line of the building.
2. *Marquee Signs.* Such signs must be perpendicular to the facade of the building, or at a 45-degree angle from the corner of the building.
3. *Freestanding Canopy Signs.*
 - (a) Freestanding canopy signs must:
 - (1) Be attached to the outer, vertical surface of the canopy;
 - (2) Be installed parallel to the vertical surface of the canopy; and
 - (3) May not project more than 18 inches from the vertical surface.
 - (b) Freestanding canopy signs are not allowed:
 - (1) To extend beyond the top, bottom, and side edges of any canopy surface;
 - (2) To hang from, or under, the canopy; or
 - (3) To be placed on the top, horizontal roof surface of the canopy.
 - (c) Character height for text, insignias, and logos may not exceed 24 inches.

4. *Canopy and Awning Signs.* An attached canopy or awning sign shall be a minimum of eight feet above any sidewalk or other pavement to provide for pedestrian clearance.
5. *Projecting Signs.* A projecting sign may be substituted for a wall sign provided it:
 - (a) Is a minimum of eight feet above any sidewalk to provide for pedestrian clearance; and
 - (b) Projects no more than six feet from the wall on which it is mounted.

7.7 HIGHWAY CORRIDOR OVERLAY STANDARDS²⁵

A. Generally.

1. The additional standards in this Section apply to all signs within the Highway Corridor Overlay (HCO) District.
2. If no different or additional standard or allowance applies for the HCO District, then the base district standards apply.

B. Design Standards.

1. All signs that are permitted within the Highway Corridor Overlay District must complement the surrounding buildings in material and architectural vernacular.
2. Incidental signs within a multi-tenant development shall be consistent in size, color, ornamentation, and materials and must complement the surrounding buildings.
3. The back of all signs must have a finished appearance unless they are screened with an opaque screen or are not visible from any street right-of-way.
4. A canopy or awning sign shall not be placed higher than the bottom of the second floor or higher than the roofline of single-story structures.

²⁵ This Section relocates and revises current § 4.3.2H.: Signs (HCO) and primarily integrates the HCO district standards into the general sign allowances.

- C. **Prohibited Signs:** The following signs are prohibited in the HCO District in addition to those prohibited in Section 7.4: *Prohibited Signs*:
1. Painted or handwritten signs;
 2. Billboards;
 3. Neon gas tubing or similar signs;
 4. Illuminated tubing or strings of lights used for outlining property lines, open sales areas, rooflines, doors, windows, or wall edges of any building;
 5. Signs that move or give the appearance of moving, including but not limited to feather signs, pennants, inflatable devices, streamers, and other signs which flutter, undulate, swing, rotate, oscillate, or otherwise move by natural or artificial means; and
 6. Stationary inflatable devices and tethered balloons.
- D. **Sign Illumination.** Signs shall not have light-reflecting backgrounds or letters.
- E. **Landscaping.**
1. A minimum five-foot wide landscaped area shall be provided for landscaping adjacent to any freestanding sign facing a public right-of-way.
 2. The minimum required landscaping shall consist of one of the following options every 10 linear feet:
 - (a) 5 shrubs;
 - (b) 20 perennials, groundcover plants, or grasses; or
 - (c) Any equivalent combination thereof.
 3. The arrangement of plantings and the type of plants may be designed and selected to allow visibility of the sign.
 4. The landscaped area must be covered with mulch, pine straw, decorative stone, or another appropriate cover material. No portion of the landscaped area may include exposed bare soil.

7.8 INCIDENTAL SIGN STANDARDS³²

- A. **Definition.** An incidental sign is a small permanent on-premises sign that is freestanding or attached to a building that is in addition to the primary sign types for the property, such as wall signs and freestanding signs, and that has a height and scale that is subordinate to the primary sign types allowed for the property. Examples of typical incidental signs include house numbers, occupant directories, directional signs, drive-thru menu boards, and parking signs. The list of examples is provided to clarify the regulations and does not limit the content of incidental signs. The County will not review the content of incidental signs.
- B. **Sign Allowances.** Incidental signs are subject to the sign allowances listed in Table 7.8-1. However, these signs do not require a UDO Zoning Permit.

Table 7.87.6.3-1: Incidental Sign Allowances

SIGN TYPE	DISTRICT	NUMBER (MAX.)	AREA (MAX.)	HEIGHT (MAX.)	SETBACK (MIN.)	LIGHTING	READER-BOARD	EMC
Perimeter Incidental Signs	AR, RR, RN, OSP, LDR, MDR, MFR RUB, NB (Non-residential uses only)	1 per entry/exit	2 sf	3 ft	N/A	Yes	No	No
	INS, GB, RB, LI, HI	2 per entry/exit	4 sf	4 ft	10 ft	Yes	No	No
Small Interior Incidental Signs	AR, RR, RN, OSP, LDR, MDR, MFR RUB, NB	20 per acre	2 sf	3 ft	25 ft	Yes	No	No
	INS, GB, RB	30 per acre	2 sf	4 ft	25 ft	Yes	No	No

³² This new Section includes content-neutral standards for incidental on-premises signs and provides standards by district for number, area, and location for these signs. General allowances for three different sign types (perimeter, small interior, and large interior) are given for these signs without regard to their content. This Section replaces current standards for signs like entrance/directional signs, directory signs, and drive-thru menu boards. Compare to current § 7.4.6: Other Permitted Signage Standards.

Table 7.87.6.3-1: Incidental Sign Allowances

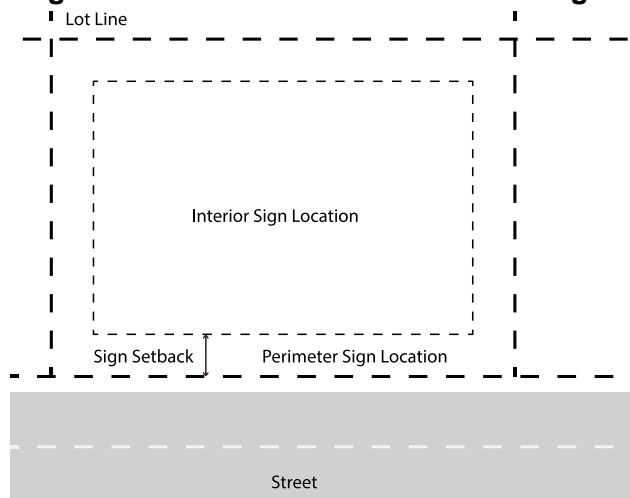
SIGN TYPE	DISTRICT	NUMBER (MAX.)	AREA (MAX.)	HEIGHT (MAX.)	SETBACK (MIN.)	LIGHTING	READER- BOARD	EMC
	LI, HI	30 per acre	4 sf	4 ft	25 ft	Yes	No	No
Large Interior Incidental Signs	AR, RR, RN, OSP, LDR, MDR, MFR RUB, NB (Non- residential uses only)	1 per lot	6 sf	4 ft	20 ft	Yes	No	No
	INS, GB, RB	2 per lot	35 sf	8 ft	25 ft	Yes	100%	100%
	LI, HI	1 per lot	32 sf	8 ft	25 ft	Yes	No	No

Key: Max. = maximum allowed | Min. = minimum allowed | ft = linear feet | sf = square feet | Yes = sign or feature allowed for district | No = Sign or feature not allowed for district | % = percentage of sign face that may include the feature

C. Sign Setback.

1. *Generally.* This Section regulates the location and size of incidental signs based on a sign setback that varies by district and incidental sign type. Figure 7.8-1: *Illustration of Incidental Sign Setback* depicts the setback and placement of incidental signs.
2. *Measurement.* The sign setback is the setback from any property line and regulates the location and size of incidental signs. Table 7.8-1 defines the applicable setback for each sign type and district.

Figure 7.8-1: Illustration of Incidental Sign Setback



D. **Perimeter Incidental Signs.** Perimeter signs are signs allowed between the property line and the applicable sign setback. Examples of typical perimeter incidental signs include directional and entry/exit signs. The list of examples is provided to clarify the regulations and does not limit the content of incidental signs. The County will not review the content of incidental signs.

1. Table 7.8-1 defines the maximum number of perimeter incidental signs per entrance or exit to a public street.
2. Perimeter signs are only allowed within 15 feet of a driveway entrance to a public street.

E. **Interior Incidental Signs.**

1. *Generally.* Interior signs are only allowed within a platted lot and are not allowed within the applicable sign setback. This Section provides for two types of interior signs: small and large interior signs.
2. *Small Interior Signs.* Table 7.8-1 defines the maximum allowances for small interior incidental signs based on the number of signs per acre. Examples of typical small incidental signs include house numbers, directional signs, and parking signs. The list of examples is provided to clarify the regulations and does not limit the content of incidental signs. The County will not review the content of incidental signs.
3. *Large Interior Sign.* Table 7.87.6.3-1 defines the allowances for large interior incidental signs based on the number of signs per parcel or multi-tenant development. Examples of typical large incidental signs include occupant

directories, drive-thru menus, and information kiosks. The list of examples is provided to clarify the regulations and does not limit the content of incidental signs. The County will not review the content of incidental signs.

- F. **Character Height.** Incidental signs must not display characters larger than four inches in height. All copy, characters, text, icons, pictograms, logos, and images must comply with the character height limit.
- G. **Design Standards.**
 - 1. *Orientation of Large Incidental Signs.* Large interior incidental signs with readerboard or electronic message center features are only allowed if oriented so that they are not viewable from any public right-of-way.
 - 2. *Sign Features.* Readerboard or electronic message center features, if allowed, must comply with the following standards:
 - (a) Displays may not feature motion, flashing, or video;
 - (b) Displays may not create glare or other conditions that impair the vision of drivers or obstructs or interferes with a driver's view of surrounding traffic situations; and
 - (c) The sign meets the standards of Subsection 7.5.4: *Sign Features*.

7.9 TEMPORARY SIGN STANDARDS³⁴

- A. **Definition.** A sign constructed of cloth, canvas, light fabric, cardboard, wood, wallboard, metal, or other light materials, with or without frames, and displayed for a limited time only. Temporary signs include banners, feather signs, inflatable devices, stake signs, and post signs. Examples of common temporary signs include political signs, public demonstration signs, yard sale signs, grand opening signs, contractor signs, real estate signs, and signs that announce a special event. The list of examples does not limit the content of temporary signs. The County will not review the content of temporary signs.

³⁴ This Section significantly updates the current temporary sign standards of §§: 7.4.7: *Signs Not Requiring a Permit*, 7.4.6.D: *Temporary Commercial Signs*, and 7.4.5: *Signage Standards by Category* (for A-frame signs) for content neutrality. The Section includes standards for temporary signs and provides standards that vary by zoning district for the number of signs, area, and duration of display for temporary signs without regard to content. Generally, larger temporary signs are allowed for more intensive uses, and smaller temporary signs are allowed for less intensive uses. The draft increases the primary allowance for larger commercial signs from 16 to 32 square feet based on staff input. The draft also expands the use of A-frame signs to all commercial districts based on staff input.

- B. **Prohibited Temporary Sign Types.** Section 7.7: Highway Corridor Overlay Standards prohibits the use of several common types of temporary signs.
- C. **Sign Allowances.** All uses must comply with the temporary sign allowances listed in Table 7.97.6.3-1. Separate allowances are provided for different sizes of temporary signs. However, these signs do not require a UDO Zoning Permit.

Table 7.9-1: Temporary Sign Allowances							
SIGN TYPE	DISTRICT	NUMBER (MAX.)	AREA (MAX.)	HEIGHT (MAX.)	LIGHTING	READER-BOARD	EMC
Small Temporary Signs	AR, RR, RN, OSP, LDR, MDR, MFR RUB, NB	8	4 sf	4 ft	No	No	No
	INS, GB, RB	10	4 sf	4 ft	No	No	No
	LI, HI	10	6 sf	4 ft	No	No	No
Large Temporary Signs	AR, RR, RN, OSP, LDR, MDR, MFR RUB, NB	N/A	N/A	N/A	N/A	N/A	N/A
	INS, GB, RB, LI, HI	1 per lot	32 sf	8 ft	No	No	No
A-Frame Sign	RUB, NB, GB, RB	1 per public entry	8 sf per side	4.5 ft	No	No	No

Key: Max. = maximum allowed | ft = linear feet | sf = square feet | Yes = sign or feature allowed for district | No = sign or feature not allowed for district | % = percentage of sign face that may include the feature

1. *Number.* Table 7.9-1: *Temporary Sign Allowances* defines the maximum limit for temporary signs per tenant with a separate public entrance for multi-tenant developments or per lot for a standalone use.
2. *Duration for Display.*
 - (a) One small or large temporary sign is allowed on each lot without any time limitation.

- (b) The duration of display for all other temporary signs is 90 days or less per calendar year, measured cumulatively per sign.
- 3. *Owner Consent Required.* A person must obtain the consent of the property owner before placing a sign on that person's property.

D. **A-Frame Signs.**

- 1. *Definition.* A temporary, portable, freestanding sign that is in the shape of the letter "A" when viewed from the side, with back-to-back sign faces, an easel, or a similar configuration.
- 2. *Sign Allowances.* Table 7.97.6.3-1: *Temporary Sign Allowances* defines the maximum dimensional standards for A-frame signs per tenant with a separate public entrance for multi-tenant developments or per lot for a standalone use.
- 3. *Location and Use Standards.*
 - (a) Signs may be located on a public sidewalk but must maintain at least 48 inches of unobstructed pedestrian space.
 - (b) Signs must be placed within 20 feet of the main building entrance.
 - (c) The sign must be removed at the close of business each day.

7.10 BILLBOARD STANDARDS³⁶

- A. **Definition.** A permanent, freestanding, off-premises sign or sign structure that has one or more faces upon which copy is placed on a poster or panel that is mounted on a pole or metal structure.
- B. **Permit Required.** A UDO Zoning Permit is required for all billboards.
- C. **Billboard Allowances.** All Billboards must comply with the allowances and standards in Table 7.10-1: *Billboard Allowances*.

³⁶ This Section carries forward and updates the terminology of current § 7.4.6.F.: *Off-Premises Advertising Signs (Billboards)*. No substantive changes are made.

Table 7.10-1: Billboard Allowances			
DISTRICTS	TOTAL HEIGHT (MAX.)	DISPLAY SURFACE DIMENSIONS (MAX.)	AREA (MAX.)
LI, HI	24 ft	Height of 10 ft Width of 15 ft	150 sf per side, including copy extensions

Key: Max. = maximum allowed | ft = linear feet | sf = square feet

D. Additional Standards.

1. Billboards may not have more than two sign surface areas mounted back to back. Each face must be the same height and width.
2. Only one billboard is allowed per lot.
3. Billboards are not allowed to be erected on the roof of any building, attached to any building, or painted or posted on any building.
4. Billboards must be set back at least the height of the sign from any public or private right-of-way, as measured from the closest point on the sign to the right-of-way.
5. Billboards must be separated by at least 1,500 feet from any other billboard located on the same side of the same public or private right-of-way, measured from center point to center point.
6. At street intersections, a billboard must be separated by at least 500 feet from any other billboard, measured from center point to center point.
7. Billboards are not allowed within 200 feet of any right-of-way of any underpass, overpass, bridge, or tunnel or any plaza serving one of these facilities.
8. Billboards are not allowed within 500 feet of any residential district and/or use.
9. Billboards are only allowed on parcels with at least 150 feet of road frontage.
10. Billboards are allowed on premises where another permitted use is established provided the billboard is located at least 75 feet from any part of the property occupied by any portion of the established use, including off-street parking areas.

11. All portions of a billboard must be at least 10 feet from any overhead electric wiring and public utility guy wire.
12. Signs subject to regulation under the South Carolina Department of Transportation's outdoor advertising controls may require a permit from the SCDOT in addition to any permit required under this UDO.

E. Design Standards.

1. "Copy extensions" (portions of copy extending beyond the outer edge of the sign frame) are allowed provided:
 - (a) They extend no more than six feet beyond the outer edge of the sign frame;
 - (b) They do not exceed 100 square feet in area (per side); and
 - (c) They comply with all other requirements.
2. Billboards shall meet wind load requirements that meet or exceed the most recently approved International Building Code (IBC).
3. The area within 25 feet, in all directions, from the base of the billboard shall be landscaped with ground cover, shrubs, or other plantings to screen the base of the sign. The sign owner shall maintain this landscaping as long as the sign occupies the premises and shall keep this area free from debris and undergrowth.
4. A site plan and landscaping plan prepared by a registered engineer or landscape architect for each sign must be submitted for billboard applications.

F. Illumination.

1. All billboards may be illuminated but must use fully shielded lighting.
2. Color lighting is prohibited on all billboards except billboards with electronic message centers.

- G. Changeable Copy.** Billboards that incorporate electronic message centers or readerboards must be at least 2,000 feet from any other off-premise sign, measured from center point to center point.

Zoning District Change. When the property where a billboard is located is changed to a district that prohibits these signs, the sign must be removed within 90 days of the zoning change.

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: A. Hardin / Development Services Director

Department: Planning

Date Requested to be on Agenda: 7/17/2024

Council Action Requested:

Receive and provide feedback on County Codes and State Building Codes that are in conflict with each other and how to correct the conflict.

Strategic Plan Focus Area Alignment:

Points to Consider:

See attached report.

Funding and Liability Factors:

Recommendation:

ATTACHMENTS:

Description	Upload Date	Type
Draft Code Amendments	7/10/2024	Backup Material

Chapter 7 BUILDINGS AND CONSTRUCTION¹

ARTICLE I. IN GENERAL

Sec. 7-1. Standard codes adopted.

The following codes, as promulgated by the International Code Council and in the version most recently adopted by the State of South Carolina's Department of Labor, Licensing and Regulation, shall constitute and become an ordinance of the county, and are hereby adopted as fully as though set out at length herein, excluding the appendices other than Appendices H, J, and Q as adopted by the SC Building Codes Council, and including Chapter One, except as further provided herein. Provided, however, that the provisions of the codes which concern the qualification, removal, dismissal, for all building officials, deputy building officials, chief inspectors, and other inspectors and assistants are not adopted herein.

Commented [AH1]: Need to ensure these exclusions are still valid

Amendments to these codes shall become effective in the county on the effective date specified by the state.

2021 Editions:

- International Building Code, with South Carolina amendments;
- International Residential Code, with South Carolina amendments;
- International Mechanical Code, including Chapter One, with South Carolina amendments;
- International Plumbing Code, including Chapter One, with South Carolina amendments;
- International Fire Code, with South Carolina amendments;
- International Fuel Gas Code, with South Carolina amendments;

2020 Edition:

- National Electric Code, with South Carolina amendments;

2017 Edition:

- ICC ANSI 117.1 Accessible and Usable Buildings and Facilities;

2009 Edition:

- International Energy Conservation Code.

(Ord. No. 259, 12-5-94; Ord. No. 298, 8-19-97; Ord. No. 437, 4-30-01; Ord. No. 548, 6-30-03; Ord. No. 847, 9-10-07; Ord. No. 1171, § 1, 10-8-2012; Ord. No. 1320, § 1, 2-9-2015; Ord. No. 1400, § 2, 6-27-2016; Ord. No. 1630, § 1, 12-9-2019; Ord. No. 1830, § 2, 11-28-2022)

¹Editor's note(s)—Ord. No. 234, § 7, adopted May 23, 1994, created a building and zoning department for the county, The duties of said department have been set out in section 25-61 of this Code and include issuing permits, performing inspections and administering building codes and related regulations.

Cross reference(s)—Construction board of adjustment and appeals, App. B, § 8.6.

Cross reference(s)—Adoption of technical codes, § 2-64; building and zoning department to enforce building and construction codes, § 25-61.

Sec. 7-2. Optional codes adopted.

The following permissive codes, as promulgated by the International Code Council and in the version most recently adopted by the State of South Carolina's Department of Labor, Licensing and Regulation, shall constitute and become an ordinance of the county, and are hereby adopted as fully as though set out at length herein, excluding the appendices and including Chapter One, except as further provided herein. Provided, however, that the provisions of the codes which concern the qualification, removal, dismissal, duties, responsibilities of, and administrative procedures for all building officials, deputy building officials, chief inspectors, and other inspectors and assistants are not adopted herein.

Amendments to these codes shall become effective in the county on the effective date specified by the state.

2021 Editions:

International Existing Building Code.

International Property Maintenance Code.

International Swimming Pool and Spa Code.

International Performance Code for Buildings and Facilities.

(Ord. No. 847, 9-10-07; Ord. No. 1320, § 1, 2-9-2015; Ord. No. 1400, § 2, 6-27-2016; Ord. No. 2019-1630, § 2, 12-9-2019; Ord. No. 1830, § 2, 11-28-2022)

Secs. 7-3—7-20. Reserved.

ARTICLE II. BUILDING AND ~~MOBILE-MANUFACTURED~~ HOME PERMITS²

Sec. 7-21. Title.

The provisions included in the following sections of this article shall constitute and may be cited as the Lancaster County Building and ~~Mobile-Manufactured~~ Home Permit Ordinance, hereinafter referred to as "this ordinance."

(Ord. No. 129, § 1, 3-25-86)

Sec. 7-22. Scope.

- (a) The provisions of this ordinance shall apply to the construction, alteration, renovation, relocation, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

²Editor's note(s)—Ord. No. 129, adopted Mar. 25, 1986, did not specifically amend the Code; hence, inclusion of §§ 1-6 as Art. II, §§ 7-21-7-26 was at the editor's discretion.

Cross reference(s)—Administration, Ch. 2; environmental protection and Sanitation, Ch. 12; planning and development, Ch. 25; roads, bridges and public ways, Ch. 26; taxation. Ch. 28; water and sewers, Ch. 29.

Commented [AH2]: Mobile homes are portable structures built before the HUD Home Construction and Safety Standards were applied (June 15, 1976). Manufactured homes are those portable structures built after June 15, 1976 and conforming to HUD Manufactured Home Construction and Safety Standards. County codes do not allow mobile/manufactured homes to be brought in or moved within the county that are more than 30 years old. Under this provision, the last year that mobile homes could be moved in or within Lancaster County was 2006. The appropriate title reflects the changes made by the Housing and Community Development Act of 1980.

- (b) The provisions of this ordinance shall further apply to the placement and/or movement to, from or within Lancaster County of any mobile-manufactured home, except movement from an authorized mobile manufactured home dealership.
- (c) The provisions of this ordinance shall not apply within any incorporated municipality which has adopted and is enforcing a building permit ordinance.
- (d) The provisions of this ordinance will not apply to ordinary repairs to buildings, structures, mobile manufactured homes, and related appurtenances. Such ordinary repair would include such items as reroofing replacing siding or trim, repainting, replacing gutters, replacing a worn out heating unit replacing of lamps, or replacing windows (like for like, where no structural changes are required), or replacing deteriorated structural components. The designated enforcement official for this ordinance shall determine, on a case by case basis, any question as to work constituting an ordinary repair or an improvement requiring a permit, which determination shall be final and binding.
- (e) Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.
- (f) A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution, metering, or other related equipment that is under the ownership and control of public service agencies by established right.

Sec. 7-23. Administration and enforcement.

- (a) Permits required by this chapter shall be issued in compliance with the provisions hereof by the building official who shall also collect and properly administer all fees established under section 7-25 of this chapter.
- (b) The county building official is hereby designated as the enforcement official of this chapter, which designation also includes county employees authorized by the building official as his representative.
- (c) Sworn law enforcement personnel of the county shall assist the building official in the enforcement of this chapter upon request.
- (d) Upon notice from the building official, work on any building or structure or activity underway being done contrary to the provisions of this chapter shall be immediately stopped. Such notice shall be in writing and shall be transmitted to the owner of the property, or his agent, or the person performing work, and shall state the conditions under which work may be resumed. Such written notice shall be sufficient if mailed to the last recorded address of the owner, hand delivered, or affixed to the affected improvement or mobile manufactured home.
- (e) It shall be unlawful for any public utility, rural electric cooperative, or any agency furnishing electric current to connect electrical energy to any building, structure, or mobile-manufactured home or premises where a permit is required under this chapter prior to the issuance thereof or to maintain any such connection upon notice by the building official that such connection was made in violation of the provisions of this chapter. This connection restriction includes temporary connection for construction purposes.

(Ord. No. 129, § 3, 3-25-86; Ord. No. 1320, § 1, 2-9-2015)

Sec. 7-24. Permit administration.

- (a) It shall be unlawful for any person to engage in activity included under section 7-22 of this chapter unless an application has been filed and a permit granted by the building official. Each application for a building or mobile-manufactured home permit shall be made in a form required by the building official. Building permit

Commented [AH3]: ICC Code R105.2.2: Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or moving portable equipment to approved receptacles. Such repairs shall not include the cutting away of any part of any wall, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any part of a required means of egress, or nor addition or alteration of, replacement, or relocation of any water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical work, or other work affecting public health or general safety.

Commented [AH4]: Copied from ICC Code R105.2.1

Commented [AH5]: Copied from ICC Code R105.2.3

applications shall include, but not be limited to, all information mandated under S.C. Tax Commission Rule Number 117-~~118~~1740 entitled "General Requirements for Building Permits." The building official shall certify each application as a condition precedent to permit issuance.

- (b) The building official shall make every reasonable effort to assist an applicant in completing the building or ~~mobile-manufactured~~ home permit application form; however, the applicant for such permit is wholly responsible for obtaining and entering complete and accurate information on the permit application form. If the permit application is deemed incomplete, inaccurate or nonconforming to the provisions of this ~~chapter~~ or other pertinent ordinances or laws, the building official shall reject said application in writing, indicating what action the applicant must take to conform.
- (c) The building or ~~mobile-manufactured~~ home application shall require the applicant to identify any public utility, electric co-op, or agency that will supply electric power to the affected improvement and the building official shall supply a copy of the building permit to any entity so identified. The building official shall transmit permit copies to identified power supply entities at least once each week.
- (d) Upon approval of a ~~mobile-manufactured~~ home permit application involving placement, the building official shall issue a placement decal, which decal shall be permanently affixed to said ~~mobile-manufactured~~ home by the owner thereof. Upon approval of a ~~mobile-manufactured~~ home permit involving movement of same ~~to~~, within, or from Lancaster County, the building official shall issue a moving permit card, which card shall be conspicuously displayed on the rear of said ~~mobile-manufactured~~ home while same is being moved.
- (e) Applications for building permits shall follow the guidance in the most recently adopted International Building Code and International Residential Code under "Application for Permit." A copy of any building permit issued by the building official shall be displayed at the affected premises in a conspicuous place and protected from the weather. No work shall begin prior to posting of the permit and posting shall be maintained until work for which the permit was issued is complete and ready for occupancy or use.
- (f) If, in the opinion of the building official, the applicant's valuation of any improvement on a building permit application appears to be underestimated, the application shall be rejected unless the applicant can show detailed estimated cost to meet the building official's approval. Should the tax assessor, upon his establishment of market value for taxing purposes, determine that said market value exceeds the value entered upon the building permit application for the affected improvement by a factor greater than ten (10) percent, the tax assessor shall bill the owner of said improvement and the owner shall pay any additional permit fee that would have been payable based on proper valuation at the time of permit issuance.
- (g) Any building permit issued shall become invalid unless work authorized is commenced within six (6) months of its issuance or after commencement is discontinued for a period of six (6) months. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code, the unified development ordinance, or adopted building codes.
- (~~h~~) Any ~~mobile-manufactured~~ home permit (permanent decal) involving placement shall be valid only as long as the unit for which it was issued remains within Lancaster County and in the same ownership as when the permit was issued. Any ~~mobile-manufactured~~ home permit involving movement of a ~~mobile-manufactured~~ home ~~to~~, within, or from Lancaster County shall be valid only while said unit is being moved between locations entered upon the application form.
- (~~hi~~) It is unlawful for any person, individual, company, corporation, or other entity to move a building or structure over any road in this county without first obtaining a permit from the county building ~~department~~ and ~~planning and~~ zoning department. The permit must be obtained before the person begins the process of preparing the building or structure for moving. The form of the application for a moving permit shall be determined by the county building and zoning departments. The moving permit is valid for fifteen (15) calendar days. Upon a showing of just cause, the building and zoning departments may extend the period of

Commented [AH6]: Code change made in 2004. Source: <https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/IL04-20.pdf>

Commented [AH7]: Ref: IRC Section R105.6

time the moving permit is valid by not more than a total of fifteen (15) calendar days. The moving permit must accompany the building or structure while it is being moved by displaying it on the rear of the building or structure in a conspicuous place. The moving permit must be available for inspection at all times. The permit required by this subsection is in addition to any other permit required by the county except that this subsection does not apply to the movement of one-story detached buildings or structures which are valued at five thousand dollars or less (\$5,000.00) and to the movement of ~~mobile-manufactured~~ homes.

(Ord. No. 129, § 4, 3-25-86; Ord. No. 829, 6-21-07; Ord. No. 1049, § 1, 8-31-10; Ord. No. 1320, § 1, 2-9-2015)

Sec. 7-25. Schedule of permit fees.

- (a) No permit shall be issued until fees as established as a part of annual county budget ordinance have been paid.
- (1) *Building permits.* Building permits shall not be required for one-story detached accessory structures which are valued at five thousand dollars (\$5,000.00) and less. Zoning permits are required for all structures.
- (2) *Sign fee.* All fees shall be paid at the time of issuance of the permit or inspection made.
- (3) *Penalties.* Where work for which a permit is required and is commenced prior to obtaining said permit or attaining approval to proceed prior to obtaining said permit, the fees herein shall be doubled, yet the payment of such double fee shall not relieve any person or persons from fully complying with the applicable code in the execution of said work nor from any other penalties prescribed herein.
- Should the fees be waived by official action of the county council, county administrator, or other governmental entities, all other permit and code compliance requirements shall still be applicable and required.
- (4) *Electrical permit.*
- a. Required on all commercial and industrial projects. Building permit will cover electrical permit in these occupancies where multiple trades are doing work.
- b. Required on all residential or commercial projects when a building permit is not issued.
- (5) *Plumbing permit.*
- a. Required on all commercial and industrial projects. Building permit does cover plumbing installations in these occupancies where multiple trades are doing work.
- b. Required on all residential or commercial projects when a building permit is not issued.
- c. If any plumbing installation commences prior to obtaining the permit or obtaining approval to proceed prior to obtaining the permit, the fee herein shall be doubled.
- (6) *H.V.A.C. (mechanical) permit.*
- a. Required on all commercial and industrial projects. Building permit does cover mechanical installations where multiple trades are doing work.
- b. Required on all residential or commercial projects when a building permit is not issued.
- c. If any mechanical installation commences prior to obtaining the permit or obtaining approval to proceed prior to obtaining the permit, the fee herein shall be doubled.
- (7) *Gas permits.* Required on all commercial and industrial projects. Building permit does cover gas installations in these occupancies where multiple trades are doing work.

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(Supp. No. 36)

- (8) *Moving permits.* All fees, if any, shall be paid at the time of issuance of the permit.
- (9) *Religious institutions.* The first thirty thousand dollars (\$30,000.00) in combined building permit fees and plan review fees shall be waived for work on a sanctuary, church educational facility (except pre-school, K–12 school, or post-secondary school facilities), and family life center facility of a religious institution. Other facilities of a religious institution, including, but not limited to, a manse, parsonage, or a denominational administrative facility, shall have standard fees assessed. Proof of designation as a religious institution shall be by submission of the appropriate Internal Revenue Service documentation.

- (b) Where any activity regulated by this chapter is commenced prior to issuance of the required permit, the applicable fee shall be doubled.
- (c) The building official shall maintain accurate accounting records of all permit fees collected and shall remit all cash receipts to the county treasurer as required by the county's cash management policy.

(Ord. No. 129, § 5, 3-25-86; Ord. No. 532, 2-24-03; Ord. No. 656, 2-28-05; Ord. No. 846, 9-10-07; Ord. No. 1049, § 2, 8-31-10; Ord. No. 1300, §§ 1, 2, 9-8-2014; Ord. No. 1320, § 1, 2-9-2015)

Sec. 7-26. Violations and penalties.

- (a) *Generally.* Any person, firm, corporation, or agent who shall fail to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined and/or imprisoned as provided for in section 1-10 of the Lancaster County Code of Ordinances. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof that a violation is committed or continued.
- (b) *Work commencing before permit issuance.* Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an additional fee equal to the amount of the required permit fee, provided that the amount shall not exceed five hundred dollars (\$500.00), that shall be in addition to the required permit fee. The payment of such penalty shall not relieve any person or persons from fully complying with the applicable code in the execution of said work nor from any other penalties prescribed herein.

(Ord. No. 129, § 6, 3-25-86; Ord. No. 492, 5-6-02; Ord. No. 846, 9-10-07)

ARTICLE III. BUILDING DEMOLITION

DIVISION 1. FINANCIAL GUARANTEE FOR CERTAIN BUILDING DEMOLITIONS

Sec. 7-27. Financial guarantee for certain building demolitions.

- (a) *Financial guarantee required.* All demolition projects performed in Lancaster County on structures of five thousand (5,000) gross square feet or more must have a financial guarantee on file with the county finance department prior to the beginning of the demolition project. The purpose of the financial guarantee is to assure completion of the demolition project. As used in this section, "demolition" includes removal of debris and site restoration. The person or entity proposing the demolition project must provide a specific, reasonable and satisfactory date for the completion of the demolition project. No financial guarantee shall be required for demolition activities undertaken by a government entity.
- (b) *Amount of financial guarantee.*

Commented [AH8]: This specificity is contrary to federal laws, including equal protection and RLUIPA, including "No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution." (Title 42, Chapter 21C, Section 2000cc - Protection of land use as religious exercise)

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- (1) The amount of the financial guarantee for non-residential structures shall be set by the county zoning official and must be an amount equal to not less than one hundred twenty (120) percent of the estimated cost of the demolition. The person or entity proposing the demolition project shall submit to the county zoning official either a copy of a contract executed by the property owner and a licensed contractor or an itemized and certified cost estimate prepared by a licensed contractor, registered engineer, registered architect, or any combination thereof, which cover the costs for completion of the demolition project. The certified cost estimate shall bear the original signature and seal of the licensed or registered professional, be on company letterhead, and be in a form acceptable to the county zoning official. The county zoning official shall evaluate the cost estimate to determine if it is consistent with the prevailing costs for demolition. If the county zoning official determines that the cost estimate is less than prevailing costs for demolition, then the financial guarantee shall not be accepted for the demolition project and the demolition project shall not be started.
- (2) The amount of the financial guarantee for residential structures shall be set by the county zoning official and must be an amount equal to not less than one hundred twenty (120) percent of the estimated cost of the demolition. The county zoning official shall establish the cost estimate using the prevailing costs for demolition.
- (c) *Financial guarantee defined.*
- "Financial guarantee" means cash, a bank certified check payable to Lancaster County or an irrevocable letter of credit naming the county as beneficiary.
- (d) *Cash or bank certified check requirements.* Cash or bank certified checks must be equal to one hundred twenty (120) percent of the approved cost estimate.
- (e) *Letter of credit requirements.* Letters of credit must:
- (1) Be equal to one hundred twenty (120) percent of the approved cost estimate;
 - (2) Be issued for an initial coverage period not less than ninety (90) days past the date specified in subsection (a);
 - (3) Be irrevocable, unconditional and subject to presentation for drawing within the State of South Carolina; and
 - (4) Name Lancaster County as beneficiary.
- (f) *Approval of financial guarantee.* The county finance director is authorized to approve the form of the financial guarantee after review of the financial guarantee by the county attorney for content, format, and conditions. Approval of a financial guarantee is discretionary and the county reserves the ~~right~~ ^{right} to refuse a financial guarantee for any demolition project. Approval of a financial guarantee by the county shall not be construed as an obligation by the county to any person or entity to provide for the demolition project. Failure of a financial guarantee for any reason does not impose on the county any financial or other obligation to provide for the demolition project or any matter related to it.
- (g) *Holding and release of financial guarantee.* The county finance director shall hold the financial guarantee for safekeeping. When the county zoning official determines that the demolition project has been completed and that it conforms to the county's requirements for demolition projects, the county zoning official shall notify the county finance director who shall, as applicable, return or release the financial guarantee within thirty (30) days of notice from the county zoning official.
- (h) *Forfeiture of financial guarantee.* If the demolition project is not completed by the date specified in subsection (a) or if completed by the date specified in subsection (a) but not in conformance with the county's requirements for demolition projects, the financial guarantee is forfeited to the county.

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- (i) *Extension of completion date.* If it appears that the demolition project may not be completed by the date specified in subsection (a), the demolition project owner is obliged, at least forty-five (45) days prior to the date specified in subsection (a), to submit a revised completion date and to provide for the extension of the financial guarantee to conform with the requirements of this section. Approval of an extension of the financial guarantee is subject to the same approvals and process as provided in this section for the original financial guarantee. Any extension of a completion date shall be for a maximum period of six (6) months. A maximum of two (2) extensions is allowed.

(Ord. No. 1101, § 1, 9-26-11; Ord. No. 1202, § 1.B, 3-25-2013; Ord. No. 1225, § 1, 9-23-2013)

Secs. 7-28—7-49. Reserved.

DIVISION 2. DEMOLITION OF STRUCTURES

Sec. 7-50. Alternate demolition method.

- (a) As an alternative to any procedure set forth in this Code or other applicable law, the zoning official may meet with, or correspond with, all owners of a parcel upon which a substandard structure is located and offer to have the county participate financially in the cost of demolishing the substandard structure when the parcel owners agree to voluntarily demolish the substandard structure in lieu of the zoning official having to condemn it. The county's participation in the cost of demolishing the substandard structure is limited to the lesser of one-half (½) of the documented lowest cost of demolition of the substandard structure or two thousand dollars (\$2,000.00) and shall be paid on a reimbursable basis, subject to the conditions contained in this section:
- (b) The county's participation in the cost for the demolition of a substandard structure is subject at all times to the availability of funds within the county budget. The amount of financial participation must be confirmed in writing by the zoning official prior to the start of any demolition work. Any demolition work begun before the zoning official establishes the amount of funding is not eligible for reimbursement by the county. Prior to the disbursal of funds, the zoning official shall ensure that the demolition work has been completed satisfactorily, the parcel left in a suitable condition and that the parcel owners provide proof of payment of the costs of demolition. Reimbursements made by the county will follow normal payment methods established by the county finance department.
- (c) The parcel owners must agree to voluntarily demolish the substandard structure prior to the zoning official beginning condemnation actions to demolish the substandard structure at county expense. The parcel owners are responsible for all demolition activities including, but not limited to, the selection of the contractor, the removal of debris, obtaining necessary insurance coverage, and meeting all regulations concerning the removal of substandard structures. All permits must be secured prior to initiating any work. The parcel owners must accept the offer of financial participation by the county not later than thirty (30) days from the initial date of notification by the zoning official that corrective action is required.
- (d) The financial participation by the county provided for in this section is conditioned on the parcel owners giving written permission to the county to conduct training exercises on the subject premises by public safety personnel and the parcel owners must agree in writing to hold the county harmless for any damage to the property or contents that may result from the training exercises. The parcel owners must provide notice to the county of the dates of demolition.
- (e) The parcel owners must sign a binding agreement acknowledging all requirements of the program and that they will, without undue delay, fulfill any and all commitments made to the county. The binding agreement may include such other conditions as the zoning official considers necessary because of matters such as the

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(Supp. No. 36)

specific character of a structure, its former use, or the condition of the land. The binding agreement shall provide that if any actions of the parcel owners and its contractors or representatives are deemed unacceptable by the zoning official and not subject to reimbursement, then the parcel owners may ask for review and final disposition by the county administrator.

- (f) Nothing in this section shall be construed to impair or limit in any way the power of the county to define or declare nuisances and to cause their removal or abatement by summary proceedings, or other procedure. The measures and procedures provided for in this section do not supersede, and this section does not repeal, any other measures or procedures which are provided by ordinance, state law, applicable building code, or other applicable law for the elimination, repair, or correction of substandard structures, but the measures and procedures provided for in this section are in addition to any others.

(Ord. No. 1202, § 2, 3-25-2013)

Secs. 7-51—7-99. Reserved.

ARTICLE IV. DWELLINGS UNFIT FOR HUMAN HABITATION

Sec. 7-100. Abatement of dwellings unfit for human habitation.

(a) *Charging a dwelling as unfit for human habitation.*

- (1) Whenever it appears to the building official (on his own motion) that any dwelling is unfit for human habitation, the building official shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and all parties in interest in such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the building official or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of such complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building official;
- (2) Complaints or orders issued by the building official pursuant to this ordinance shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and cannot be ascertained by the building official in the exercise of reasonable diligence and the building official shall make to that effect, then the serving of such complaint or order upon such persons may be made by publishing it once each week for two consecutive weeks in a newspaper printed and published in the county or, in the absence of such newspaper, in one printed and published in the county and circulating in the county in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of the county in which the dwelling is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

(b) *Determining the dwelling is unfit for human habitation and order to repair, alter, improve, remove or demolish.*

- (1) ~~That if~~ after such notice and hearing, the building official determines the dwelling is unfit for human habitation, due to conditions which exist in the dwelling that are dangerous or injurious to the health or safety of the occupants of the dwelling, the occupants of neighboring dwellings or other residents in the county, including, but not limited to, defects resulting from the hazards of fire, accidents or other

calamities, lack of adequate ventilation, light, water, sewer, power, or sanitary facilities, dilapidation, disrepair, structural defects, uncleanness;

- a. The building official shall state in writing his findings of fact in support of such determination; and
- b. If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (as determined by the building official), the building official shall issue and cause to be served upon the owner an order requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or
- c. If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (as determined by the building official), the building official shall issue and cause to be served upon the owner an order requiring the owner, within the time specified in the order, to remove or demolish such dwelling.

(c) *Failure to comply with order; authority of Building Official to carry out order.*

- (1) If the owner fails to comply with the order, the building official may cause the order to repair, alter, improve, remove or demolish the dwelling to be carried out.
- (2) The amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the building official shall be a lien against the real property upon which such cost was incurred and shall be collectible in the same manner as county taxes.

(d) *Rights of persons affected by orders.*

- (1) Any person affected by the building official's order may within sixty (60) days after the posting and service of the order, petition the circuit court for an order restraining the building official from carrying out the order, and the court may, upon such petition, issue a temporary injunction restraining the building official pending the final disposition of the cause. Hearings shall be had by the court within twenty days or as soon thereafter as possible and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings the findings of the building official as to facts, if supported by evidence, shall be conclusive. The costs of the action shall be in the discretion of the court. The remedies herein provided shall be the exclusive remedies and no person affected by an order of the building official shall be entitled to recover any damages for action taken pursuant to any order of the building official or because of compliance by such person with any order of the building official.

(e) *Powers of the building official.* The building official may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the county in order to determine which dwellings therein are unfit for human habitation;
- (2) To administer oaths and affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations, provided such entries be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as deemed necessary to carry out the purposes of this article; and
- (5) To delegate any of his functions and powers to such officers and agents as he may designate.

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- (f) County council may make such appropriations from its revenues as it deems necessary for the purpose of this article and may accept and apply grants or donations to assist it in carrying out the provisions of this article.
 - (g) If a dwelling is removed or demolished by the building official he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the circuit court by the building official, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.
 - (h) Nothing in this article shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause the removal or abatement by summary proceedings or otherwise.
 - (i) *Definitions.* When used in this article:
 - (1) *Dwelling* means any building or structure, or part thereof, used and occupied for human habitation or intended to be so used.
 - (2) *Owner* means the holder of title to the property in fee simple and every mortgagee of record.
 - (c) *Parties in interest* refers to all individuals, associations, corporations and others who have interests of record in the dwelling and anyone in possession thereof.

(Ord. No. 2019-1588, § 1, 5-28-19)

Agenda Item Summary

Ordinance # / Resolution #: N/A

Contact Person / Sponsor: A. Hardin / Development Services Director

Department: Planning

Date Requested to be on Agenda: 7/17/2024

Council Action Requested:

Receive information on the County Code related to nuisance and unfit dwellings.

Strategic Plan Focus Area Alignment:

Points to Consider:

Council received an overview of the nuisance and unfit dwelling program in May. This is an updated status report on our program to address nuisance and unfit dwellings across the county.

Funding and Liability Factors:

None.

Recommendation:

Receive information on the nuisance and unfit dwelling code and program.

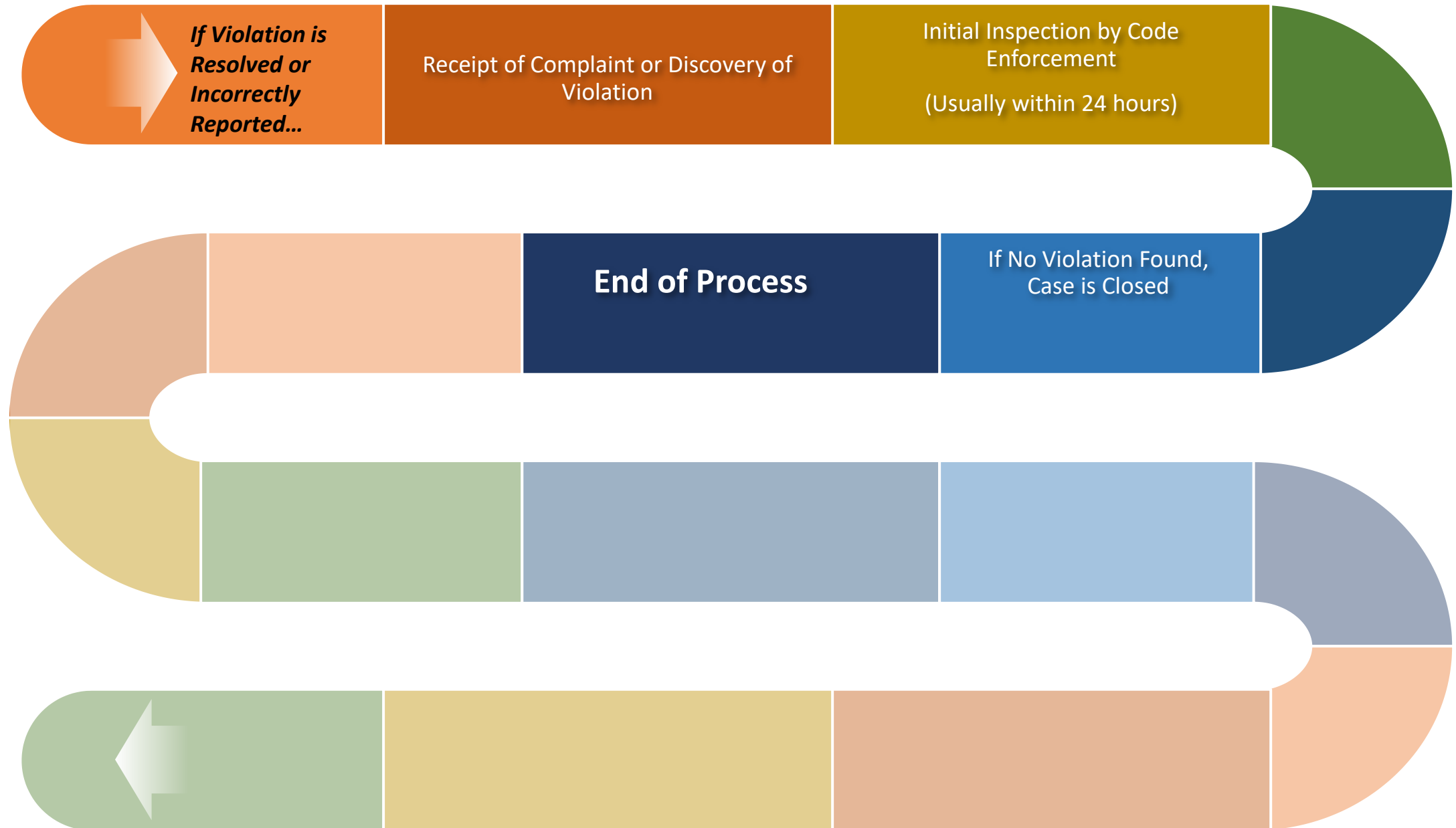
ATTACHMENTS:

Description	Upload Date	Type
Abatement Review	7/12/2024	Presentation

Nuisance Abatement – General Info

- Covered in both the Lancaster County Code and UDO
 - Assigned to building and zoning staff
- Violations may be called in by the public or reported by staff while in the field
- Unfit dwellings are different processes from general nuisances, both in action and in the code
- Annual budget has \$100,000 for “Demolition Expense”
 - Average demo cost: under \$5,000 if no asbestos
 - With asbestos abatement, cost can go beyond \$30,000
- *Current staff:* 1 inspector, 1 senior inspector in hiring process, 1 department head, 1 support staff

- Nuisance Abatement Processes and Timelines:
 - *Voluntary*
 - *Semi-Voluntary (Owner Initially Cooperates)*
 - *Involuntary*
- Unfit Dwelling Process and Timeline



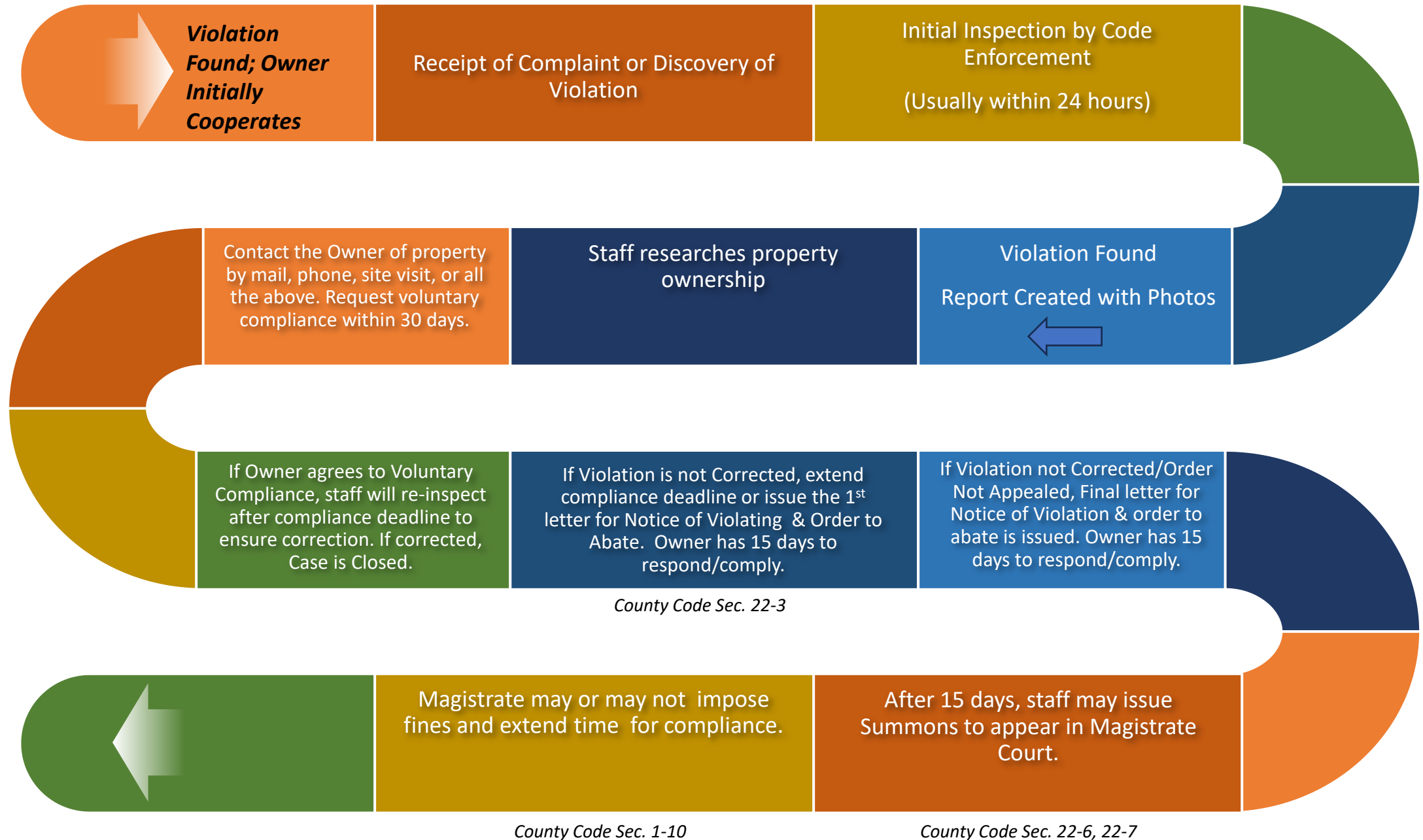
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Initial Inspection by Code

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1. Complaint Received
2. Initial Inspection
3. Pull Necessary Info
(ownership,
responsible party,
etc)
4. Convey Notice of
Violation; Request
Compliance
5. Negotiated
Compliance Period
(15 days)
6. Re-inspect
7. If Nuisance is
Abated, Close the
Case



*Violation
Found; Owner
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1. Complaint Received
2. Initial Inspection
3. Pull Necessary Info (ownership, responsible party, etc)
4. Convey Notice of Violation; Request Compliance
5. Negotiated Compliance Period (15 days)
6. Re-inspect
7. Give More Time (15 days)
8. Re-inspect
9. If Nuisance Abated, Close Case
10. If Nuisance Remains, Issue First Order to Abate (15 days)
11. Re-inspect
12. If Nuisance Abated, Close Case
13. If Nuisance Remains, Send Final Notice (15 days)
14. Re-inspect
15. If Nuisance is Abated, Close Case
16. If Nuisance Remains: Prepare for Summons

Code

(hours)

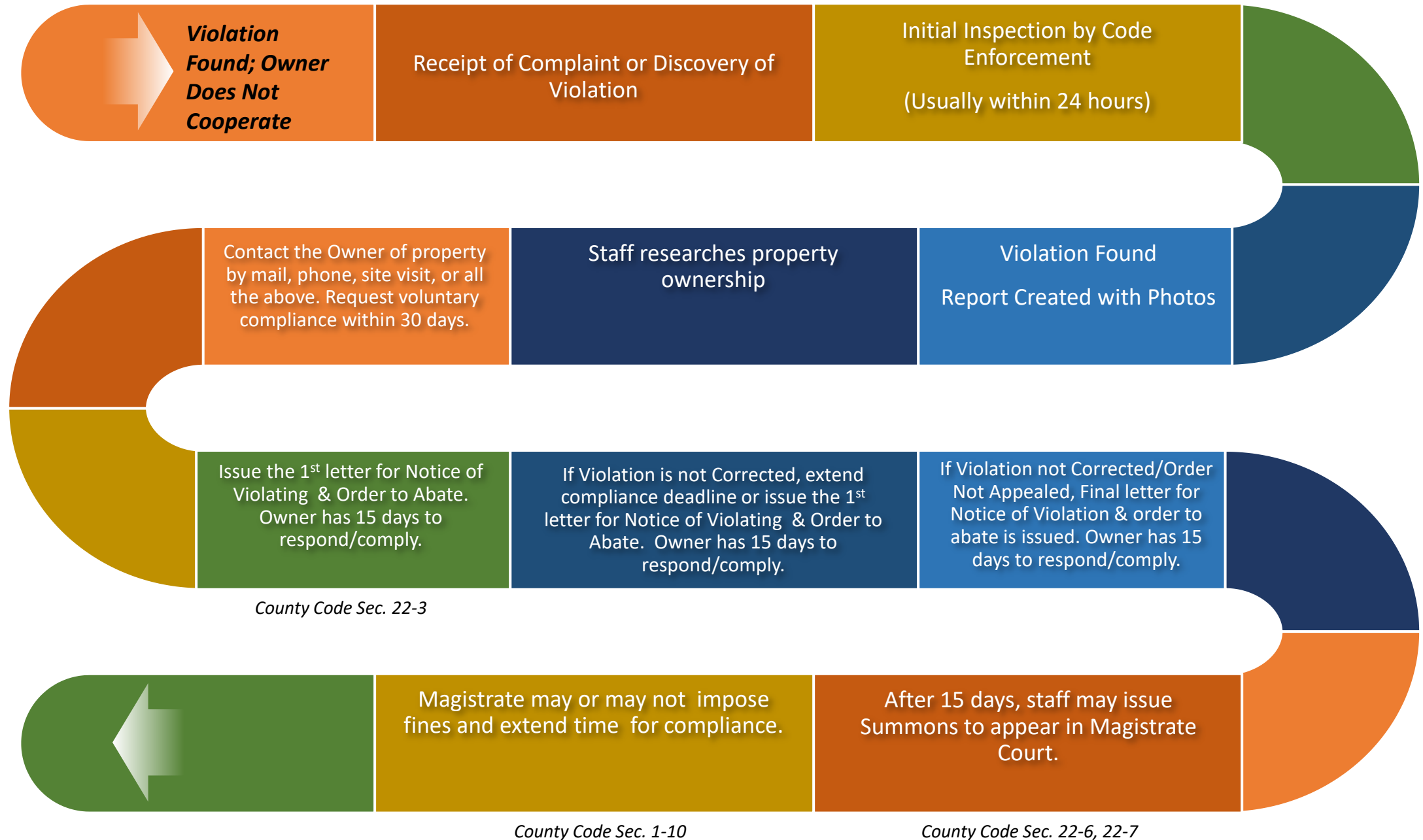
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22-7



Violation Found; Owner Does Not Cooperate

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Violating
Owner
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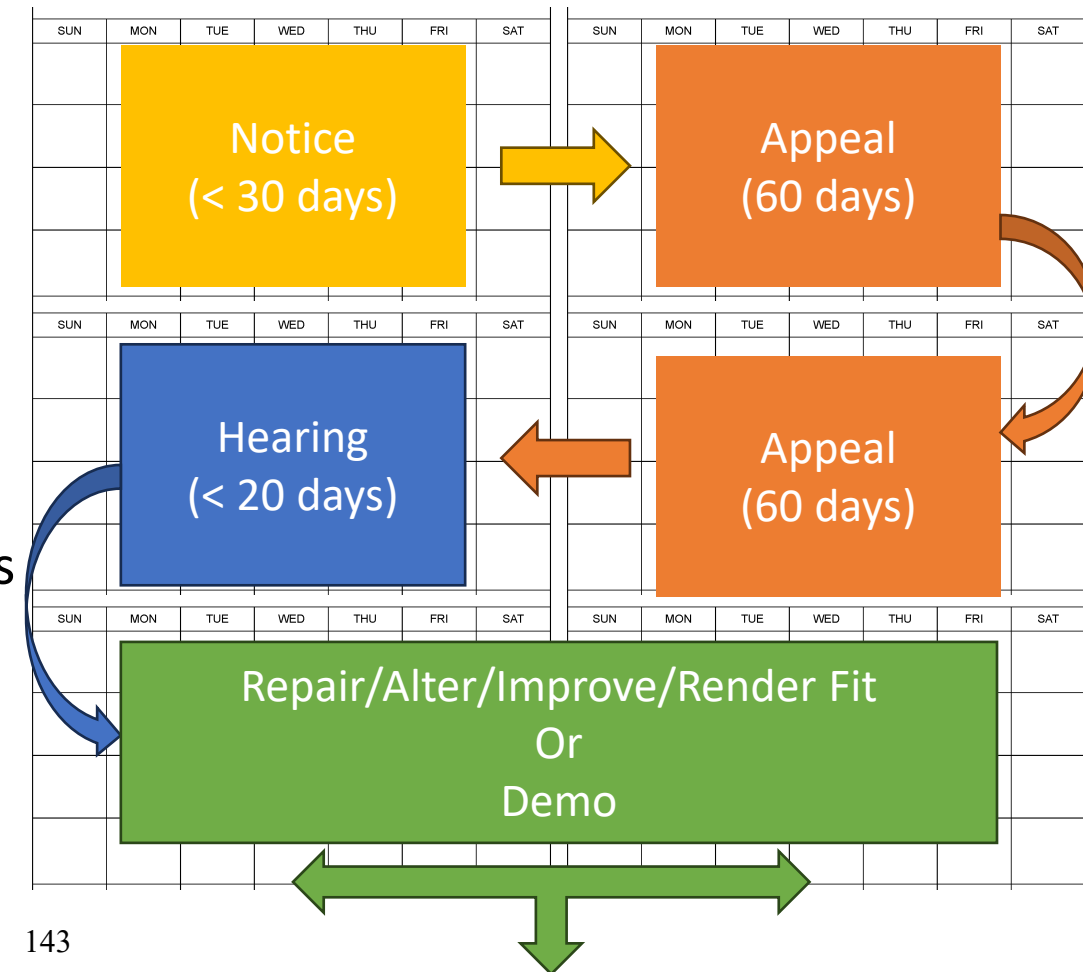
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1. Complaint Received
2. Initial Inspection
3. Pull Necessary Info (ownership, responsible party, etc)
4. Convey Notice of Violation; Request Compliance (15 days)
5. Compliance Denied
6. Give First Order to Abate (15 days)
7. Re-inspect
8. If Nuisance Abated, Close Case
9. If Nuisance Remains, Give Final Order to Abate (15 days)
10. Re-inspect
11. If Nuisance is Abated, Close Case
12. If Nuisance Remains: Prepare for Summons

Abatement Processes/Timelines

Unfit Dwelling (County Code Sec 7-100):

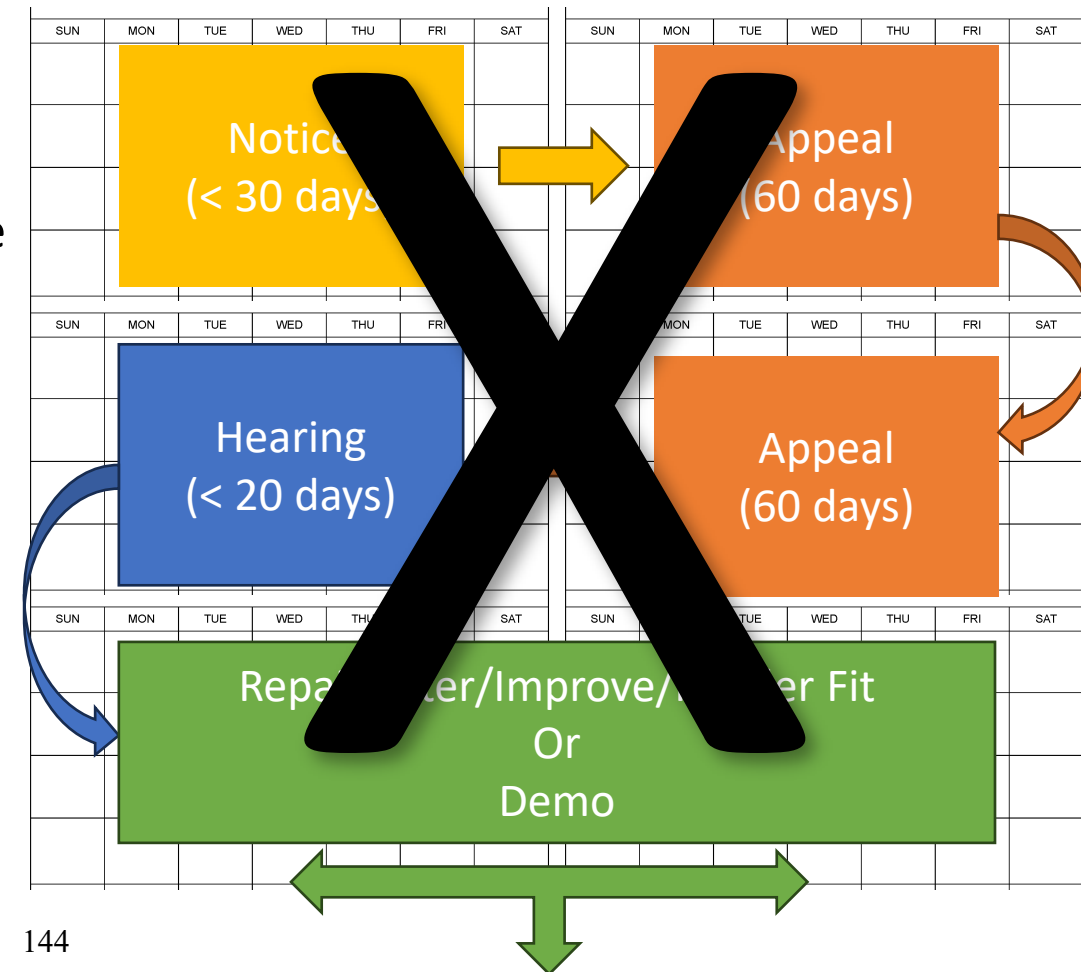
- Building Official issues complaint and notice of hearing, held between 10 – 30 days after notice
- **Notice** may be served in person, registered mail, or in the newspaper for two consecutive weeks
- If order to demo or repair is issued at the hearing, owner has 60 days to petition circuit court for a temporary restraining order (**appeal**) and hearing
- **Hearing** is held within 20 days or ASAP (given preference over other calendar items) and court issues final decree
- Time to repair or demo is left up to Building Official
- Failure to comply: County can bring building to compliance or demo and recoup costs via lien
- If housing is covered by HUD, add many months for compliance processes



Abatement Processes/Timelines

Alternative Demo Method (County Code Sec 7-50):

- As an alternative to any procedure, the zoning official may meet with all owners of a parcel with substandard structure and offer to have the county help pay for the cost of demo, in lieu of condemnation
- County cost share limited to \$2,000 max and subject to available funds
- Owners are responsible for all demo activities, including permits
- Condition: County departments get to use premises for training exercises prior to demo
- Staff have required three (3) bids to ensure demo cost is adequate



Agenda Item Summary

Ordinance # / Resolution #: Not Yet Assigned
Contact Person / Sponsor: Jeff Catoe / Public Works
Department: Public Works
Date Requested to be on Agenda: 7/17/2024

Council Action Requested:

The Council is being requested to approve speed limit changes on Regent Parkway and Niven Road.

Strategic Plan Focus Area Alignment:

Public Safety

Meet the demands of the growth of the County without negatively impacting the quality of Public Safety Service.

Infrastructure

Meet the demands of the growth of the County without negatively impacting the quality of service.

Points to Consider:

Both speed limits are posted at 35mph. We are requesting to lower both of them to 25mph.

Regent Parkway - The York County connection is already posted at 25mph.

Niven Road - The road has completed a traffic calming process and a lower speed limit would enhance the traffic calming measures.

Funding and Liability Factors:

Staff would change the speed limit signs, with very minimal impact to the budget.

Recommendation:

Provide feedback and input about lowering the speed limits for Regent Parkway and Niven Road.