

COUNTY OF HORRY

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ORDINANCE NO.

64-23

STATE OF SOUTH CAROLINA )

AN ORDINANCE AMENDING ARTICLE XI, SECTIONS 1102, 1104 & 1105 OF THE ZONING ORDINANCE OF HORRY COUNTY, SOUTH CAROLINA MORE COMMONLY KNOWN AS THE ZONING BOARD OF APPEALS.

WHEREAS, County Council recognizes that the Zoning Board of Appeals reviews a multitude of variance requests annually with no established limits; and

WHEREAS, there is a desire to establish more robust approval criteria for commercial, multi-family and townhome projects; and

WHEREAS, to exclude variances on minimum lot area as the appropriate process for those applications is a rezoning request; and

WHEREAS, it is the intent of County Council to periodically reconcile the standards of the zoning ordinance.

NOW, THEREFORE, by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, the following hereby is ordained and enacted:

1. **CODE AMENDMENT:** Article XI, Sections 1102, 1104 & 1105 of the Zoning Ordinance of Horry County Code of Ordinances is hereby amended by as follows: (All text in ~~strikethrough~~ shall be deleted and all text shown underlined and bolded shall be added)

#### SECTION 1102 DECISIONS OF THE ZONING BOARD OF APPEALS.

- A. The concurring vote of a majority of the members present at a meeting of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to affect any variation of this ordinance.
- B. A two-thirds (2/3) vote of a majority of the members present at a meeting of the Zoning Board of Appeals shall be necessary to grant a variance ≥50% on any commercial, multi-family or townhome projects.
- C. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. On all appeals, applications, and matters brought before the Zoning Board of Appeals, the Board shall inform in writing all the parties involved of its decisions and the reasons thereof.

#### SECTION 1104 POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS.

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination by the Zoning Administrator in the enforcement of this act.

- B. To hear and decide appeals for variance from the requirements of the Zoning Ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship.
- C. To hear and decide special exceptions.
- D. To decide on other matters where a decision of the Zoning Board of Appeals may be specifically required by the provisions of this ordinance.
- E. In exercising the above powers, the Zoning Board of Appeals may, in conformity with the provisions of this act, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken and may issue or direct the issuance of a permit. The Board, in execution of the duties for which appointed, may subpoena witnesses and in case of contempt may certify such fact to the Circuit Court having jurisdiction.
- F. All final decisions and orders of the Board shall be in writing and be permanently filed in the office of the Board as proper record. All findings of fact and conclusions of law shall be separately stated in final decisions or orders of the Board.
- G. The Board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district to extend physically a nonconforming use of land, reduce the established minimum required area for a parcel within any zoning district, or change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

#### SECTION 1105 VARIANCES.

- A. A VARIANCE MAY BE GRANTED IN AN INDIVIDUAL CASE OF UNNECESSARY HARDSHIP IF THE BOARD MAKES AND EXPLAINS IN WRITING THE FOLLOWING FINDINGS:
  - 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
  - 2. These conditions do not generally apply to other property in the vicinity;
  - 3. 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
  - 4. 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.
  - 5. ~~The Board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district to extend physically a nonconforming use of land, or change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.~~
- B. IN GRANTING A VARIANCE, THE BOARD MAY ATTACH TO IT SUCH CONDITIONS REGARDING THE LOCATION, CHARACTER, OR OTHER FEATURES OF THE PROPOSED BUILDING, STRUCTURE, OR USE AS THE BOARD MAY CONSIDER ADVISABLE TO PROTECT ESTABLISHED PROPERTY VALUES IN THE SURROUNDING AREA, OR TO PROMOTE THE PUBLIC HEALTH, SAFETY, GENERAL WELFARE.



1. Violation of conditions and safeguards prescribed in conformity with this article, when made a part of the terms under which the variance is granted, shall be deemed a violation of this article, punishable under penalties established in this article.
2. Failure to begin or complete, or begin and complete, an action for which a variance is granted, within the time limit specified, when such time limit is made a part of the terms under which the variance is granted, shall void the variance.

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C. VARIANCES WHICH REQUIRE ADDITIONAL CONDITIONS INCLUDE:

Airport Environs Overlay Variances

- a) Must submit a FAA determination of No Hazard to Air Navigation.
- b) The person or entity encroaching into the height restrictions contained herein shall procure, or cause to be procured, liability insurance in an amount deemed adequate by the Horry County Director of Airports, indemnifying Horry County. Horry County shall be named as an additional insured of any such insurance policy.

**2. SEVERABILITY.** If any Section, Subsection, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Subsection or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

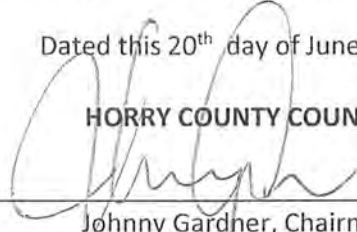
**3. CONFLICT WITH PRECEDING ORDINANCES.** If a Section, Subsection or provision of this Ordinance shall conflict with the provisions of a Section, Subsection or part of a preceding Ordinance of Horry County, unless expressly so providing, then the preceding Section, Subsection or part shall be deemed repealed and no longer in effect.

**4. EFFECTIVE DATE.** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED.**

Dated this 20<sup>th</sup> day of June, 2023.

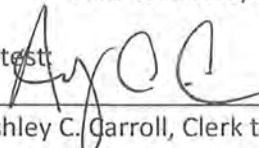
**HORRY COUNTY COUNCIL**

  
Johnny Gardner, Chairman

Jenna L. Dukes, District 1  
Bill Howard, District 2  
Dennis DiSabato, District 3  
Gary Loftus, District 4  
Tyler Servant, District 5  
Cam Crawford, District 6

Tom Anderson, District 7  
Michael Masciarelli, District 8  
R. Mark Causey, District 9  
Danny Hardee, District 10  
Al Allen, District 11

Attest:

  
Ashley C. Carroll, Clerk to Council

First Reading: May 16, 2023  
Second Reading: June 6, 2023  
Third Reading: June 20, 2023  
  
Public Hearing: June 6, 2023