



Ratification
Number _____

A N O R D I N A N C E

TO AMEND ARTICLE 2 (LAND USE REGULATIONS) OF CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY ADDING THERETO A NEW PART 19 (CONSERVATION DEVELOPMENT) AND BY ADDING RELEVANT DEFINITIONS TO SEC. 54-120 OF THE ZONING ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That Sec. 54-120 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is amended to delete the introductory sentence and replace it with the following new introductory clause:

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning or when the word, term, or phrase is specifically defined to apply to a particular Article, Part, or Section of this Chapter:

Section 2. That Sec. 54-120 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is amended to include the following new defined terms, to be inserted in alphabetical order with the remaining definitions in Sec. 54-120:

AMI. See Area Median Income.

Area Median Income. "Area Median Income" or "AMI" shall mean and have reference to the median family income, based upon applicable family size of a qualified household for the Charleston-North Charleston metropolitan statistical area as published by the United States Department of Housing and Urban Development (together with its successors, "HUD"), as adjusted for household size by the City of Charleston Department of Housing and Community Development (together with its successors, "DHCD"). If HUD should no longer compile and publish such statistical information, the most similar information compiled and published by HUD, or any other branch or department of the federal government or the State of South Carolina, or the City of Charleston shall be used for the purpose of determining AMI. Area median income (AMI) shall be determined annually by the United States Department of Housing and Urban Development as adjusted by the City of Charleston Department of Housing and Community Development, or their successors.

Building Line. A line parallel to the street right-of-way touching that part of the principal building on a lot closest to the street right-of-way.

Common Open Space. Common open space means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for the use and enjoyment of the public generally or for the use or enjoyment of the residents of the development and their guests. Without limiting the foregoing, common open space may include such complementary structures and improvements as are necessary and appropriate, in addition to wetlands, critical areas, water bodies, agricultural lands, wildlife habitat, historical or cultural features, archaeological sites, easements for underground public utilities, or other elements to be protected from development. Common open space shall not include streets, alleys, or cul-de-sacs; drives; off-street parking and loading areas; areas so located or of such size or shape to have no substantial aesthetic or recreational value; or any area within the property lines of residential lots.

Conservation Tree. Any native tree species with a DBH of sixteen inches (16") or greater. The following species are considered Conservation Trees when they reach a DBH specific to their species: American Holly, twelve inches (12"), Dogwood, eight inches (8"), Loblolly and Slash Pine, twenty inches (20").

Development Plan. Development plan means a preliminary plat and, to the extent public improvements are required, construction drawings, for subdivision of any property that includes all information described on the development plan submittal checklist for subdivision applications available from the Zoning Division.

Green Infrastructure or GI. Green Infrastructure (GI) is an adaptable term used to describe an array of materials, technologies, and practices that use natural systems or engineered systems that mimic natural processes to enhance overall environmental quality and provide utility services. As a general principal, green infrastructure techniques use soils and vegetation to infiltrate, evapotranspire, and/or recycle stormwater runoff. Examples of green infrastructure include green roofs, porous pavement, rain gardens, and vegetated swales.

Household Income. All sources of financial support, both cash and in kind, of adult occupants of the housing unit, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, Social Security benefits, railroad retirement benefits, Supplemental Security income, Aid to Families with Dependent Children or other public assistance welfare programs, other sources of income regularly received, including Veterans' (VA) payments, unemployment compensation and alimony, and awards, prizes, government or institutional or eleemosynary loans, grants or subsidies and contributions made by the household members' families for medical, personal or educational needs.

Impervious Surface. Surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including conventionally surfaced streets, roofs,

sidewalks, parking lots, and other similar structures. For purposes hereof, all other surfaces shall be considered pervious surfaces.

Low Impact Development or LID. Low impact development (LID) is a set of principles and design components used to manage stormwater runoff by mimicking natural conditions and limiting pollutant transport through source control. Nothing in this definition amends, modifies, abrogates, or repeals the Stormwater Regulations, and applicants must comply with all applicable Stormwater Regulations and obtain approval under such Stormwater Regulations for the use of any LID.

Owner Occupied Workforce Housing Unit. See Workforce Housing Unit, Owner Occupied.

Pervious Surface. A surface that permits full or partial infiltration of water. Notwithstanding the foregoing, a pervious surface shall include any surface which is not an impervious surface.

Qualified Households. Households in which occupants have, in the aggregate, a household income (1) less than or equal to 120% of AMI for owner occupied workforce housing units; or (2) less than or equal to eighty percent (80%) of AMI for rental workforce housing units.

Rental Workforce Housing Unit. See Workforce Housing Unit, Rental.

Stormwater Regulations. Those federal, state, or local regulations governing stormwater management and drainage, including without limitation Chapter 27 (Stormwater Management and Flood Control) of the Code of Ordinances of the City of Charleston and the City's Stormwater Design Standards Manual. Stormwater Regulations additionally include any amendments, supplements, or modifications to the existing Stormwater Regulations.

Technical Review Committee or TRC. The Technical Review Committee or TRC established by Sec. 54-602 and Sec. 54-816.2.

Workforce Housing Unit. An owner occupied workforce housing unit or a rental workforce housing unit.

Workforce Housing Unit, Owner Occupied. A dwelling unit in which at least one (1) occupant is an owner and in which all occupants have, in the aggregate, household income less than or equal to 120% of AMI.

Workforce Housing Unit, Rental. A dwelling unit in which occupants have, in the aggregate, household income less than or equal to eighty percent (80%) of AMI.

Section 3. That Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by adding a new Part 19, to read as follows:

PART 19 – CONSERVATION DEVELOPMENT

Sec. 54-299.59. - Purpose.

(1) Intent. City Council intends for Conservation Developments to facilitate innovative residential developments that:

- (a) Utilize creative and flexible site design compatible with surrounding development patterns;
- (b) Accommodate and preserve features of historical, cultural, archeological, and/or environmental significance;
- (c) Conserve existing, intact, undisturbed forests, understory, grasslands, soils, and other upland ecosystems.
- (d) Provide common open space of high quality with multiple access points;
- (e) Decrease stormwater runoff and nonpoint source pollution by reducing the amount of impervious surface in the development and incorporating GI;
- (f) Reduce infrastructure costs by mimicking predevelopment site hydrology into the stormwater management design for the development; and
- (f) Maintain unobstructed scenic views or vistas, especially from street rights-of-way.

(2) Definition. A Conservation Development is a development utilizing innovative site planning techniques to concentrate buildings, structures, and impervious surfaces in specific areas within the development and to allow the remaining land to be used for common open space. Such techniques may include, but shall not be limited to, any or all of the following:

- (a) reduction or, when appropriate, elimination of (i) minimum lot areas per family; (ii) minimum setbacks; and/or (iii) minimum lot frontage; and/or
- (b) increase or, when appropriate, elimination of maximum lot occupancy;

but only to the extent such techniques facilitate the preservation and use of the remainder of the development as common open space.

(3) Conservation Site. "Conservation Site" or "Site" means all properties, lots, parcels, waterbodies, watercourses, wetlands, and other areas included within a Conservation Development, whether or not such properties, lots, parcels, waterbodies, watercourses, wetlands, or other areas will be developed.

Sec. 54-299.60. - Applicability and general provisions.

(1) Base Zoning: Conservation Developments may be permitted only on properties entirely located within one or more of the following base zoning districts: SR-1, SR-7, RR-1 or C.

(2) Minimum acreage: Conservation Developments may be permitted only on developments with a minimum of ten (10) contiguous gross acres.

(3) Net Density: Net Density shall comply with the standards set forth in the base zoning district for each property or portion thereof included in the Conservation Site, as set forth in Table 3.1 in Sec. 54-301, except as follows:

(a) When an accessory dwelling unit is permitted, such accessory dwelling unit shall not count toward Net Density; and

(b) Workforce housing units meeting the conditions in Sec. 54-299.60(4)(b) shall not count toward Net Density.

(4) Allowed Uses: All principal and accessory uses permitted in the base zoning district for each property or portion thereof included within a Conservation Development also shall be permitted on such property or portion thereof, subject to the same conditions, special exceptions, limitations, and terms applicable to such principal or accessory uses within the base zoning district; provided, however, the following terms, conditions, and exceptions shall apply:

(a) Accessory dwelling units. Accessory dwelling units shall be permitted as part of a Conservation Development, whether or not permitted in the applicable base zoning district, if the conditions in Sec. 54-214 are met. If the accessory dwelling unit is located within an accessory building, the building height shall be limited to one and one-half (1½) stories and a parking level shall count as one (1) story.

(b) Workforce housing units. Workforce housing units included as part of a Conservation Development shall comply with each of the following conditions in order to qualify as such for purposes of Sec. 54-299.60(3)(b) and Sec. 54-299.60(4)(c):

(i) The workforce housing unit is a one-family detached dwelling unit; a one-family attached dwelling unit; or an accessory dwelling unit.

(ii) The workforce housing unit has been approved by the City's Department of Housing and Community Development in conformity with the criteria applicable to such workforce housing unit; and

(iii) Once approved, a workforce housing unit shall be maintained as such in perpetuity as part of the zoning regulations applicable to the property.

(c) One-family attached dwelling units. One-family attached dwelling units may be permitted as part of a Conservation Development, whether or not permitted in the applicable base zoning district, only when each of the following conditions is met:

(i) There are no more than six (6) one-family attached dwelling units located within a single row;

(ii) At least twenty percent (20%) of the one-family attached dwelling units on the Conservation Site have been set aside as workforce housing units complying with the conditions in Sec. 54-299.60(4)(b);

(iii) The required workforce housing units shall be integrated throughout the Conservation Site, such that they are not concentrated together within a single row.

(5) Stormwater Regulations: Notwithstanding any other provision of this Part which may be interpreted to the contrary, all Conservation Developments shall comply with the Stormwater Regulations in effect at the time a complete application for a development plan is submitted, and nothing in this Part amends, modifies, abrogates, or repeals the Stormwater Regulations.

Sec. 54-299.61. - Conservation Development Approval and Design Criteria.

Properties satisfying the criteria of Sec. 54-299.60 may be developed as a Conservation Development as set forth in an approved development plan, upon compliance with the procedures and regulations governing subdivisions in Article 8 of the Zoning Ordinance, subject to the following supplemental terms and conditions:

(1) Pre-Application Site Review.

(a) Purpose. The purpose of the pre-application site review is to identify the features and resources on the proposed Conservation Site that should be preserved, and to determine potential site layouts that will best meet the criteria of a Conservation Development.

(b) Request. The applicant for approval of a Conservation Development shall submit a Request for Pre-Application Site Review on a checklist available from the Zoning Division, together with the following exhibits (collectively, the "Request"):

(i) Graphic exhibits at the same scale as the existing conditions survey with all existing features on the parcel(s) clearly identified and labeled to include: all Conservation Trees; wetlands; OCRM critical areas; man-made and natural water bodies or watercourses, including without limitation ditches; phosphate mines; logging, farm and forest roads; structures; archeological sites; scenic views or vistas (into and out from the parcel); topographical features; elevation; floodplain; significant groves/plots of vegetation; and unique environmental characteristics; and

(ii) A preliminary stormwater management summary detailing the pre- and post-development runoff volumes for the site. The summary must include a breakdown by area of planned stormwater management BMPs separated into detention pond versus GI practices.

(c) Pre-Application Site Review Meeting. Upon submission of a Request, the Zoning Administrator shall determine if the Request is complete. If the Zoning Administrator determines that the Request is complete, the Zoning Administrator will schedule a pre-application site review meeting with a representative of the applicant; designated staff of the City's Department of

Planning, Preservation and Sustainability (the "Planning Department"); and designated staff of the City's Department of Stormwater Management (the "Stormwater Department").

(d) Diagram. Following the pre-application review meeting, the applicant shall submit a bubble diagram showcasing the proposed land use plan, including where and how stormwater will be managed.

(e) Determination. Designated staff from the Planning Department and the Stormwater Department shall determine whether the Request complies, in concept only, with the standards for Conservation Development before the applicant may submit a concept plan to TRC.

(f) Amendment. To the extent the area or location of the proposed Conservation Site changes at any time prior to approval of a development plan, the applicant shall be required to submit a new Request.

(2) Site Analysis. With respect to a Conservation Development, each application for concept plan approval shall include a site analysis presented in graphic form at the same scale as the existing conditions survey and shall provide the same information as required for the pre-application site review conducted prior to concept plan submission (the "Site Analysis"). The Site Analysis shall also include the following:

(a) Narrative. A narrative as to how the concept plan aligns with the intent, purpose, and definition of a Conservation Development as delineated in Sec. 54-299.59.

(b) Vegetation. An exhibit demonstrating that existing vegetation will be preserved as much as reasonably feasible.

(c) Conservation Trees. A survey of all Conservation Trees within the Conservation Site, together with a tree risk assessment by a Certified Arborist for the Conservation Trees identified on the survey.

(d) Soils. A preliminary soils investigation for the site that includes the soil types, hydrologic soil groups, infiltration characteristics, and seasonal high water table.

(e) Other Information. All information required to show that the Conservation Site will comply with the requirements of this Part.

(3) Streets. The following standards shall apply to streets within a Conservation Development:

(a) All streets shall be public.

(b) All streets shall be designed in a manner to allow for visitor parking inside or outside the public right-of-way at the rate of one (1) parking space per three (3) dwelling units.

(c) GI shall be incorporated into the street design and approved by TRC.

- (d) A twenty foot (20') clear zone must be provided in a street design to accommodate emergency response vehicles.
 - (e) If lots front on an access easement, other than a public right-of-way, the access surface material may be constructed with pervious paving material.
 - (f) Street trees are required for all street types, except alleys or within developments using open ditch/swale drainage systems.
 - (g) The location, species and spacing of street trees shall comply with the City's Street Tree Manual.
 - (h) In all other respects, street design must meet the standards set forth in Sec. 54-821 and other provisions in this Chapter; provided, however street design and cross-sections may be modified upon the review and approval of TRC.
- (4) Lots. The following standards shall apply to lots within a Conservation Development:
- (a) There shall be no minimum lot area requirement, maximum lot occupancy requirement, or minimum building setback requirement.
 - (b) There shall be no minimum lot frontage requirement provided that each lot shall have a platted access easement a minimum of ten (10) feet wide to a public or private right-of-way. Such access easement may be shared with other lots.
 - (c) In all other respects, the standards for lots set forth in this Chapter shall apply.
- (5) Height. Except as set forth in Sec. 54-299.60(4)(a)(v), the height requirements, exceptions, terms, and conditions applicable to the base zoning district for each property within the Conservation Development shall continue to apply to such property.
- (6) Parking. The following parking standards shall apply to a Conservation Development:
- (a) The number of required off-street parking spaces shall meet the standards in Sec. 54-317, unless specifically provided otherwise.
 - (b) The required off-street parking for each lot shall be provided (1) on the lot; or (2) in a community parking lot; provided, however, the community parking lot shall have a pervious surface. Upon approval of TRC, required off-street parking spaces may also be provided on-street.
- (7) Garage Doors. Garage doors must be flush with or set back further than the building line.
- (8) Wetland Buffer. Existing wetlands shall be protected by an undisturbed buffer, at least thirty feet (30') wide, adjacent to the delineated boundary of the wetlands. Without limiting the foregoing, existing vegetation and Conservation Trees within such buffer shall be preserved within the buffer area.

(9) Open space. The following open space requirements shall apply within a Conservation Development:

(a) At least fifty percent (50%) of the gross acreage within the Conservation Site shall qualify as common open space (the "Required Open Space").

(b) Notwithstanding subsections (c) through (e), at least twenty-five percent (25%) of the Required Open Space shall be designed for active recreational uses, such as play fields, playgrounds, greenways, and/or agricultural uses. To qualify as an active recreational use under this subsection and to be considered as part of the Required Open Space, a greenway shall have (i) a pervious surface; (ii) a minimum total width of at least twenty-five feet (25'); and (iii) a minimum pathway for pedestrian and/or bike trails of eight feet (8').

(c) Subject to subsection (b), when a Conservation Site includes existing or proposed water bodies or watercourses, only fifty percent (50%) of the area of such water bodies and/or watercourses shall qualify as part of the Required Open Space.

(d) Subject to subsection (b), when a Conservation Site includes existing wetlands, only seventy-five percent (75%) of the area of such wetlands shall qualify as part of the Required Open Space.

(e) Subject to subsection (b), if the Conservation Site is forested at the time of the Site Analysis, then the lesser of (i) at least seventy percent (75%) of the Required Open Space; or (ii) the gross acreage of the Conservation Site which is forested at the time of the Site Analysis, shall be maintained in an undisturbed canopy.

(f) All common open space shall comply with Sec. 54-299.62.

(g) The improvement or development of common open space shall incorporate GI.

(h) To the extent reasonably feasible, common open space shall be contiguous and not divided into unconnected small parcels located in various parts of the Conservation Site.

(10) Stormwater Management. Without limiting, amending, abrogating, or repealing the Stormwater Regulations, the following stormwater management standards shall apply to a Conservation Development:

(a) Conservation Developments shall demonstrate limited impacts on the natural features and pre-development hydrology.

(b) At least fifty percent (50%) of stormwater volume shall be managed with GI practices instead of stormwater detention ponds or other, similar stormwater management techniques.

(c) Roof drainage and gutter downspouts shall be hydraulically disconnected from impervious surfaces and properly drained so as to prevent erosion within the Conservation Site or on offsite properties.

(d) Pervious surfaces shall be used when reasonably feasible.

(e) Impervious surfaces shall not exceed forty percent (40%) of the net acreage within the Conservation Site; provided, however, the calculation of impervious surface for residential lots shall be fifty percent (50%) of the lot area, regardless of the actual impervious surface area of the lots.

(f) Each residential lot shall have a minimum of two (2) native canopy trees, which shall be trees existing on the pre-developed Site, when reasonably feasible. To the extent the use of an existing tree or trees are not reasonably feasible, only native species commonly found in the associated Inland Atlantic Maritime Forest shall be utilized, per list provided in Appendix B.

(11) Other Requirements. Unless specifically provided otherwise herein, all other requirements of this Chapter shall apply to the Conservation Development.

(12) Standard Codes. The City's standard codes, including, without limitation, the City's building code and fire code, apply to a Conservation Development, notwithstanding any other provision herein to the contrary. Without limiting the foregoing, the minimum clearance requirements for fire apparatus access routes shall apply to Conservation Developments.

Sec. 54-299.62 – Management of Common Open Space.

The following regulations shall apply to all common open space within the Conservation Site:

(1) POA. Prior to obtaining final plat approval for all or any portion of the Conservation Site, the applicant shall establish a property owners' or similar association (a "POA") to provide for the maintenance of all common open space, BMPs (as defined in the City's Stormwater Design Standards Manual), and other improvements, unless any such common open space and/or improvements are dedicated to and accepted by the City or other appropriate governmental entity or accredited land trust for ownership and/or maintenance.

(2) POA Requirements. The POA required under subsection (1) shall meet the following requirements:

(a) The POA shall include as members all owners of lots or parcels within the Conservation Site, except the City or other governmental entity as to any public improvements dedicated to and accepted by the public.

(b) The POA shall take title to and manage all common open space and improvements, other than public improvements dedicated to and accepted by the public.

(3) Declaration. All lands, common open space, BMPs, and improvements shall be described as to the general location, size, use and control in a Declaration of Covenants, Conditions and Restrictions ("Declaration") governing the Conservation Site and properly recorded with the Office of the Register of Deeds for Charleston or Berkeley County, as applicable. The Declaration shall set forth the method of assessment against all lots or parcels within the Conservation Site (other than areas dedicated to and accepted by the public and common areas) for maintenance of common areas, common open space, BMPs, and other improvements to be owned or maintained by the POA. The Declaration shall run with title to the Conservation Site and all privately-owned lots or parcels located therein. The Declaration shall indicate the properties included therein are part of a Conservation Development approved by the City of Charleston.

(4) No Dissolution. Unless prohibited by applicable law, the requirements applicable to the Declaration shall perpetually run with title to the Conservation Site or any portion thereof as part of the zoning regulations applicable to the Site. The POA shall not be dissolved nor shall the POA dispose of any common open space except to (a) a conservation or similar organization established to own and maintain common open space; (b) to the City; or (c) to another appropriate governmental entity. Notwithstanding the foregoing, any such conveyance, to be complete, shall require acceptance by the grantee.

(5) Restricted Use. Unless prohibited by applicable law, all common open space shall be restricted in perpetuity as part of the zoning regulations applicable to the Conservation Site. All such common open space shall be deed restricted and may not be developed for uses other than common open space. The applicant shall include the following notice on all deeds, mortgages, plats, or any other legal instruments used to convey any right, title or interest in the Conservation Site or any portion thereof:

NOTICE: THIS PROPERTY IS SUBJECT TO THE CITY OF CHARLESTON'S REQUIREMENTS FOR CONSERVATION DEVELOPMENTS AND MAY BE SUBJECT TO CERTAIN USE RESTRICTIONS AS SET FORTH IN THE REQUIREMENTS APPLICABLE TO CONSERVATION DEVELOPMENTS ON FILE WITH THE CITY'S ZONING DIVISION.

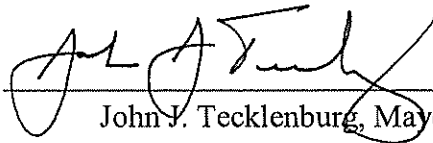
Sec. 54-299.63 – Appeal.

Any determination by staff and/or TRC under this Part 19 may be appealed to the Planning Commission by any party in interest if an appeal is filed with the Zoning Division within ten (10) business days after actual notice of the decision. The Planning Commission must act on the appeal within sixty (60) days, and the action of the Planning Commission is final.

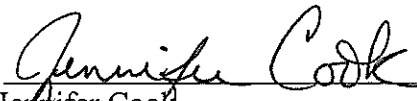
Section 4. This Ordinance shall become effective upon ratification.

Ratified in City Council this 13th day of
April in the year of Our
Lord, 2021, in the 245th Year of the
Independence of the United States of
America.

By:


John J. Tecklenburg, Mayor

ATTEST:


Jennifer Cook
Clerk of Council