



97 Broad Street • Charleston, SC 29401 • Post Office Box 859 • Charleston, SC 29402
Phone: 843-727-1144 • Fax: 843-727-7696 • www.wmalawfirm.net

August 9, 2024

Direct Dial (843) 793-6043

VIA EMAIL ONLY

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201
ctappfilings@sccourts.org

RECEIVED
Aug 09 2024
SC Court of Appeals

Re: Historic Beaufort Foundation, et al. v. City of Beaufort, et al.
Appellate Case No.: 2022-000300
Our File No.: 2371-1

Dear Ms. Kitchings:

In response to the Court's requests dated July 30, 2024 and August 1, 2024, enclosed please find copies of the following:

1. Memorandum of Agreement between Beaufort Inn, LLC and City of Beaufort; and
2. Article 1, Article 3, Article 10, Article 11, and Appendix to the Beaufort, South Carolina Unified Development Ordinance.

If the Court requires bound copies, please let me know and I will be happy to provide copies.

Respectfully,

WILLS MASSALON & ALLEN LLC

Carissa Land

Carissa Steichen Land
cland@wmalawfirm.net

CSL/cb

Enclosures

cc: Ms. Cynthia Cole Jenkins
Virginia P. Bozeman, Esq.
Alexis K. Lindsay, Esq.
Benjamin Nicholson V, Esq.
G. Wade Leach III, Esq.
W. Andrew Gowder Jr., Esq.

Vi

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
MEMORANDUM OF AGREEMENT

WHEREAS, Beaufort Inn, LLC, ("Owner") is the owner of record of certain real property located adjacent to the southwest corner of the intersection of Port Republic Street and Scott's Street, City of Beaufort, further identified and described as the Northeastern portion of Block 60, TMS No. R120 004 000 0926 0000; and

WHEREAS, the above-described property ("Subject Property") is currently utilized as a private vehicle parking lot; and

WHEREAS, the City of Beaufort ("City") utilizes 27 parking spaces under the provisions of an Easement Agreement granted by 303 Associates, LLC, predecessor to Beaufort Inn, LLC, dated October 9, 2007, and recorded in the Beaufort County Register of Deeds Office in Records Book 2642 at Page 1703; and

WHEREAS, Beaufort Inn, LLC, contemplates the construction of a hotel complex on the Subject Property, which project will extend onto its adjoining property (R120 004 000 0984 0000), and contemplates investing significant funds in designing said hotel complex which, once constructed, will result in the loss of said parking spaces; and

WHEREAS, The City desires to retain said parking spaces and Beaufort Inn, LLC, is agreeable to designating another parcel of property in "downtown" Beaufort to be subject to the terms of the aforesaid Easement Agreement; and

WHEREAS, the City of Beaufort Master Civic Plan encourages infill and development of the "downtown" area of the City of Beaufort, and the consolidation of surface parking spaces into a consolidated parking facility is a method to facilitate such infill and development; and

WHEREAS, relocating the parking spaces from the current Easement area (i.e., the Subject Property) to the parcel contemplated herein will contribute to and assist with the successful implementation of the City of Beaufort Master Civic Plan; and

WHEREAS, the portions of the public rights-of-way of Scott's Street and Port Republic Street which are pertinent to this Agreement are currently titled in the State of South Carolina, and the City of Beaufort, immediately upon its receipt from Beaufort Inn, LLC, of a formal application for building permit as to the subject project, has agreed that it will initiate a formal request to the South Carolina Department of Transportation (SCDOT) that title thereto be conveyed as soon as practicable to the City of Beaufort;

WHEREAS, Beaufort Inn, LLC, and the City of Beaufort desire to memorialize by written instrument the terms of their Agreement in regard to the Subject Property, the adjoining property, and the projected alternate property site as to parking spaces and in other particulars, all of which is provided for in the Easement Agreement referenced herein.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the parties agree as follows:

1. Subject Property:

The property which is the subject of this Agreement is situated in the Northeastern portion of Block 60, in the City of Beaufort, South Carolina, TMS No. R120 004 000 0926 0000. Beaufort Inn, LLC, is the owner of record of said property (the "Subject Property").

2. Present Use of Subject Property:

The Subject Property is currently utilized as a private parking lot. The City of Beaufort is allocated 27 parking spaces in said parking lot pursuant to the terms of an Easement Agreement

dated October 9, 2007. A copy of said instrument is attached hereto.

3. Projected Use of Subject Property:

Beaufort Inn, LLC, plans to eliminate the private parking lot described herein and thereafter construct a hotel on the Subject Property and its adjoining parcel of property on Port Republic Street. In connection with said construction:

a. The City agrees, upon receipt of the formal application for a building permit (to include all required supporting documentation) from Beaufort Inn, LLC, in regard to the contemplated hotel project, that the City will make formal application to the South Carolina Department of Transportation (SCDOT) for conveyance and transfer of title to the affected portions of Port Republic Street and Scott's Street.

b. The parties hereto contemplate that the sidewalks adjacent to the affected public streets (Port Republic Street and Scott's Street) will be widened by the Owner by approximately two (2') feet.

c. The Owner agrees that it will convey any title interest it may have in and/or to said sidewalks, once construction is complete, to the City of Beaufort, subject to the City's granting a permanent easement to the Owner for balconies and/or porches overhanging said sidewalks, for the placement of supporting columns therefor, and as to other design features of said structure.

c. The parties agree that both the City as well as the City of Beaufort Historic Review Board have the authority to approve any and all construction on the projected project site, to include specifically the overhanging balconies/porches, supporting columns and other design features fronting on Scott's Street and Port Republic Street

referenced herein. The City, for itself, and in recognition of the extensive project design and planning expenses / costs that have been and will be incurred by Owner, agrees that it will grant such approvals, without exception, following the approval thereof by the City of Beaufort Historic Review Board.

4. Easement Agreement (Parking):

Beaufort Inn, LLC, agrees hereunder that all rights granted to the City of Beaufort under the Easement Agreement as to the Subject Property will be transferred to that certain planned parking garage facility to be constructed on a parcel of property owned by the Owner which is located in Block 70, City of Beaufort. The parties understand that construction of said parking garage facility is also subject to approval by the City of Beaufort and the City's Historic Review Board.

The parties agree that the 27 parking spaces allocated to the City in the projected parking garage to be constructed on Block 70, City of Beaufort, are to be located on the ground floor, in the vicinity of an access point in the parking garage.

The City shall be entitled to begin using the allocated parking spaces, and its other rights under the subject Easement Agreement, in the projected garage facility upon completion of construction of said facility, which Beaufort Inn, LLC, anticipates will be completed no later than twelve (12) months from the City's loss of said 27 parking spaces. During the period of time that said parking spaces will not be available on either of the two (2) properties referenced herein, Beaufort Inn, LLC, agrees to make alternative arrangements in "downtown" Beaufort for said 27 parking spaces, with coordination for same with the Office of the City Manager.

5. Miscellaneous:

a. The parties agree to communicate and cooperate with one another in good faith to facilitate the planned construction of the hotel on the Subject Property / project site herein, and the relocation of the City's parking spaces to the projected parking garage facility to be constructed on another parcel of property of Beaufort Inn, LLC, in Block 70, City of Beaufort.

b. For purposes of notice:

Beaufort Inn, LLC
Attn: Richard H. Stewart
2015 Boundary Street, Suite 300
Beaufort, SC 29902

City of Beaufort
Attn: _____

Beaufort, SC 29902

c. This Memorandum of Agreement shall be binding on the parties hereto, and their respective successors and assigns.

AGREEMENT signed this 22nd day of March, 2017.

BEAUFORT INN, LLC

By: _____

Its: Margaret Stewart

CITY OF BEAUFORT

By: _____

Its: City Manager



Beaufort, South Carolina Unified Development Ordinance

ADOPTED

January 28, 2003

Revised September 14, 2012

The online version of the City of Beaufort's Unified Development Ordinance is provided as a customer service. Since the Ordinance is constantly undergoing changes, it is only as accurate as the last date revised. Should you desire updated information, please contact the Planning Department at (843) 525-7011.

Article 1. General Provisions

1.1 Short Title

This chapter shall be known and may be cited as "The Unified Development Ordinance of the City of Beaufort, South Carolina."

1.2 Authority

In pursuance of authority conferred by Section 6-29-710 of the Code of Laws of South Carolina, 1976, as amended, and pursuant to the authority granted under the terms of Title 6, Chapter 7, Code of Laws of South Carolina, 1976, the City Council of the City of Beaufort does ordain and enact into the law the following articles and sections as set forth in this Unified Development Ordinance (UDO).

1.3 Purpose

This UDO classifies and regulates the use of land, buildings and structures within the city limits of the City of Beaufort. Specific purposes of this UDO include, but are not limited to, the following:

- A. Promotion of the health, safety, or general welfare of the community;
- B. Securing safety from fire, flood and other dangers;
- C. Provision of adequate light, air and open space;
- D. Promotion of the educational, cultural, and general welfare of the public through the preservation and protection of historic and architecturally valuable districts and neighborhoods;
- E. Protection of scenic areas and protecting areas subject to periodic flooding against development;
- F. Ensure that development is compatible with existing and future needs of the community and is in accordance with a comprehensive plan; and
- G. Facilitating the adequate provision of transportation, water, sewage, schools, parks and other public improvements.

1.4 Jurisdiction

These regulations shall govern all subdivision and resubdivision of land lying within the corporate limits of the City of Beaufort.

1.5 Minimum Requirements

The regulations expressed in this UDO shall be considered the minimum provisions for the protection of the health, safety, economy, good order, appearance, convenience and welfare of the general public.

1.6 Use of Land or Structures

- A. No land or structures shall hereinafter be used or occupied, and no structure or parts shall hereafter be constructed, erected, altered, or moved, unless in conformity with all of the regulations herein specified for the district in which it is located.
- B. No structure shall hereafter be erected or altered:
 - 1. With greater height, size, bulk, or other dimensions;

2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or
5. Any other manner contrary to the provisions of this UDO.

C. Applicability to Specific Development Activities

1. The following development activities, whether publicly or privately conducted, shall be subject to the provisions and standards of this UDO:

a. Use of Structure or Land

The establishment, re-establishment or change in use of a structure or land, whether temporary or permanent, which the Administrator determines would affect the area's natural environment, parking requirements, transportation patterns, public health or economic values.

b. Construction, Reconstruction or Alteration

A building operation involving construction, reconstruction or alteration of the size of a structure which the Administrator determines would affect the area's natural environment, parking requirements, transportation patterns, public health or economic values.

c. Increase in Land Use Intensity

An increase in the intensity of land use, such as an increase in the number or size of nonresidential or residential uses in a structure or on land, or in the number of parking spaces or amount of impervious surface coverage, when the Administrator determines that such increase would affect the area's natural environment, parking requirements, transportation patterns, public health, or economic values.

d. Filling, Excavating or Dredging

Commencement of any filling or excavating operation on a parcel of land or filling or dredging of inter-tidal or underwater land.

e. Change in Effects or Conditions

In connection with the use of land, the making of any material change in noise levels, vibration levels, lighting intensity, thermal conditions, odors or emissions of waste material.

f. Utility Construction

The construction or extension of any utility service line or facility.

g. Subdivision

The subdivision of land within the city into two or more lots, parcels or pieces for purposes of sale or transfer of title.

h. Alteration of a Shore, Bank or Floodplain

Alteration of a shore, bank, or floodplain of a river, stream or other natural water body.

2. The development as designated in this UDO shall include all other activities customarily associated with it unless otherwise specified herein. The change or repair of a structure or site infrastructure (e.g., parking, access drives) may

result in development as defined herein. Development refers to the act of developing, redeveloping, or the result of development. Reference to any specified activity not involving development is not intended to mean that the activity, when part of other activities, is not development.

D. Activities not Constituting Development

For purposes of this UDO, the following activities shall not be considered to be development unless otherwise specifically noted herein:

1. The division of land into parcels of five acres or more where no new street is involved.
2. A transfer of title to land not involving the division of land into parcels.
3. Leases and easements.
4. The creation or termination of leases and easements concerning development of land, or other rights, except that no easement required by this ordinance may be terminated without the approval of the Administrator.
5. Legal exhibits and documents.
6. The recording of any documents or plats expressly for the purposes of reference or attachment to a publicly recorded document when such recording does not result in subdivision of land into parcels. Such recording may include, but is not limited to, documents such as master deeds or covenants, or plats for mortgage or HUD filing purposes only.
7. Subdivision of land into parcels less than 5,000 square feet exclusively for the provision of local utilities such as pump stations.
8. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots comply with all standards of this UDO.

1.7 Conflicting Provisions

A. Conflict with Other Laws

Whenever the requirements made under authority of these regulations impose higher standards than are required in any other statute or local ordinance or regulation, the provisions of this UDO shall govern. Whenever the provisions of any other statute or local ordinance or regulation impose higher standards than are required by this UDO, the provisions of such statute or local ordinance or regulations shall apply.

B. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict herewith are repealed to the extent necessary to give this UDO full force and effect.

1.8 Comprehensive Plan

It is intended that this UDO implement the planning policies adopted as part of the City's Comprehensive Plan, as amended and periodically updated, including all supplements and attachments thereto.

1.9 Effective Date

This UDO shall take effect and be in force from and after the date of its adoption by the City Council.

1.10 Validity

Should any section or provision of this UDO be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

1.11 Transitional Provisions

- A. Drop lenses without glare shields must be brought into compliance with section 6.6.E. within three years of the effective date of this UDO.
- B. Vending machines except newspaper boxes - remove all commercial messages visible from public right-of-way within one year.
- C. All areas zoned MUG - OC
- D. All areas zoned CSP – NC
- E. All areas in the Historic District zoned HR to be zoned TBR
- F. All areas currently zoned R-12 to be zoned R-1
- G. All areas currently zoned R-9 to be zoned R-2
- H. All areas currently zoned R-6 to be zoned R-3
- I. All areas currently zoned MUE to be zoned OC

Article 3. Development Review Procedures

3.1 General Approval Procedures

A. Conformity with Unified Development Ordinance

Every official and employee of the City of Beaufort, South Carolina vested with the duty or authority to issue a building permit, grading permit, or business license shall not issue a permit or license for any use, building, or purpose that conflicts with any provision of this UDO. Any permit or license or certificate issued in conflict with the provisions of this UDO, whether intentionally or unintentionally, shall be null and void.

B. Preapplication Conference

1. Mandatory Preapplication Conference

A preapplication conference with the Administrator shall be required prior to filing an application for the following approvals:

- a. Map Amendment (Rezoning);
- b. Text Amendment;
- c. Planned Unit Development (PUD) review; and
- d. Subdivision Review involving the creation of new streets.

The Administrator shall have the authority to waive any mandatory preapplication conference where such conference is deemed unnecessary.

2. Optional Preapplication Conference

Prior to the submission of any application required by this UDO, a potential applicant may request an optional preapplication conference to discuss procedures, standards or regulations required by this UDO. Upon receipt of such request, the Administrator shall afford the potential applicant an opportunity for such a preapplication conference at the earliest reasonable time.

C. Application Forms and Fees

The following regulations shall apply to all applications.

1. Forms

Applications required under this Unified Development Ordinance shall be submitted on forms and in such numbers as required by the City.

2. Fees

- a. Filing fees shall be established from time to time by resolution of the City Council to defray the actual cost of processing the application;
- b. All required fees shall be made payable to "The City of Beaufort"; and
- c. An applicant who has paid an appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to any review or action taken, shall be entitled to a refund of 75 percent of the total amount paid upon written request to the City.

D. Application Deadline

All applications shall be completed and submitted to the Administrator according to schedules as determined by the City.

E. Complete Application Required

1. The Administrator shall have five working days to review the application materials submitted and confirm that all the required items have been submitted.
2. If the application is not complete, the Administrator shall inform the applicant in writing within the five-day period, specifying the ways in which the application is incomplete.
3. Following notification in writing that an application is incomplete, the applicant shall have 60 days during which to provide the requested materials and complete the application. Any application for which additional materials have not been forthcoming during this 60-day period shall be considered null and void. This application period may be extended by the Administrator upon mutual agreement to provide the required materials at some date certain in the future.

F. Concurrent Processing

Any applicant may submit an application for any sequential approvals (such as a rezoning and preliminary plat) required under this UDO and request that such sequential approvals be processed concurrently; however, such concurrent processing shall proceed at the applicant's own risk, and shall have no implication in regard to the approval of any of the various approvals requested.

G. Summary of Notice Required

Notice shall be required for development review as shown in the Table below.

Procedure	Published	Posted
Street Name Change	X	
Text Amendment	X	
Map Amendment (Rezoning)	X	X
PUD Review	X	X
Special Exception Review	X	X
Variance	X	X
Administrative Appeal	X	
Certificate of Appropriateness (for demolition only)	X	X

H. Public Notice Requirements

1. Published Notice

A distinctive advertisement (Public Hearing Notice) shall be placed by the Administrator in a local newspaper of general circulation within the City not less than 15 calendar days prior to the meeting for the purpose of notifying the public of all Public Hearing agenda items which may be considered or reviewed.

2. Posted Notice

When required, a notice of application sign shall be posted by the Administrator not less than 15 calendar days prior to the meeting at which the application will be reviewed. The sign shall be posted on the subject property in a location clearly visible from each street adjacent to the property.

3. Mailed Notice

As a courtesy, the City may choose to provide mailed notice from time to time.

4. Content of Notice

The Notices listed above shall contain the following specific information.

a. Published

A published notice shall provide at least the following information:

- (1) The general location of land that is the subject of the application;
- (2) The legal description, tax map and parcel number, or street address;
- (3) The substance of the application, including the magnitude of proposed development and the current zoning district;
- (4) The time, date and location of the public hearing;
- (5) A phone number to contact the City; and
- (6) A statement that interested parties may appear at the public hearing.

b. Posted Notice

Required posted notices shall indicate the following:

- (1) Type of application;
- (2) The date of the public hearing; and
- (3) A phone number to contact the City.

I. Review Constitutes a Public Hearing

Where a public hearing is required, the Planning Commission, Zoning Board of Appeals or City Council meeting at which the applicant formally presents his request shall constitute the official public hearing on such matter.

J. Decision Based on Public Hearing

A decision shall be made by the appropriate review body within 30 days of the close of the required public hearing.

K. Written Notice of Decisions Required

Within 10 calendar days after a final decision is made by the Planning Commission, Zoning Board of Appeals or other Board under the requirements of this UDO, a copy of the written decision shall be sent to the applicant or appellant. A copy of the decision shall be filed in the Office of the Administrator, where it shall be available for public inspection during regular office hours.

L. Time Limits for Resubmission of Applications

In the event that any application required under this Unified Development Ordinance is denied or disapproved, an application for the same request shall not be re-filed for one year from the advertised public hearing date. Where no public hearing is required, time shall run from the date of mailing of the notice of denial. The Administrator, upon

petition by the applicant, may permit a re-filing of said application after six months from the original public hearing date upon a determination that:

1. Significant physical, economic or land use changes have taken place on the subject tract or within the immediate vicinity; or
2. A UDO text amendment has been adopted that would allow for favorable review of a resubmitted application for the subject property.

M. Expiration of Permits and Approvals

1. Generally

Approval of any application pursuant to this UDO shall authorize only the particular use, plan, or other specific activity for which the application was issued, and not any other approval requiring separate application.

2. Vested Rights for Final Development Plans/Plats

A vested right is established for two years upon the final approval of a development plan, plat, or phased development plan. An applicant shall have two years from final approval to receive a building permit, or, if no building permit is required, to obtain a certificate of compliance. Such vested right shall receive five one-year extensions for good cause upon written request by the landowner to the administrator no later than one month prior to expiration unless an amendment to this UDO has been adopted that prohibits approval.

- a. A vested right in a development plan, plat, or phased development plan shall not attach to the property until all plans have been received, approved and all fees paid in accordance with this Article.
- b. A vested right is subject to revocation by the city council upon its determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval.
- c. A vested plan 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.
- d. Phased development plans remain subject to review and approval of all phases prior to any portion of the project being vested.
- e. In case of projects where more than one building is to be built, the applicant may submit a series of building permit applications. The first application must be submitted within two years from the date the development plan approval is granted. Each subsequent application must be submitted within 180 days from the date of issuance of a Certificate of Compliance or Certificate of Occupancy for the previous building, whichever shall occur first. The lapse of more than 180 days shall cause the expiration of the development plan approval.

- f. The zoning board of appeals does not have the authority to grant a vested right and no such right shall accrue as a result of their decision.
- g. Variances or special uses do not create a vested right.

3. Time Limitations For Other Types Of Approval

- a. All permits and approvals not referenced in paragraph 2 above, shall expire as shown in the Table below without further action of the Administrator, Building Official, Zoning Board of Appeals, Historic District Review Board, Design Review Board, Planning Commission or City Council, unless the holder of the permit or approval either submits a complete application for the appropriate subsequent permit or approval; or, if no subsequent permit or approval is required, completes the work described in the permit or approval, within the time frames established.
- b. An applicant who submits an appropriate subsequent application for a permit or approval must diligently pursue approval of such application, which means, at a minimum, the applicant must submit any required additional materials or revisions within the time frame specified by the Administrator or if no time frame is specified, within six months. Failure to submit the required information or revision within the specified time frame shall result in the application's expiration.
- c. Upon written request, a one-time extension of an approval may be granted by the decision-making body for good cause for a period not to exceed that shown in the Table. No written request for an extension shall be considered unless submitted to the administrator no later than one month prior to expiration. Failure to submit an application for an extension within the time limits established by this section shall result in the approval's expiration.

Use	Time Limit (months)	Extension (months)
Special use	12	6
Variance	12	6
Appeal	12	3
Sign permit	6	3
Zoning permit	12	6
Concept plan or plat	12	6
Preliminary plan or plat	12	6

3.2 Written Interpretation

A. Applicability

The Administrator shall have authority to make all written interpretations concerning the provisions of this Unified Development Ordinance (UDO).

B. Request for Interpretation

A request for interpretation shall be submitted to the Administrator in writing.

C. Interpretation by Administrator

1. The Administrator shall:
 - a. Review and evaluate the request in light of the text of this UDO, the Official Zoning Map, the Comprehensive Plan and any other relevant information;
 - b. Consult with other staff, as necessary; and
 - c. Render an opinion.

2. The interpretation shall be provided to the applicant in writing by mail.

D. Official Record

The Administrator shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. Appeal

Appeals of written interpretations made by the Administrator shall be made to the Zoning Board of Appeals within 30 days of the decision, in accordance with the procedures found in Section 3.18, Administrative Appeals.



3.3 Building Permit

A. Building Permit Required

No building or other structure shall hereafter be erected, moved, added to, or structurally altered without a permit issued by the Building Official except in conformity with the provisions of this UDO. No Building Permit issued under the provisions of this UDO shall be considered valid unless signed by the Building Official.

3.4 Certificate of Occupancy

A. Certificate of Occupancy Required

No building or other structure shall hereafter be occupied without a permit issued by the Building Official. No Certificate of Occupancy issued under the provisions of this UDO shall be considered valid unless signed by the Building Official.

B. Applicability

A Certificate of Occupancy shall be required for any of the following:

1. Occupancy and use of a building hereafter erected or enlarged;
2. Change in occupancy or use of an existing building; or
3. Any change in a nonconforming use or structure.

C. Unlawful to Occupy Without Valid Certificate of Occupancy

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefore by the Building Official stating that the proposed use of the building or land conforms to the requirements of this UDO. Failure to obtain a Certificate of Occupancy shall be a violation of this UDO, and punishable subject to Article 10, Enforcement.

D. Temporary Certificate of Occupancy

Pending the issuance of a permanent Certificate of Occupancy, a temporary certificate may be issued. The certificate shall be issued in conformity with the provisions of this UDO and the building code by the Building Official. The temporary certificate may include such safeguards and conditions as will protect the safety of the occupants and the public. Where improvements required by this UDO or the specific approval of the development are incomplete, a guarantee acceptable to the City equal to 125 percent of the costs of such improvements may be required to ensure the installation of the improvements.

3.5 Subdivision Review

A. Applicability

Subdivision approval shall be required before any of the following activities occur:

1. The division of land (for any purpose) into two or more parcels;
2. Development on a parcel not previously subdivided; or
3. Development that involves the construction of any public improvements that are to be dedicated to the City.

B. Unlawful to Record Plat without City Approval

It shall be unlawful to offer and cause to be recorded any plan, plat or replat of land within the city limits of Beaufort with the Beaufort County Register of Mesne Conveyances unless the same bears the endorsement and approval of the City.

C. Delegation of Authority

The Planning Commission may delegate to the City staff review and approval authority for all minor and final subdivision plats.

D. Definition of Major and Minor Subdivision

A minor subdivision is a division of land into five or fewer lots where no new streets are created. All other divisions shall be considered major subdivisions.

E. Minor Subdivision Plat Submission Requirements

A minor subdivision plat shall be submitted consistent with the requirements of the City.

F. Major Subdivision Plat Submission Requirements

1. Sketch Plan Review

a. Purpose and Procedure

The purpose of sketch plan review is to afford the subdivider an opportunity to avail himself of the advice and assistance of the City staff by first submitting a simple sketch plan of the proposed plat for review. Although not mandatory, the purpose of the sketch plan is to assist the subdivider prior to extensive site planning and to facilitate the subsequent preparation and approval of subdivision plats.

b. Requirements

This procedure does not require a formal application or fee.

2. Preliminary Plat Review

a. Procedure

The subdivider shall submit to the Administrator, not less than the requisite number of days prior to the regularly scheduled meeting date of the Planning Commission, the required number of copies of the preliminary plat. Additional copies of the plat or any supplemental information may be requested.

b. Review by Technical Review Committee

The plat shall then be submitted to and checked by the Technical Review Committee for conformance with the approved preliminary plat and with

the requirements of these regulations. The Technical Review Committee shall review the plat within 30 days after submissions. The Technical Review Committee shall either approve and certify the plat or notify the subdivider in writing of any noncompliance with these regulations.

c. Review and Action by Planning Commission

- (1) The Planning Commission shall approve, approve with conditions or disapprove the preliminary plat within 60 days after submission. Unless this time limit is extended by mutual agreement, failing to act within the time limit constitutes approval of the subdivision plat. If a proposed subdivision is determined by the Planning Commission to be in conformance with all applicable provisions of this UDO, the Planning Commission shall approve the subdivision and shall advise the applicant in writing: (1) the conditions of such approval, if any; (2) certification on the plat by the City; and (3) the date on which the Planning Commission granted approval. A determination by the Planning Commission that all applicable provisions have not been satisfied shall result in disapproval of the subdivision and notice of such disapproval shall be given to the applicant in writing. The action of the Planning Commission shall be recorded in the minutes of the Planning Commission meeting, and the subdivider shall be duly notified.
- (2) Approval of a preliminary subdivision plat shall not constitute approval of the final subdivision plat. Application for approval of the final (record) plat will be considered only after the requirements for final plat approval as specified herein have been fulfilled and after all other specified conditions have been met.
- (3) Upon approval of the preliminary subdivision plat by the Planning Commission, the subdivider may proceed to comply with the other requirements of these regulations and the preparation of the final subdivision plat.

d. Approved Plans Containing School Sites

Where a tract of land that has been approved by the County Board of Education as a proposed school site lies wholly or partially within an area proposed to be subdivided, and provided the Board of Education has notified the City and the property owner of its approval of the proposed school site prior to or within 10 days after the presentation of a preliminary subdivision plan to the Technical Review Committee for approval, the subdivider shall reserve the proposed school site for a period of not more than 60 days from the date of approval of the preliminary plan. Such reservation would be stated as a condition of preliminary approval by the Technical Review Committee.

3. Final Review

The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time of submission. Approval of the final plat shall be subject to the installation of the improvements designated in Section 8.3 or certified evidence from the City that said improvements shall be installed in accordance with these regulations.

a. Procedure

- (1) The subdivider shall submit to the Administrator the required number of copies of the final plat.
- (2) The plat shall then be submitted to and checked by the Technical Review Committee for conformance with the approved preliminary plat and with the requirements of these regulations. The Technical Review Committee shall review the plat within 30 days after submission. The Technical Review Committee shall either approve and certify the plat or notify the subdivider in writing of any noncompliance with these regulations or any deviation from the approved preliminary plat which is found on the final plat.
- (3) Approval and certification by the Technical Review Committee shall not be deemed to constitute or affect an acceptance by the City or the County or the public of the dedication of any street or other ground shown upon the plat. Upon receipt of the plat, the City Council shall determine the acceptance or non-acceptance of all dedicated streets, easements right-of-way, public parks, and other public lands as shown on the plat. If accepted by the City, action to that effect shall be noted on the final plat; if not accepted, the reasons for non-acceptance shall be so stated.
- (4) It shall be unlawful to sell or transfer property (lots) within the approved subdivision until after the plat has been recorded with the Register of Mesne Conveyances.

4. Subdivision in Phases

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future or abutting land is in the same ownership, a sketch plan for the entire tract shall be submitted with the plat.

G. Appeal

1. Appeals of subdivision plat decisions made by the Planning Commission shall appeal to the Circuit Court in and for the County within 30 days of the decision.
2. Appeals of subdivision plat decisions made by the Technical Review Committee shall appeal to the Planning Commission within 30 days of the decision. The Planning Commission shall review the subdivision within 60 days and shall have all of the same authority as the Technical Review Committee in such review. The decision of the Planning Commission shall be final.

H. Expiration of Approval

A subdivision approval shall expire as set out in Section 3.1.M unless a Certificate of Compliance is obtained within two years of the approval, or unless recorded at the Beaufort County Register of Mesne Conveyances.

3.6 Street and Development Names

A. General

1. The Administrator shall have the authority to approve or deny the name of any development, consistent with the criteria set forth below.

2. The Planning Commission shall have the authority to approve or deny the proposed name of any street consistent with the criteria set forth below.
3. The Administrator shall maintain an index of all existing street names and development project names for public reference.

B. Application

Any person proposing to name a street or development, or change the name of a street or development, shall submit a list of proposed names in priority order to the Administrator for determination of their suitability consistent with the criteria set forth below.

C. New or Modified Development Name

1. If the Administrator determines that the proposed name is suitable following consultation with the Beaufort County Emergency Management E911 Office, the Administrator shall approve the proposed name and shall so notify the Beaufort County Emergency Management E911 Office, the post office and Beaufort County Register of Mesne Conveyances.
2. If the Administrator determines that the proposed name is not suitable, the Administrator shall deny the request and state the reasons for denial in writing to the party proposing the name.

D. New Street Name

1. The Planning Commission shall determine if the name is suitable.
2. If the Planning Commission approves the new name, it shall so certify in writing and forward such certification to Beaufort County Emergency Management E911 Office.
3. If the Planning Commission disapproves the name change, it shall so state in writing, including all reasons therefore, and shall forward such notice to the party proposing the name.

E. Street Name Change

1. After holding the required public hearing (see Section 3.1), the Planning Commission shall determine if the name is suitable.
2. If the Planning Commission approves the name change, it shall so certify in writing and forward such certification to the Beaufort County Register of Mesne Conveyances, Beaufort County Emergency Management E911 Office, the post office and any other agencies in interest including all property owners of record on the affected street by certified mail.
3. If the Planning Commission disapproves the name change, it shall so state in writing, including all reasons therefore, and shall forward such notice to the party proposing the change.

F. Criteria for New Names and Name Changes

1. No new street or development project name, or proposed renaming of an existing street or development, except phases of the same development project, shall duplicate, be phonetically similar to, or in any way be likely to be

confused with an existing street or development name, in spite of the use of prefixes or suffixes.

2. It is desirable to use names which are simple, logical, easy to read and pronounce, and which are clear and brief. Use of frivolous or complicated words, or unconventional spellings in names shall not be approved.
3. In all cases, names which might reasonably be perceived as offensive shall not be permitted.
4. The use of numbers (such as First Street), alphabetical letters or proper names is discouraged.
5. It is desirable to use names which have some association with the City of Beaufort and specifically with the immediate location of the road or place, such as reference to local history or physiographic features.
6. Use of a common theme is recommended for names of streets which are associated with one another, such as those within a residential development.
7. Care should be exercised in changing any street name in order to preserve local history and to minimize disruption and cost.
8. Intersecting streets shall not have the same or similar name.
9. Proposed streets obviously in alignment with existing streets shall bear the name of the existing street to the extent practicable.
10. Street sections planned to be or likely to be connected in a straight line shall bear the same name. Street sections not planned to be or unlikely to be connected shall not bear the same name.
11. Streets which continue through an intersection should generally bear the same name.
12. A street making an approximate right-angle turn where there is no possibility of extending the street in either direction shall be considered to be continuous and be so named. Where there is a choice of direction or a possibility of extending either section in the future, such configuration shall be considered to be an intersection and different names assigned.
13. The proposed name of the development should in all respects emphasize the project's distinctive name rather than the name of the company or corporation that owns the development. This will reduce confusion on the location of separate developments owned by the same company or corporation.
14. A street or development name that otherwise meets the above criteria but in the judgment of the Planning Commission may be misleading to residents or visitors or otherwise be inappropriate, shall be disapproved.

3.7 Planned Unit Development (PUD)

A. Applicability

A Planned Unit Development District requires the following minimum land area:

1. For infill or redevelopment sites: no minimum.
2. For all other development sites: 10 acres.

B. Purpose and Intent

Planned Unit Development is a concept that is intended to encourage innovative land planning and site design concepts that achieve a high level of environmental sensitivity, aesthetics, high quality development, and other community goals by:

1. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
2. Allowing greater freedom in selecting the means to provide access, open space and design amenities; and
3. Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses.

C. Two-Stage Approval Process

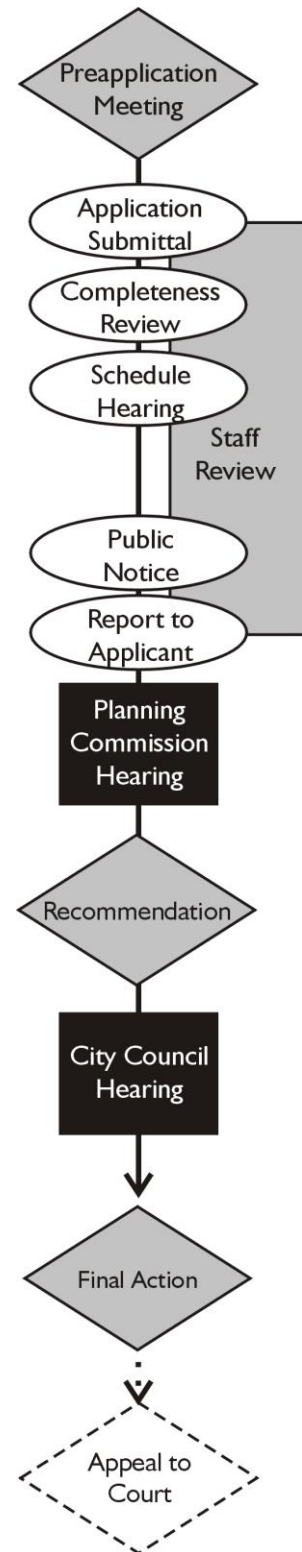
Approval of a planned unit development requires a two-stage process. The first stage is approval by the City Council of a Planned Unit Development (PUD) District submitted as part of the rezoning process and conceptual master plan for the project. The second stage requires approval of a detailed development plan by the Technical Review Committee in compliance with the previously approved master plan.

D. Conceptual Master Plan

A suitable master plan shall be submitted by the applicant for review by the Administrator and the Planning Commission, and approval by the City Council. Specifically, such plan shall include the following elements, where applicable:

1. Master Plan

The master plan (drawn to scale by a registered civil engineer, registered landscape architect, or registered architect) shall include the following elements: the exact dimensions of the parcel of land under consideration, a schematic representation of general types and locations of land uses, the general density and intensity of the proposed uses, proposed open spaces or parks, any area-wide drainage systems, overall circulation arrangements and all major



roadways, floodplain information, and any other information required by the Administrator.

2. Written Report

A written report shall be submitted by the developer for review by the Administrator and the Planning Commission, and approval by the City Council. Such report shall explain in general the type, nature, intent, and characteristics of the proposed development, and shall specifically include, where applicable:

- a. A general description of the proposal;
- b. A detailed legal description of the location of the site;
- c. A proposed development program, including number of residential units and proposed densities, minimum lot sizes (if any), square feet of other nonresidential uses and generalized intensities;
- d. General plan for the provision of utilities, including water, sewer, and drainage facilities;
- e. Tables showing the total number of acres in the proposed development and the percentage designated for each proposed type of land use, including public facilities;
- f. A statement of how the proposed development is consistent with the Comprehensive Plan;
- g. Exceptions or variations from the requirements of this UDO if any are being requested; and
- h. Other relevant information as may be requested by the Administrator.

E. Master Plan Approval Process

Any request pertaining to the establishment of a Planned Unit Development District shall be considered an amendment to this UDO and shall be administered and processed in accordance with the regulations set forth in this Section and Section 3.14, Zoning Map Amendment (Rezoning). The Master Plan itself shall be approved as part of the rezoning.

F. Performance Guarantee

Before approval of a Planned Unit Development District, the City Council may require a contract with safeguards satisfactory to the City guaranteeing completion of the development plan in a period to be specified by the City, but which period shall not exceed five years unless extended by the City for due cause shown. Such guarantee may include the submission of a performance bond in an amount as set by the City.

G. Planning Commission Recommendation

Upon completion of a public meeting, the Planning Commission shall review the application and forward a written recommendation to the City Council for its consideration.

H. Action by the City Council

1. After the Planning Commission makes a recommendation on the request, the City Council shall make a written finding and give its approval; approval with modifications or conditions; or disapproval.
2. If the PUD District is approved by the City Council, all information pertaining to the proposal shall be approved as part of the rezoning. Where the district is not approved, no further consideration of the proposal shall occur.

I. Detailed Development Plan Approval Process

Following the establishment of a PUD District and approval of a conceptual master plan, a detailed development plan shall be reviewed and approved by the Administrator in accordance with the procedures and requirements for the site plan process as set forth in Section 3.8, Site Plan Review, and the following additional requirements.

1. Recordation

The detailed development plan may be processed simultaneously for recording.

2. Written Report

A written report shall be submitted by the developer for review by the Administrator. Such report shall explain in detail the type, nature, intent, and characteristics of the proposed development, and shall specifically include, where applicable:

- a. A general description of the proposal;
- b. A detailed legal description of the location of the site;
- c. Floodplain information;
- d. Proposed standards for development, including restrictions on the use of property, density standards and yard requirements and restrictive covenants;
- e. Proposed dedication or reservation of land for public use, including streets, easements, parks and school sites;
- f. Plan for the provision of utilities, including water, sewer, and drainage facilities;
- g. Tables showing the total number of acres in the proposed development and the percentage designated for each proposed type of land use, including public facilities;
- h. Plans for parking, loading, access ways, signs, and means of protecting adjacent areas from lightning and other potentially adverse effects;
- i. A statement defining the manner in which the City is to be assured that all improvements and protective devices, such as buffers, are to be installed and maintained;
- j. Tabulations showing the total number of dwelling units by type, if any;
- k. A statement of how the proposed development is consistent with the Comprehensive Plan;

- l. A phasing plan, where appropriate; and
- m. Other relevant information as may be requested by the Administrator.

J. Expiration of Approval

The City shall have the right to review a concept plan approved as part of a PUD District when no building permits have been issued in the past five years, and may choose not to issue further permits within the PUD District until a revised concept plan has been approved.

3.8 Site Plan Review

A. Applicability

No Building Permit shall be issued by the Building Official until a site plan approval has been granted.

B. Development Exempt From Approval

The following activities or uses shall be exempt from a site plan review, although they may be reviewed under a separate administrative procedure where noted in this Section or other Sections of this Article:

1. Routine maintenance of any structure, not including any change in color or materials.
2. The use or intended use of land, with or without accessory structures, for the purposes of agriculture, raising of crops, and forestry.
3. Any single-family residence, including manufactured homes, on an individual parcel, tract, or lot of record, or on a lot within a platted subdivision existing prior to the adoption of this UDO or approved under this ordinance.
4. Cleaning, painting and other routine maintenance and repair.
5. Home occupations as defined in this chapter and as regulated by Section 5.4B Accessory Uses.
6. Accessory uses incidental to single-family residential structures (e.g., detached garage, swimming pool, tool shed).
7. Temporary uses that do not materially affect the area's natural environment, parking requirements, transportation patterns, public health, or economic values.

C. Review and Action by the Administrator

Plans submitted for review under this Section shall be processed and the applicant notified in writing of such approval or disapproval within 15 working days from the date of submittal to the Administrator. If the proposed site plan is determined by the Administrator to be consistent with all applicable provisions of this Section, the Administrator shall approve the site plan and so advise the applicant in writing. A determination by the Administrator that all such requirements and provisions have not been satisfied shall result in disapproval of the site plan and notice of such disapproval shall be provided to the applicant in writing.

D. Expiration of Site Plan Approval

An approved site plan shall expire 12 months from the date of approval unless the proposed development is pursued as set forth below:

1. A complete building permit application has been submitted or, if no building permit is required, a Certificate of Compliance has been issued.
2. In case of projects where more than one building is to be built, the applicant may submit a series of building permit applications. The first application must be submitted within one year from the date site plan approval is granted. Each subsequent application must be submitted within 180 days from the date of issuance of a Certificate of Compliance or Certificate of Occupancy for the

previous building, whichever shall occur first. The lapse of more than 180 days shall cause the expiration of the site plan approval.

E. Appeals

Appeals of site plan applications denied by the Administrator shall be taken to the Zoning Board of Appeals within 30 days of the decision, in accordance with the procedures found in Section 3.18, Administrative Appeals.

3.9 Certificate of Compliance

A. Applicability

The regulations set forth in this Section shall apply to any development which has previously obtained a subdivision or site plan approval pursuant to the provisions of this Article.

B. Certificate of Compliance Required

The development, or approved phase thereof, may not be occupied or used until a Certificate of Compliance has been obtained from the Administrator. Approved phase for purposes of this Section shall be an approved phase through the subdivision or site plan approval process, or a phase thereof approved by the Administrator prior to a request for an inspection for a certificate of compliance. In order for a phase to receive a certificate of compliance, that approved phase must be able to function alone with all required infrastructure including but not limited to access drives, parking, drainage facilities, utilities, and required landscaping/tree planting.

C. Determination of Compliance by Administrator

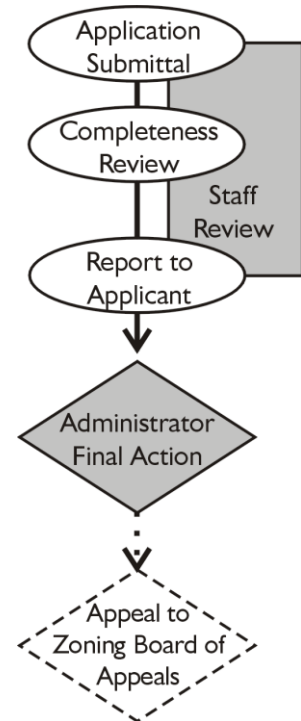
Upon completion of all development work and simultaneous with the applicant's request to the Administrator for a final site inspection, the applicant shall submit the applicable documents to the Administrator for review and approval. Following the review of the materials submitted above, the Administrator shall schedule and conduct a final inspection for the purpose of verifying compliance with all applicable provisions of this section, requirements of subdivision approval, site plan approval or permit and any other applicable approval. Upon determination of compliance, the Administrator shall complete a Certificate of Compliance and forward it to the applicant.

D. Issuance of Certificate of Occupancy

A final Certificate of Occupancy shall not be issued by the Building Official until a certificate of compliance has been issued for the site or phase thereof in which the building is located.

E. Appeals

Appeals of certificate of compliance applications denied by the Administrator shall be taken to the Zoning Board of Appeals within 30 days of the decision, in accordance with the procedures found in Section 3.18, Administrative Appeals.



3.10 Sign Permits

A. Sign Permits Required

No sign shall hereafter be erected, moved, added to, or structurally altered without a permit therefore, issued by the Building Official in conformity with the provisions of this UDO. No sign permit issued under the provisions of this UDO shall be considered valid unless signed by the Building Official.

B. Master Sign Plans

1. A master sign plan shall be required for all multi-tenant or multi-building projects. For new development, such plans shall be approved by the Design Review Board or the Historic District Review Board, as appropriate. For existing development, the Administrator shall approve the master sign plan.
2. No sign permits shall be issued to any project requiring a master sign plan until such plan has been approved, including sign permits for existing development subject to the master sign plan requirement.
3. Where a master sign plan has been approved, individual sign permits may be issued by the Building Official when the proposed sign conforms to the requirements of this UDO and the approved master sign plan.

C. Review and Action by Administrator

The Administrator shall review each sign permit application in light of this UDO and any adopted master sign plan, and shall act to approve, approve with conditions or deny the permit. The Administrator may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into complete compliance with this UDO or the approved master sign plan. The Building Official shall be responsible for issuing all sign permits.

D. Maintenance and Repair

Cleaning, painting, repainting (the same colors) and other routine maintenance and repair of a sign shall not require a sign permit unless a structural or size change is made.

E. Expiration of Approval

Any permit issued for the erection of a sign shall become invalid unless the work authorized by it shall have been commenced within six months after its issuance.

F. Appeals

Appeals of Sign Permit applications denied by the Administrator or Building Official shall be taken to the Zoning Board of Appeals within 30 days of the decision, in accordance with the procedures found in Section 3.18, Administrative Appeals.

3.11 Administrative Adjustment

A. Purpose

Administrative Adjustments are specified deviations from otherwise applicable development standards where development is proposed that would be:

1. Compatible with surrounding land uses;
2. Harmonious with the public interest; and
3. Consistent with the purposes of this UDO.

B. Applicability

The Administrator shall have the authority to authorize variance of up to 10 percent from any numerical standard set forth in Article 6 of this UDO. Any request greater than 10 percent shall be treated as a variance handled by the Zoning Board of Appeals subject to the requirements of Section 3.15.

C. Application

An application for an Administrative Adjustment shall include a brief description of the requirement to be varied and any other material necessary to ensure the criteria in paragraph E below are met.

D. Review and Action by Administrator

The Administrator shall review the application and approve, approve with conditions or deny the application based upon the criteria below. A written decision including affirmative findings on the criteria set forth below shall be mailed to the applicant.

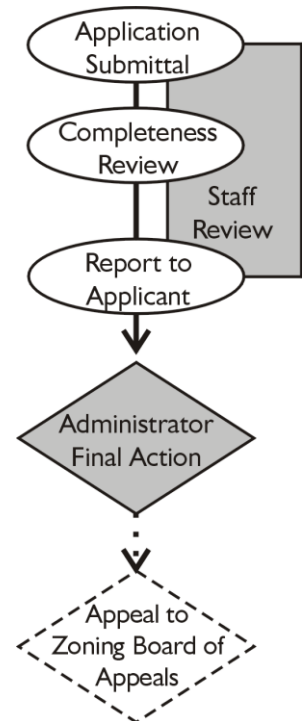
E. Administrative Adjustment Criteria

To approve an application for an Administrative Adjustment, the Administrator shall make an affirmative finding that the following criteria are met:

1. That granting the Administrative Adjustment will ensure the same general level of land use compatibility as the otherwise applicable standards;
2. That granting the Administrative Adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations;
3. That granting the Administrative Adjustment will not adversely affect property values in any material way; and
4. That granting the Administrative Adjustment will be generally consistent with the purposes and intent of this UDO.

F. Appeals

Appeal of an Administrative Adjustment denied by the Administrator shall be taken to the Zoning Board of Appeals within 30 days of the mailing of the Administrator's decision in accordance with Section 3.18, Administrative Appeals.



G. Expiration and Lapse of Approval

Property owners shall have six months from the date of approval of an administrative adjustment to secure a building permit to carry out the proposed improvements. If a complete building permit application has not been filed within six months of the date of approval, the approval shall lapse and be of no further effect.

3.12 Archeological Impact Assessment

A. Intent of District

It is the intent of this section to protect the many significant archeological resources of the City of Beaufort.

B. General Requirements

The following requirements shall be adhered to:

1. All proposed nonresidential, multifamily developments, and major subdivisions shall be required to have a written statement from the Administrator indicating whether or not the location of the proposed development contains any archeological resources identified by the City of Beaufort through existing surveys, historic maps and papers and other information available, by the South Carolina Department of Archives and History, and the South Carolina Institute of Archeology and Anthropology, as being listed in or having been determined eligible, or potentially eligible, for listing in the National Register of Historic Places as well as those areas identified in the document entitled Cartographic Survey of Historic Sites in Beaufort County, South Carolina, dated June 30, 1992 as amended from time to time, as having the potential to yield significant archeological information.
2. If the Administrator determines that the proposed development contains, or is likely to contain archeological resources, then a professional Archeological Survey shall be completed by qualified personnel to determine the existence of the resource and to evaluate the significance of the resource. The survey shall then be submitted to the Administrator for review.
3. If the area of the proposed project has been previously surveyed for archeological resources and the survey report is available and meets the standards set out in section 3.12D, the applicant will not be required to perform another survey, but merely submit that report to the Administrator.
4. If the Administrator determines that the location contains a potential historic resource, qualified personnel shall complete and submit to the Administrator the documentation as outlined in this Section. Identified resources shall be preserved and/or the effects of the propose project mitigated in accordance with the applicable Federal and State laws and guidelines. Further, for any contemplated construction that would significantly affect the setting or vista of any archeological resource in a manner that would compromise the resource's eligibility to the National Register of Historic Places, the Administrator may require that the development plans be altered to mitigate or avoid such effects.
5. All requests to the applicant by the Administrator for surveys, documentation, and mitigation shall include a letter outlining the justification for such requests.

C. Prohibited Acts

No person may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any archeological or historic resource located in the City of Beaufort unless such activity is pursuant to a permit issued by the Administrator. Any person violating the Article shall be subject penalties

prescribed in this UDO and additional penalties prescribed by the South Carolina Code of Laws.

D. Intensive Level Archeological Survey

1. The Administrator will officially notify, in writing, the applicant of the need for an Intensive Level Survey. This survey must meet the criteria set forth by the South Carolina State Historic Preservation Office's *Guidelines and Standards for Archeological Investigation*.
2. The applicant will notify the Administrator as to who will be authorized to undertake the survey. The survey will be executed by qualified personnel, as required by the South Carolina State Historic Preservation Office's Standards.
3. The findings of the Intensive Level Survey will be submitted to the Administrator.
4. Upon receipt of the Intensive Level Survey final report, and any necessary visual Records, the Administrator will either issue a Permit of Approval for the proposed development project or deny approval of the project until the development plans can be altered to mitigate or avoid any negative impact.

E. Mitigation

1. Determination of Adverse Effects

Upon receipt of an Intensive Level Archeological Survey final report, documenting archeological resources and/or the South Carolina Statewide Survey Forms documenting historic resources, the Administrator will determine whether the proposed project will have an adverse effect on archeological resources listed in, or eligible for listing in, the National Register of Historic Places.

a. There is No Adverse Effect

If the Administrator determines that the project will not have an adverse effect on archeological resources listed in, or eligible for listing in, the

National Register of Historic Places, he/she will issue a Permit of Approval for the proposed project.

b. There is an Adverse Effect

If the Administrator determines that the project will have an adverse effect on archeological resources, listed in, or eligible for listing in, the National Register of Historic Places, he/she will deny a Permit of Approval for the proposed project until the development plans can be altered to mitigate or avoid adverse effects.

2. Mitigation of Adverse Effects

The applicant shall enter into a Memorandum of Agreement (MOA) with the City of Beaufort that describes mitigation measures that will be required prior to the issuance of a Permit of Approval. The Administrator shall stress to the applicant that preservation-in-place of a significant resource is the preferred mitigation method. Mitigation may include:

a. Preservation In Place

Preservation-in-place of an archeological resource is the avoidance of the resource which protects it from drainage, destruction, vandalism or

deterioration and may include such measures as: covenants and easements, the rehabilitation/maintenance of historic buildings and structures, and others.

b. Data Recovery

Data recovery of an archeological site shall be conducted if the site cannot be preserved. Provisions for the ownership and duration of the excavated artifacts, field notes, records, maps, photographs, and materials shall be detailed in the archeological data recovery mitigation plan. A final report on the archeological data recovery shall be produced.

c. Reporting

All identified archeological sites shall be reported to the South Carolina Institute of Archeology and Anthropology.

3.13 Text Amendment

A. Applicability

When the public necessity, convenience, general welfare, or good zoning practice justify such action, and after the required review and report by the Planning Commission, the City Council may undertake the necessary steps to amend the text of this UDO.

B. Initiation of Amendments

1. A proposed amendment to this UDO may be initiated by any member of the City Council, the Planning Commission, the Administrator, or by application filed with the Administrator by any City resident or business owner.
2. Any proposed text amendment to this UDO initiated by a member of City Council may be given first reading prior to being referred to the Planning Commission for its review and recommendation.

C. Approval Process

Requests to amend this UDO shall be processed in accordance with the following requirements:

1. Application Procedure

Application forms for text amendment requests shall be obtained from the Administrator. Completed forms, together with an application fee as required by Section 3.1 to cover administrative costs, plus any additional information the applicant feels to be pertinent, shall be filed with the Administrator. Any communication purporting to be an application for an amendment shall be regarded as a mere notice to seek relief until it is made in the form required.

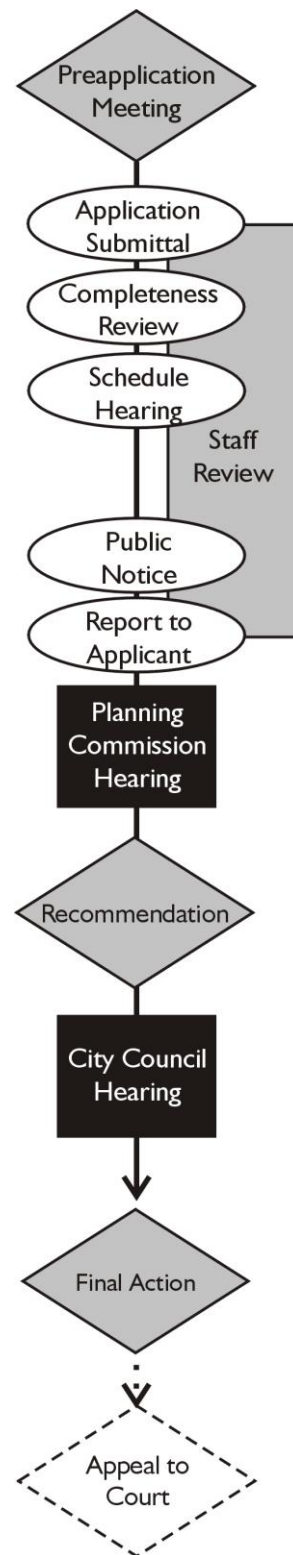
2. Staff Review and Report

The Administrator shall prepare a staff report that reviews the proposed text amendment in light of the Comprehensive Plan and the general requirements of this UDO. A copy shall be provided to the Planning Commission and the applicant before the scheduled public meeting.

3. Planning Commission Recommendation

a. Notice

Following published notice in accordance with Section 3.1 of this UDO, the Planning Commission shall hold a public meeting.



b. Hearing by Planning Commission

All papers and other data submitted by the applicant on behalf of the text amendment request shall be transmitted to the Planning Commission. The Planning Commission, at regular meetings, shall review and prepare a recommendation, including its recommendation, for transmittal to the City Council. All meetings of the Planning Commission shall be open to the public. At a meeting, any party may appear in person, or by agent, or by attorney. No member of the Planning Commission shall participate in a matter in which he has any pecuniary or special interest. Following action by the Planning Commission, all papers and data pertinent to the application shall be transmitted to the City Council for final action.

- (1) The Planning Commission shall study the proposed text amendment taking into account all factors which it may deem relevant including, but not limited to, the consistency of the proposed amendment with the Comprehensive Plan and whether the proposed amendment serves to carry out the purposes of this UDO.
- (2) At the close of the public meeting, the Planning Commission shall recommend approval, modified approval, or denial of the text amendment.
- (3) The staff shall prepare a report of the Planning Commission deliberations and recommendation which shall be forwarded to City Council. The Planning Commission shall have 30 days within which to submit its report. If the Planning Commission fails to submit a report within the 30-day period, it shall be deemed to have recommended approval of the proposed amendment.

4. City Council Action

- a. Before enacting a text amendment to this UDO, the City Council shall hold a public hearing thereon; notice of the time and place, in accordance with Section 3.1.
- b. City Council shall consider the proposed text amendment at the earliest reasonable date and shall consider the report of the Planning Commission in making a decision.
- c. City Council shall act to approve, approve with modifications, or deny the proposed text amendment.
- d. Following City Council action, the applicant shall be notified within 15 days of the decision in writing.

D. Appeals

Appeals of text amendment decisions made by the City Council shall appeal to the Circuit Court in and for the County within 30 days of the decision.

3.14 Zoning Map Amendment (Rezoning)

A. Applicability

When the public necessity, convenience, general welfare, or good zoning practice justify such action, and after the required review and report by the Planning Commission, the City Council may undertake the necessary steps to amend the Official Zoning Map.

B. Initiation of Amendments

Any proposed amendment to the Official Zoning Map may be initiated by the City Council, the Planning Commission, the City Manager, the Administrator, or by the owner of such property for which the amendment is sought.

C. Application

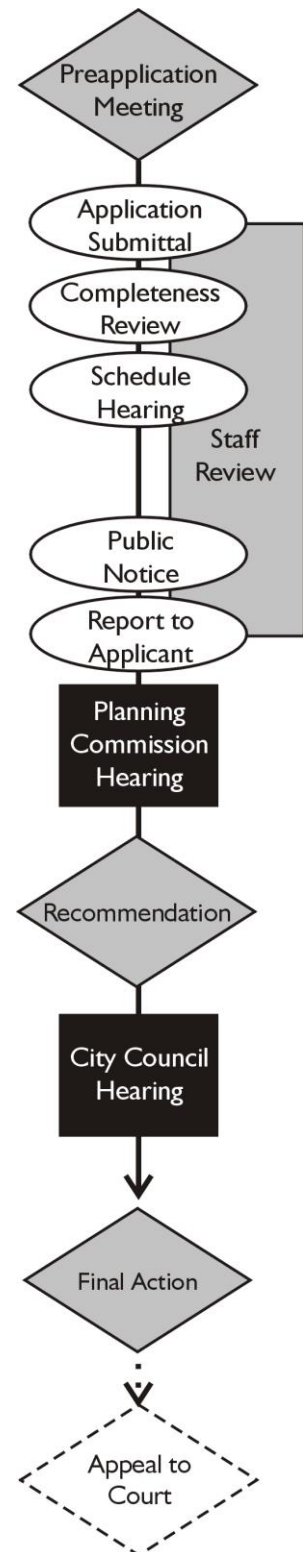
1. A rezoning application form as published by the Administrator shall be required and appropriate fee as required by Section 3.1 and shall include the following:
 - a. A narrative addressing the reasons for the requested zoning map amendment and addressing the applicable review criteria set forth in paragraph 3.c below.
 - b. A boundary map of the subject property prepared and sealed by a registered land surveyor.
 - c. Where applicable, a copy of correspondence illustrating that the applicant has solicited written comments from the appropriate property owners' association regarding the requested amendment. Such correspondence shall encourage the association to direct any comments in writing to the Administrator and the applicant within 15 calendar days of receipt of the notification.
2. If the applicant is not the City, the applicant shall submit written consent from the owner of the property that is being considered for a rezoning.

D. Approval Process

Requests to amend the Official Zoning Map shall be processed in accordance with the following requirements:

1. Application Procedure.

Application forms for amendment requests shall be obtained from the Administrator. Completed forms, plus any additional information the applicant feels to be pertinent, shall be filed with the Administrator. Any communication purporting to be an application for an



amendment shall be regarded as a mere notice to seek relief until it is made in the form required.

2. Staff Review and Report

The Administrator shall prepare a staff report that reviews the proposed rezoning in light of the Comprehensive Plan and the general requirements of this UDO. A copy shall be provided to the Planning Commission and the applicant before the scheduled public meeting.

3. Planning Commission Recommendation

a. Hearing by Planning Commission

All papers and other data submitted by the applicant on behalf of the rezoning request shall be transmitted to the Planning Commission. The Planning Commission, at regular meetings, shall review and prepare a recommendation for transmittal to the City Council. All meetings of the Planning Commission shall be open to the public. At a meeting, any party may appear in person, or by agent, or by attorney. Following action by the Planning Commission, all papers and data pertinent to the rezoning application shall be transmitted to the City Council for final action.

- (1) The Planning Commission shall study the proposed rezoning taking into account all factors which it may deem relevant including, but not limited to, the consistency of the proposed amendment with the Comprehensive Plan and whether the proposed rezoning serves to carry out the purposes of this UDO.
- (2) At the close of the public meeting, the Planning Commission shall recommend approval, modified approval, or denial of the rezoning request.
- (3) The staff shall prepare a report of the Planning Commission deliberations and recommendation which shall be forwarded to City Council. The Planning Commission shall have 30 days within which to submit its report. If the Planning Commission fails to submit a report within the 30-day period, it shall be deemed to have approved the proposed rezoning request.

b. Review Criteria

In making recommendations regarding amendments to the Official Zoning Map, the Planning Commission shall consider and make findings on the following matters regarding the proposed amendment:

- (1) Consistency (or lack thereof) with the Comprehensive Plan;
- (2) Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
- (3) Suitability of the property affected by the amendment for uses permitted by the proposed district;
- (4) Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment;

- (5) Compatibility of the uses permitted in the proposed district with the natural features of and any archaeological or cultural resources on the property;
- (6) Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment; and
- (7) Availability of roads, sewer, water and stormwater facilities generally suitable and adequate for the proposed use.

4. City Council Action

- a. Before enacting an amendment to the Official Zoning Map, the City Council shall hold a public hearing in accordance with Section 3.1.
- b. City Council shall consider the proposed rezoning at the earliest reasonable date and shall consider the report of the Planning Commission in making a decision.
- c. City Council shall act to approve, approve with modifications, or deny the rezoning request.
- d. Following City Council action, the applicant shall be notified within 15 days of the decision in writing.

E. Changes in Zoning Map

Following final action by the City Council, any necessary changes shall be made in the Official Zoning Map. A written record of the type and date of such change shall be maintained by the Administrator. Until such change is made, no action by the City Council on amendments to this UDO shall be considered official, unless the Administrator fails to make the change with seven days after formal action by the City Council. In the latter event, action by the City Council shall be considered official seven days after the date of the action even if the Administrator has failed to make the appropriate changes.

F. Appeals

Appeals of decisions made by the City Council regarding amendments to the Official Zoning Map shall appeal to the Circuit Court in and for the County within 30 days of the decision.

3.15 Variances

A. Purpose

A variance may be approved by the Zoning Board of Appeals if the Board concludes that the strict enforcement of the development standards set forth in this UDO would result in an unnecessary hardship to the applicant and that by granting the variance, the spirit of this UDO will be observed, public welfare and safety will not be diminished, and substantial justice will be done.

B. Application

A variance application form as published by the Administrator and appropriate fee as required by Section 3.1 shall be required, along with such accompanying material as is required to ensure compliance with the criteria listed below. No variances to the sign regulations of this ordinance shall be permitted.

C. Approval Process

1. Staff Review and Report

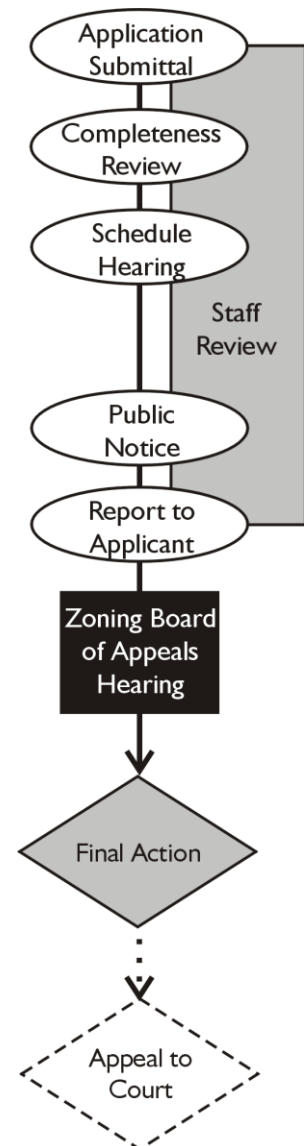
The Administrator shall prepare a staff report which shall be provided to the applicant or appellant and the Zoning Board of Appeals before the scheduled hearing.

2. Action by the Zoning Board of Appeals

- a. Following published and posted notice in accordance with Section 3.1 Approval Procedures, the Zoning Board of Appeals shall hold a public hearing.
- b. After review of the variance application and the public hearing, the Zoning Board of Appeals shall make a written finding and give its approval; approval with modifications or conditions; or disapproval.
- c. If approval or approval with modifications or conditions is granted, the decision shall be communicated in writing to the applicant within 15 days and the applicant shall be authorized to submit a development permit application.

3. Mailed Notice

A courtesy notice of any variance shall be provided by US Mail to all property owners within 200 feet of the subject property. Failure to provide such notice shall not be considered a jurisdictional defect, provided that published notice in accordance with Section 3.1 has been provided.



4. Marine Corps Air Station Notification

The Board shall not act upon a request for a variance from Section 6.7 affecting lands within the Air Installation Compatible Use Zone District until they have received an advisory opinion from the Marine Corps Air Station Beaufort. If an advisory opinion is not received within 30 days of notification, the Board may proceed to act on the request without the opinion.

5. Variances

The Board shall not act upon a variance from Section 6.7 affecting land within the Airport Overlay District until they have received an advisory opinion from the Beaufort County Aviation Advisory Board. If an advisory opinion is not received within 30 days of notification, the Board may proceed to act on the request without the opinion.

D. Criteria for Approval of Variances

1. Required Findings

A variance may be granted by the Zoning Board of Appeals if the Board concludes that the strict enforcement of any design and performance standard set forth in this ordinance would result in unnecessary hardship to the applicant and that by granting the variance, the spirit of this UDO will be observed, public welfare and safety will not be diminished and substantial justice done. A variance may be granted in an individual case of unnecessary hardship only when the Board makes and explains in writing all of the following findings:

- a. Extraordinary Conditions. There are extraordinary and exceptional conditions pertaining to the particular piece of property. For example, the variance is justified because of topographic or other special conditions unique to the property and development involved, in contradistinction to the mere inconvenience or financial disadvantage;
- b. Other Property. These conditions do not generally apply to other property in the vicinity;
- c. Conditions. The conditions are not the result of the applicant's own actions;
- d. Comprehensive Plan. Granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this UDO;
- e. Utilization. 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
- f. Substantial detriment. The authorization of a variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance.

2. Limitations

The Board may not grant a variance the effect of which would be any of the following:

- a. The Board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in the applicable zoning district;
- b. To increase the density of a use above that permitted by the applicable district;
- c. To extend physically a nonconforming use of land; or
- d. To change the zoning district boundaries shown on the official zoning map.

3. Profitability Not to Be Considered

The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance.

4. Hardship Due to Eminent Domain

Where the alleged hardship results from the taking of part of the property by eminent domain, thus reducing the land area available for parking, buffers, and other purposes, the applicant shall have the burden of proving that, after good-faith efforts by the applicant or previous owner, the condemning authority failed or refused to provide the applicant compensation adequate to cover the value of both the land actually taken and the economic impacts of the reduction in the size of the remaining property. Only if the applicant meets this burden of proof will a hardship under these conditions be considered adequate to justify the granting of a variance.

5. Conditions

In granting a variance, the Board may attach to it 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, or general welfare.

E. Appeal

Any party aggrieved by the Zoning Board of Appeals' decision may appeal such determination to the Circuit Court of Beaufort County within 30 days after the decision of the Board is postmarked.

3.16 Special Exceptions

A. Purpose

Special exceptions shall be used to permit uses subject to the terms and conditions for the uses set forth for such uses in this UDO. Uses permitted by special exception are declared to possess characteristics which require certain controls in order to insure compatibility with other uses in the zoning district within which they are proposed. The Zoning Board of Appeals shall hear and decide requests for special exceptions.

B. Application

A special exception application form as published by the Administrator and appropriate fee as required by Section 3.1 shall be required, along with such accompanying material as is required to ensure compliance with the criteria listed below.

C. Approval Process

1. Staff Review and Report

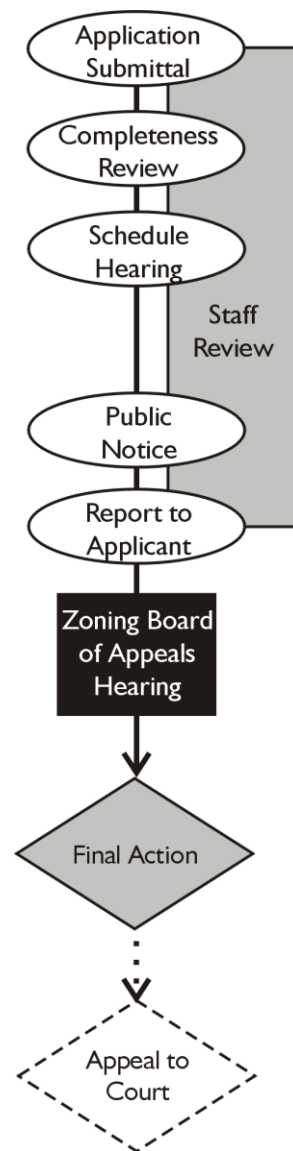
The Administrator shall prepare a staff report that reviews the proposed development in light of the Comprehensive Plan, the review criteria listed below, and the requirements of this UDO. A copy of the report shall be provided to the Zoning Board of Appeals and the applicant before the scheduled hearing.

2. Mailed Notice

A courtesy notice of any Special Exception Application shall be provided by US Mail to all property owners within 200 feet of the subject property. Failure to provide such notice shall not be considered a jurisdictional defect, provided that published notice in accordance with Section 3.1 has been provided.

3. Action by Board of Zoning Appeals

- a. Following posted and mailed notice in accordance with Section 3.1 Approval Procedures, the Zoning Board of Appeals shall hold a public hearing on the Special Exception application.
- b. After review of the application and the public hearing, the Zoning Board of Appeals shall make a written finding and approve, approve with modifications or conditions, or disapprove the request.
- c. If approval, or approval with modifications or conditions is granted, the decision shall be communicated in writing within 15 days to the applicant, and the applicant shall then be authorized to submit a development permit application consistent with this ordinance.



D. Special Exception Review Criteria

The Zoning Board of Appeals may approve an application for a Special Exception where it reasonably determines that there will be no significant negative impact upon residents of surrounding property or upon the general public. The Board shall consider the following criteria in its review:

1. Whether the proposed use is compatible with existing land uses in the surrounding area;
2. Whether the proposed site plan, circulation plan, and schematic architectural designs are harmonious with the character of the surrounding area;
3. The likely impact on public infrastructure such as roads, parking facilities, and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately service the proposed use without negatively impacting existing uses in the area and in the City;
4. Whether the proposed use and designs are in general conformity with the City's Comprehensive Plan and any other plans officially adopted by the City;
5. Likely impact on public health and safety; and
6. Potential creation of noise, lights, fumes, dust, smoke, vibration, fire hazard, or other injurious or obnoxious impacts.

E. Conditions

The Zoning Board of Appeals may impose such conditions and restrictions upon the application as may be necessary to minimize or mitigate any potential adverse impacts of the proposed use.

F. Appeal

Any party aggrieved by the Zoning Board of Appeals' decision may appeal such determination to the Circuit Court of Beaufort County by filing with the Clerk of the Court a written petition within 30 days after the decision of the Board is postmarked, in accordance with the procedures found in Section 3.18 of this UDO.

3.17 Design Exceptions

A. Purpose

Development Design Review Exceptions shall be used to modify certain dimensional standards or design requirements set forth in this UDO for sites or development proposals that have unique characteristics that justify a deviation from the underlying standards. Such deviations are intended to provide for the relaxation of certain standards so as to permit a compatible development pattern to occur using an innovative approach or technique. This process is intended to provide for the minimum relief necessary to create a more innovative and more context-sensitive development consistent with the City's goals and plans. This tool is not intended to circumvent the map amendment (rezoning) where that tool would provide a similar modification of standards.

B. Applicability

The Historic District Review Board or the Design Review Board, as appropriate, shall have the authority to authorize variance of up to 35 percent from any numerical standard set forth in Article 6 of this UDO, except for any standards in Section 6.7, Air Installation Compatibility Use Zone. This procedure shall apply to development projects that are no greater than two acres in size.

C. Application

A development design exception application form as published by the Administrator and appropriate fee as required by Section 3.1 shall be required, along with such accompanying material as is required to ensure compliance with the criteria listed below.

D. Approval Process

1. Staff Review and Report

The Administrator shall prepare a staff report that reviews the proposed development in light of the Comprehensive Plan, the review criteria listed below, and the requirements of this UDO. A copy of the report shall be provided to the Design Review Board or Historic District Review Board as appropriate, and the applicant before the scheduled hearing.

2. Mailed Notice

A courtesy notice of any Development Design Exception Application shall be provided by US Mail to all property owners within 200 feet of the subject property. Failure to provide such notice shall not be considered a jurisdictional defect, provided that published notice in accordance with Section 3.1 has been provided.

3. Action by Review Board

- a. Following posted and mailed notice in accordance with Section 3.1 Approval Procedures, the appropriate review board shall hold a public hearing on the Development Design Exception application.

- b. After review of the application and the public hearing, the review board shall make a written finding and approve, approve with modifications or conditions, or disapprove the request.
- c. If approval, or approval with modifications or conditions is granted, the decision shall be communicated in writing within 15 days to the applicant, and the applicant shall then be authorized to submit a development permit application consistent with this ordinance.

E. Development Design Exception Review Criteria

The Design Review Board or Historic District Review Board as appropriate, may approve an application for a Development Design Exception where it reasonably determines that there will be no significant negative impact upon residents of surrounding property or upon the general public. The Board shall consider the following criteria in its review:

- (a) *Compatibility.* The proposed exception is appropriate for its location and compatible with the character of surrounding lands and the development permitted in the zoning district(s) of surrounding lands, and will not reduce property values of surrounding lands.
- (b) *Design does not have substantial adverse impact.* The design of the proposed exception minimizes adverse effects including visual impacts of the proposed use on adjacent lands; furthermore, the proposed design exception does not impose significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, vibration, and does not create a nuisance.
- (c) *Consistency with Adopted Plans.* The proposed development is in general conformity with the City's Comprehensive Plan and other plans officially adopted by the City.

F. Conditions

The review board may impose such conditions and restrictions upon the application as may be necessary to minimize or mitigate any potential adverse impacts of the proposed use.

G. Appeal

Any party aggrieved by the review board's decision may appeal such determination to the Circuit Court of Beaufort County by filing with the Clerk of the Court a written petition within 30 days after the decision of the Board is postmarked, in accordance with the procedures found in Section 3.18 of this UDO.

3.18 Administrative Appeals

A. Applicability

Appeals to the Zoning Board of Appeals may be taken by any person aggrieved by a decision, interpretation or determination of the Building Official or Administrator of the City. The officer from whom the appeal is taken shall immediately transmit to the Board all papers constituting the record upon which the action appealed from was taken.

B. Effect of Appeal

An appeal stays all legal proceedings in furtherance of the action appealed from (except enforcement proceedings), unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a Court of record on application, on notices to the officer from whom the appeal is taken, and on due cause shown.

C. Application

An application for appeal shall be filed within 30 days of receipt of the decision or order of the Building Official or Administrator by filing with the officer from whom the appeal is taken and with the Zoning Board of Appeals, notice of the appeal specifying the grounds thereof. All applications are subject to the requirements of Section 3.1.

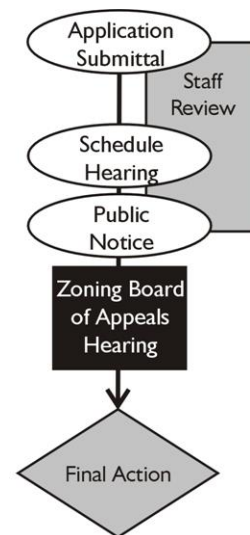
D. Hearing

The board shall fix a reasonable time for the hearing of an appeal or other matter referred to it, and give at least 15 days' public notice of it in a newspaper of general circulation in the City, as well as due notice to the parties of interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

E. Action by Zoning Board of Appeals

At the conclusion of the proceeding on the appeal, the Zoning Board of Appeals shall take one of the following actions, consistent with the provisions of this Article:

1. Affirm the action of the Building Official or Administrator;
2. Modify the action of the Building Official or Administrator, and to that end, the Zoning Board of Appeals shall have all the powers of the officer, board or commission from which the appeal is taken, and may issue a permit or direct that a permit be issued; or,
3. Reverse the action of the Building Official or Administrator, and to that end, the Board of Zoning Appeals shall have all the powers of the officer, board or commission from which the appeal is taken, and may issue a permit or direct that a permit be issued.



F. Findings of Fact

1. The Zoning Board of Appeals in the execution of the duties specified in this section may subpoena witnesses and in case of contempt may certify such fact to the Circuit Court having jurisdiction.
2. All final decisions and orders of the Board must be in writing and be permanently filed in the office of the board 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, within 15 days, by certified mail.

G. Contempt; Penalty

In case of contempt by a party, witness, [or] other person before the Zoning Board of Appeals, the Board may certify this fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

H. Appeal to Circuit Court

1. Appeal. Any applicant aggrieved by the Zoning Board of Appeal's determination may appeal such determination to the Circuit Court of Beaufort County within 30 days after the decision of the Board is postmarked.
2. Notice. Upon the filing of the appeal, the Clerk of the Circuit Court shall give immediate notice of it to the secretary of the Board and within 30 days from the time of the notice the Board shall file with the Clerk a certified copy of the proceedings held before the Zoning Board of Appeals, including a transcript of the evidence heard before it, if any, and the decision of the Board including its findings of fact and conclusions.
3. Filing of Appeal. The filing of an appeal in the Circuit Court from a decision of the Board shall not *ipso facto* act as a *supersedeas*.
4. Determination of Appeal. At the next term of the Circuit Court or in chambers, or at a time to be set by Court, upon 10 days notice to the parties, the presiding judge of the Circuit Court of Beaufort County shall proceed to hear and pass upon the appeal on the certified record of the Zoning Board of Appeals proceedings. The findings of fact by the Board shall be treated in the same manner as a finding of fact by a jury, and the Court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the Zoning Board of Appeals for rehearing. In determining the questions presented by the appeal, the Court shall determine only whether the decision of the Board is correct as a matter of law.

I. Appeal to Supreme Court

A party in interest who is aggrieved by a judgment rendered by the Circuit Court upon the appeal may appeal in the same manner as provided by law for appeals from other judgments of the Circuit Court in law cases.

3.19 Development Design Review

A. Purpose

Development Design Review is intended to protect the character of the City of Beaufort through additional review of proposed development within any Design District Overlay.

B. Applicability

1. New Development, Additions and Major Alterations

- a. All private and public development, including signage, located within a Design District Overlay shall be subject to the provisions of this section with the following exceptions:
 - (1) Lots in the Beaufort Historic District;
 - (2) Individual parcels in single-family residential use or in a single-family residential subdivision; and
 - (3) Lots zoned Limited Industrial which do not have frontage on a major or minor arterial street.

2. Design Review Required

- a. No permit shall be issued for new development nor for any exterior improvements or changes to existing development subject to the requirements of this article without the approval of the Design Review Board, as outlined below.
 - (1) Development subject to Design Review Board approval. The Board shall approve the design of the following types of development:
 - (a) Any new development which includes fuel-dispensing or drive-through facilities;
 - (b) New nonresidential development on undeveloped sites that has 3,000 square feet or more of total floor area, not including porches;
 - (c) New nonresidential development on redevelopment sites (i.e., sites that have been cleared within the last 12 months or will be cleared to accommodate proposed development) that has 5,000 square feet or more of floor area, not including porches;
 - (d) New multifamily development having eight or more units;
 - (e) Exterior alterations and/or additions to structures and sites in existing nonresidential development in which the cost of the alterations is greater or equal to 75% of the value of the existing improvements. For purposes of this section, the “value of existing improvements” shall be the fair market value of the improvements as shown on the most recent assessment records or as verified by a real estate appraiser;
 - (f) Exterior alterations and/or additions to structures and sites in existing duplex or multifamily development in which the cost of the alterations and/or additions is greater or equal to 75% of the value of the existing improvements; and

- (g)** Master signage plans for new development.
- Development subject to staff approval. The Ordinance Administrator may approve the design of the following types of development:
- (a)** New nonresidential development on undeveloped sites having less than 3,000 square feet of total floor area, not including porches, and which does not include fuel dispensing or drive-through facilities;
 - (b)** New nonresidential development on redevelopment sites (i.e., sites that have been cleared within the last 12 months or will be cleared to accommodate proposed development) having less than 5,000 square feet of total floor area, not including porches, and which does not include fuel dispensing or drive-through facilities;
 - (c)** Demolition of structures of any size where no new building is proposed;
 - (d)** New duplex or multifamily development having seven or fewer units;
 - (e)** Exterior alterations and/or additions to structures and sites in existing nonresidential development in which the cost of the alterations and/or additions is less than 75% of the value of the existing improvements;
 - (f)** Exterior alterations and/or additions to structures and sites in existing duplex or multifamily development in which the cost of the alterations and/or additions is less than 75% of the value of the existing improvements;
 - (g)** Individual sign permit applications which are not part of a master signage plan; and
 - (h)** Master signage plans for existing development.

The Administrator may submit any applications subject to Staff approval to the Design Review Board for approval.

C. Review Procedure

- 1.** All applications shall be submitted and reviewed according to the following procedures:
 - a.** Applications shall be submitted to the Design Review Board according to a schedule prepared by the Administrator and approved by the Design Review Board.
 - b.** Applicants are encouraged but not required to begin the process with a conceptual presentation of the project to the Board.
 - c.** Projects involving new development, major additions, or major alterations will typically undergo a preliminary and a final review.

- d. The Design Review Board may continue the initial public hearing only once to provide guidance to the applicant regarding revisions to the proposed project.
- e. Applicants shall be informed in writing of the outcome of their review.
- f. In addition to those items required elsewhere in this UDO, an application for final development plan approval shall be considered complete by the Administrator only when the Design Review Board's final approval with written recommendations and findings shall be received by the Administrator.

D. Appeal

A person having substantial interest may make an appeal from a Design Review Board decision to the Circuit Court of Beaufort County within 30 days after the decision of the Board is postmarked.

3.20 Certificates of Appropriateness

A. Applicability

1. A Certificate of Appropriateness shall be required for any construction activity in any historic district, including:
 - a. New structures;
 - b. Modification or expansion of existing structures; and
 - c. Demolition or partial demolition of any structure.
2. No structure that is outside the Historic District that is listed on the “Beaufort County Historic Sites Survey -1997” may be demolished or partially demolished until an application for a Certificate of Appropriateness has been submitted and processed in accordance with this UDO.
3. A certificate of appropriateness shall not be required for any of the following activities:
 - a. Routine repair and maintenance; and
 - b. Replacement in-kind, where there is no change in color or materials.
4. For the purposes of this Section, the term “structure” shall include:
 - a. Buildings;
 - b. Walls or fences;
 - c. Signs;
 - d. Light fixtures; or
 - e. Anything else constructed or erected, the use of which requires a permanent or semi-permanent location on the ground or which is attached to something having a permanent or semi-permanent location on the ground.

B. Hearings on Certificate of Appropriateness Applications

1. The Administrator may approve applications for a Certificate of Appropriateness for the following types of projects:
 - a. Individual signs;
 - b. Fences;
 - c. Paint color
 - d. Roof materials;
 - e. Canopies and awnings;
 - f. Site changes; and
 - g. Demolition of noncontributing accessory structures (ex., sheds, carports, etc.)
2. The Historic District Review Board shall review all other applications for Certificates of Appropriateness.

3. Evidence of approval of a Certificate of Appropriateness shall be in writing by the Administrator.

C. Guidance Standards, Maintenance of Consistent Policies

In order to provide guidance and insight into desirable goals and objectives for the Beaufort Historic District, the documents described in this section are hereby adopted for use by the Historic District Review Board in the exercise of its authority granted under Section 2.7 of this UDO.

1. The "Beaufort Preservation Manual," August 1979, and the "Beaufort Preservation Manual, Supplement," August 1990, prepared for the City by John Milner Associates, shall be utilized by the Board for review of projects located within the Beaufort Preservation Neighborhood.
2. The "Northwest Quadrant Design Principles," May 1999, prepared for the City by Winter & Company, shall be utilized by the Board for the review of projects located within the Beaufort Conservation Neighborhood.
3. The Secretary of Interior's "Standards for Rehabilitation" shall be utilized for projects within both districts.
4. Any special area standards as adopted by the Board.

D. Approval of Certificate of Appropriateness

1. In passing upon an application to demolish or demolish in part, or remove, or alter the exterior architectural appearance of any existing structure, the Board shall consider, among other things, the historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the City.
2. In passing upon an application for new construction in the Beaufort Historic District, the Board shall consider, among other things, the general design, the character and appropriateness of design, scale of buildings, arrangement, texture, materials and color of the structure in question, and the relation of such elements to similar features of structures in the immediate surroundings. The Board shall not consider the interior arrangement or interior design unless the interior arrangement or design affect the exterior appearance; nor shall it make requirements except for the purpose of preventing developments which are not in harmony with the prevailing character of the Beaufort Historic District, or which are obviously incongruous with this character.
3. The Board may refuse a Certificate of Appropriateness for the erection, reconstruction, alteration, demolition, partial demolition, or removal of any structure within the Historic District, which in the opinion of the Board, would be detrimental to the interests of the City.
4. Upon receiving an application for demolition or partial demolition of a structure which is listed in the "Beaufort County Historic Sites Survey-1997" and lies within the limits of the City but outside the Beaufort Historic District, the Board, within 45 days after receipt of the application, shall either approve such application, or find that the preservation and protection of historic places and the public interest will be best served by postponing the demolition for a designated period, which shall not exceed 180 days from the receipt of the application, and notify the applicant of such postponement.

5. In all applications involving the demolition of the primary structure on a lot or of a contributing accessory structure, provisions shall be made for a public hearing as set forth in Section 3.1.
6. In any case involving the demolition or partial demolition of a structure, before granting approval or requiring a postponement, the Board may call on the Building Official to provide them with a report on the state of repair and structural stability of the structure under consideration.
7. Within the period of postponement of such demolition or alteration of any building, the Board shall take steps to ascertain what the City Council can or may do to preserve such building, including consultation with private civic groups, interested private citizens and other public boards or agencies and including investigation of the potential use of the power of eminent domain when the preservation of a given building is clearly in the interest of the general welfare of the community and of certain historic and architectural significance. The Board shall then make such recommendations thereabout to the City Council as the Board may determine to submit.
8. In case of disapproval, the Historic District Review Board shall state the reasons therefore in a written statement to the applicant and may give verbal advice to the applicant and make recommendations in regard to appropriateness of design, arrangement, texture, material, color and the like of the property involved.

E. Review Criteria

All development within the historic districts shall be reviewed in accordance with the guidance standards listed in paragraph C above. Among other grounds for considering a design inappropriate and requiring disapproval and resubmission are the following defects:

1. Arresting and spectacular effects;
2. Violent contrasts of materials or colors and intense or lurid colors;
3. A multiplicity or incongruity of details resulting in a restless and disturbing appearance;
4. The absence of unity and coherence in composition not in consonance with the dignity and character of the present structure in the case of repair; or
5. Construction of or remodeling or enlargement of an existing building in a manner not consistent with the prevailing character of the neighborhood.

F. Report to Building Official

Upon approval of the plans, the Historic District Review Board shall forthwith transmit a report to the Building Official stating the basis upon which such approval was made and cause a Certificate of Appropriateness to be issued to the applicant. If the Board shall fail to take action upon any case within 45 days after the receipt of application for permit, the application shall be deemed to be approved, except where written agreement has been made for an extension of the time limit.

G. Issuance of Certificate of Appropriateness

When a Certificate of Appropriateness and Building Permit have been issued, the Building Official shall, from time to time, inspect the alteration or construction

approved by such certificate and shall report such inspection to the Board listing all work inspected and reporting any work not in accordance with such certificate or violating any ordinances of the City.

H. Denials of Certificate of Appropriateness

Upon disapproval of the plans, the Board shall state its reasons for doing so and transmit a record of such action and reasons therefore in writing to the applicant. In addition to stating the reasons for denial, the Board may also make general or specific recommendations in order for the application to be approved. The applicant may then make modifications to the plans and resubmit the application. Reconsideration of an application for demolition which has been denied by the Historic District Review Board may not be heard until 12 months from the date of the original public hearing, unless a major change has occurred in the property condition attributable to vandalism or natural causes, such as fire or weather.

I. Appeal

A person having substantial interest may make an appeal from a Historic District Review Board decision to the Circuit Court of Beaufort County within 30 days after the decision of the Board is postmarked.

3.21 Historic District Designation

A. Standards for Local Designation

1. A structure, group of structures, site or district may be designated for the purpose of historic preservation if it demonstrates at least one of the following:
 - a. **Historic, Cultural Importance**
 - (1) Has significant character, interest, or value as part of the development, or heritage of the community;
 - (2) Is the site of an historic event with a significant effect upon society; or
 - (3) Exemplifies the cultural, political, economic, social or historic heritage of the community.
 - b. **Architectural or Engineering Importance**
 - (1) Portrays the environment in an era of history characterized by a distinctive architectural style;
 - (2) Embodies those distinguishing characteristics of an architectural type or engineering specimen;
 - (3) Is the work of a designer whose individual work has significantly influenced the development of Beaufort; or
 - (4) Contains elements of design, detail, materials, or craftsmanship which represent significant innovation.
 - c. **Geographical Importance**
 - (1) By being part of or related to a square, park or other distinctive area, should be developed or preserved according to a plan based on an historic, cultural or architectural motif; or
 - (2) Owing to its unique location or singular physical characteristic, represents an established and familiar feature of the neighborhood, community or City.
 - d. **Archeological Importance**
 - (1) Has yielded or may be likely to yield information important in pre-history or history.
2. An area may be designated as a Beaufort Conservation Neighborhood where it meets one or more of the above criteria and where the following two additional criteria are met:
 - a. There are a sizable number of properties in the subject area which are not considered to contribute to the architectural or historical significance of the area; and
 - b. The cultural values or financial resources of a significant number of property owners in the subject area as reasonably considered by Beaufort City Council are such that the flexible standards of the Beaufort Conservation Neighborhood are appropriate.
3. Individual structures, sites, and properties located within a Beaufort Conservation Neighborhood may be designated as notable properties to be subject to Beaufort Historic District standards, guidelines and procedures rather

than Beaufort Conservation Neighborhood standards, guidelines and procedures at such time as standards, guidelines, and procedures may be established for the Beaufort Conservation Neighborhood which are different from those in effect for the remainder of the historic district. Beaufort City Council may designate structures, sites, and properties as notable properties where it reasonably determines that those structures, sites, or properties embody a particularly high degree of significance in accordance with the criteria listed in this section.

B. Designation Process

Based upon the criteria set forth in this section, the Board shall review such proposed designations and then it shall make a subsequent recommendation regarding the designation to the City Council for final action on a rezoning in accordance with the procedure in Section 3.14.

3.22 Traffic Impact Analysis

A. Traffic Access Management

All development, as defined in Section 1.6, shall have an Access Analysis undertaken by the Administrator. This analysis shall be undertaken to ensure that access to all proposed developments and subdivisions is accomplished in a safe manner. This analysis will identify any access improvements the applicant must install at his expense such as deceleration lanes and shall identify the location of any curb cuts based on, but not limited to sight distances, existing roadway infrastructure, opposing driveways locations and shared access. Additionally this analysis will address requirements for adequate driveway design including but not limited to turning radius and stacking distance. The standards in the South Carolina Department of Transportation's Access and Roadside Management Standards Manual shall serve as a guide for this review. The access requirements approved by the Administrator shall be incorporated on development or subdivision plans prior to their approval. If an applicant is required to provide site-related traffic improvements, the cost of implementing such improvements shall be borne by the applicant and no such costs shall be eligible for a credit or offset from any transportation impact fees.

B. Traffic Impact Analysis Required

1. Except as outlined below, a Traffic Impact Analysis (TIA) shall be required for any development that would generate more than 50 trips during the peak hour of the adjacent street. A second phase, second subdivision, or addition that takes a property over the trip limitation when taken as a whole shall also require a TIA even though that development does not qualify on its own. The Technical Review Committee (TRC) shall determine whether a TIA is complete. Thorough and complete TIA's are the responsibility of the applicant. Failure by the applicant to provide a complete TIA may result in review delays for their plat or plan. A use shall not be changed to use permitted in the district without conducting a new TIA, if required.
2. Development on lots included in the Boundary Street Master Plan, adopted on August 28, 2006 and lots in the downtown redevelopment area defined in this UDO as the area bounded by Calhoun Street, Carteret Street, Bay Street, and Ribaut Road, and lots zoned Industrial Park District, shall not be subject to the requirements of this section.

C. Traffic Impact Analysis Plan Preparation

1. The TIA shall be conducted by an engineer registered in South Carolina that is experienced in the conduct of traffic analysis, and approved by the TRC.
2. Prior to beginning the traffic impact analysis plan, the applicant shall supply the city with the following:

- a. A written narrative describing the proposed land use(s), size and projected opening date of the project and all subsequent phases;
 - b. A site location map showing surrounding development within a one-half mile of the property under development consideration; and
 - c. A proposed site plan or preliminary subdivision plat illustrating access to public or private roads and connectivity to other contiguous developments.
3. The TRC will rely upon the most current edition ITE trip generation manual or any alternative acceptable to the engineering department, and available information on land use, travel patterns and traffic conditions, and after consulting with the SCDOT will supply in writing to the applicant and/or his engineer the parameters to be followed in the study including the directional split of driveway traffic, trip distribution, background traffic growth rate, previously approved but not completed projects and the intersections to be analyzed along with any associated turning movement counts which are available or discussed and approved by the TRC.

D. Plan Contents

1. All phases of a development are subject to review, and all traffic plans for the entire development shall be integrated with the overall traffic analysis. A traffic impact analysis plan for a specific phase of development shall be applicable to the phase of development under immediate review. However, each phase of development shall expand and provide detailed analysis at the development plan stage beyond the estimates provided for at the concept plan or master plan stage.
2. The adequacy of the roads to which the development takes access shall be assessed in the TIA. Recommendations for improvements shall be made. The relative share of the capacity created shall be broken down as follows: development share, other developments share, any existing over capacity, and capacity available for future growth.
3. Residential development, residential care facilities, hospitals, hotels and resort-oriented developments shall submit an emergency evacuation analysis (EEA), as part of the TIA. The EEA shall indicate how the proposed development utilizes the county's prescribed evacuation routes, as shown in the Beaufort County Comprehensive Plan. The transportation planner or traffic engineer preparing the report shall indicate the effect of the proposed development upon existing evacuation times for that portion of the county. The EEA shall be reviewed by the Beaufort County director of emergency management prior to submittal as part of the TIA.
4. The following elements shall be included in a traffic impact analysis plan:

- a. A site plan or subdivision plat identifying accesses to and from existing or proposed streets and intersections.
- b. Description of the proposed development, including the type of proposed land use, the number of residential units by type, the number of existing and proposed lots, the type of proposed nonresidential development and the amount of such development measured by gross floor area or other appropriate unit of measurement, the general size and type of accessory development or facilities, and, for nonresidential development, adequate information to identify the appropriate land use category for trip generation.
- c. Projected vehicular trips to and from the completed development during a.m. and p.m. peak hour. Trip rates shall be taken from ITE manual, provided, however an applicant may elect to perform, at his own expense, a trip generation study which may be submitted as part of the traffic impact analysis plan. Such trip generation study shall be subject to the review and verification of the TRC and traffic engineer. For proposed uses not specifically listed in the ITE manual, and for which a trip generation study has not been performed, the county engineer, in consultation with the traffic engineer, shall determine the most appropriate trip generation rate. The TRC shall make the determination of the appropriate trip generation rate, from whatever the source. The percentage of pass-by trips, if used in the plan, shall be included, as well as the source of this information.
- d. A written narrative setting forth the assumptions upon which any projection, made in developing the traffic impact analysis plan, shall be included in the analysis. If the assumptions are derived from the ITE manual, the materials shall be referenced and properly cited. If the assumptions are not from the ITE manual, appropriate excerpts from other reliable transportation planning resources shall be included in the study and reasons underlying the assumptions shall be stated in the narrative.
- e. The TIA shall review access to the site. The adequacy of the entrance design shall be evaluated and recommendations made of acceleration and deceleration lanes, left turn lanes, or signalizations shall be part of the TIA.
- f. The TIA shall review the number and types of curb cuts that are permitted. In particular, the TIA shall assess the connection of the property to adjoining properties. Where the use, scale of development, or size of adjoining properties is such that trips would be anticipated between the proposed use and the other properties the TIA shall make recommendation on interconnections. The TIA shall recommend interconnections to provide a smooth flow of traffic between uses along arterials and collector roads to ensure that as much traffic as possible uses secondary roads rather than major roads for short trips.
- g. The traffic impact analysis shall be based on intersection analysis

procedures for signalized intersections as identified in the most current edition transportation research board's highway capacity manual and/or the last update that analyses and emulates these procedures by means of computer software if available. The results of any required analysis/computer analysis shall, at a minimum, indicate compliance or variance from the traffic goals in Section 3.21.J.

- h. The intersections that must be analyzed in the study are identified to be as follows:
 - (1) Any intersection that serves as a development's point of access. This will include intersections of public and/or private roads with major arterials, and driveways offering direct access.
 - (2) The first major intersection as identified by the county traffic engineer on both side of the development's point of access.
 - (3) Other intersections on major arterials if development generates more than 50 a.m. or p.m. peak hour trips to that intersection or when in the opinion of the TRC there is a potential for a significant impact to the intersection's level of service from site related traffic, or intersection demand critical.
 - (4) Unsignalized intersections and access drives shall be considered if development impacts are anticipated. The plan must include the results of an analysis of the operating conditions of critical intersections and/or all intersections identified in the concept plan. The analysis shall reflect the projected condition of these intersections and movements, based on the scheduled opening date of the development. Other phases of the development if they can be reasonably determined shall be considered as well.

E. Mitigation Plan Required

If the initial analysis indicates that the city's adopted traffic service level goals will be exceeded, a mitigation plan must be prepared based on additional analysis. The mitigation plan must show how the county's service level goals are addressed as mitigated. Applicants will be responsible to mitigate the traffic impacts at any intersection effected by a proposed development.

- 1. If a traffic signal is recommended, the analysis shall provide information that does the following:
 - a. Clearly indicates the need for a traffic signal.
 - b. Assesses the ability of other existing or planned or proposed public roads to accommodate the new traffic at a location other than the main highway in the vicinity of the proposed development.

- c. Describes in detail how a specific development will affect the study area transportation system.
 - d. Provides documentation of appropriate South Carolina Manual of Uniform Traffic Control Devices (SCMUTCD) signal warrant satisfaction.
 - e. Gives design geometry of the private road that is consistent with that of public road intersections including curbs, appropriate lane widths, pavement markings and vertical alignment. Other roadway factors to be considered include, but are not limited to, speed, type of highway, grades, sight distance, existing level of service, conflicting accesses, and the effect of future traffic signal systems.
 - f. Provides an approach throat length for the road to guarantee the movement of vehicles entering the site will not be impeded by on site conditions, and insure that all signal spacing requirements are adequately met.
- 2. A traffic signal progression analysis is required if the proposed location is closer than the SCDOT standards given the presence of existing signals or the possible existence of future signals proposed as part of a highway signal system.
- 3. The desirable spacing of signalized intersections on principal arterials is the SCDOT, county, or city standards. The TRC may recommend to SCDOT the installation of a traffic signal at locations where using SCDOT standards, spacing is inappropriate due to: topography, existing or proposed road layout; documented accident history; unique physical constraints; existing or proposed land use patterns; or requirements to achieve specific objectives for highway segment designations as shown in any locally adopted land use or transportation plan or approved city or county transportation plan or approved transportation policy.
- 4. Signal spacing concerns may be ameliorated in the following ways:
 - a. A proposed private road that may otherwise be considered for the installation of a traffic signal may be replaced by an onsite route or a frontage road that directs traffic to or from a nearby public road;
 - b. A private road that is being considered for traffic signal installation may be required to connect to the existing or planned local road system to allow uses of surrounding properties;
 - c. An existing or proposed intersection may be relocated; or
 - d. A shared private road may be required to serve the needs of the multiple properties.
- 5. A traffic signal progression analysis for all new, revised or planned traffic signal systems on state highways shall be performed using methods, models, computer

software, data sources, roadway segment length, and assumptions approved by the TRC. The roadway segment, analyzed to the extent possible, shall include all traffic signals in the existing or future traffic signal system. The progression analysis shall:

- a. Demonstrate acceptable existing and future traffic signal systems operation that may include the morning peak, evening peak, midday period, and other appropriate time period during any day of the week adjusted for peak season, for cycle lengths and travel speeds approved by the TRC;
 - b. Provide for a progressed traffic band speed no more than five mph (eight km/h) below the existing posted speed for both directions of travel during the off-peak periods, nor more than ten mph (16km/h) below the existing posted speed during peak periods. Approval by the TRC is required where speeds deviate more than the above;
 - c. Demonstrate sufficient vehicle storage is available at all locations within the traffic signal system without encroaching on the functional boundaries of adjacent lanes and signalized intersections. The functional boundary of an intersection shall be determined in discussion with the TRC based on existing or projected conditions;
 - d. Provide a common cycle length with adequate pedestrian crossing times at all signalized intersections; and
 - e. Provide a progression bandwidth as large as that required, or as presently existing, for through traffic on the federal or state highway at the most critical intersection within the roadway segment. The most critical intersection is the intersection carrying the highest through volume per lane on the federal or state highway.
6. The traffic signal progression analysis shall be supplemented by a traffic engineering report that also considers highway capacity and safety of the roadway segment under consideration. Traffic volumes, intersection geometry and lane balance considered at all locations shall be appropriate for the present and future conditions. Present and future conditions are usually considered to include the year of completion, and five years into the future.
 7. A clear and concise summary of recommended improvements that can serve as an executive summary is required.

F. Traffic Impact Analysis Plan Review

The TRC shall review all traffic impact analysis plans as part of the initial approval for the concept plan or master plan. Final traffic impact analysis plans shall be approved at the development plan phase.

G. Application

A traffic impact analysis plan shall be submitted to the TRC. Coordination with other entities in the county government or South Carolina Department of Transportation (SCDOT) shall be the responsibility of the city.

H. Action on Traffic Impact Analysis Plan

The Technical Review Committee (TRC) must first approve the TIA in regard to completeness and accuracy. Following review of the required impact analysis plan, TRC shall recommend action as follows:

1. Approval of the traffic impact analysis as submitted;
2. Approval of the traffic impact analysis plan with conditions or modifications as part of the development review and approval process. An acceptable traffic impact analysis plan with traffic mitigation measures may include the reduction of the density or intensity of the proposed development; phasing of the proposed development to coincide with state and/or county-programmed transportation improvements; applicant provided transportation improvements; fees in lieu of construction, or any other reasonable measures to insure that the adopted traffic service level goals are met. If mitigation is required, it shall be required as a condition of any approval from the City.

I. Timing of implementation

If a traffic mitigation program is part of an approved traffic impact analysis plan, the developer may be required to place a performance bond on all traffic mitigation improvements required as a result of his project. This requirement may arise if the timing of the improvements needs to be synchronized with other scheduled improvements anticipated for the area.

J. Responsibility for costs of improvements

The costs of implementation of an approved mitigation program shall be the responsibility of the applicant. No certificates of zoning compliance or building permits shall be issued unless provisions of the transportation impact analysis are met.

K. Traffic goals

The average stop time delay in seconds per vehicle for each intersection determined to be critical to the traffic impact analysis for the proposed development shall be compared to the City's adopted traffic service level goal of "D" for the average delay for all vehicles at any signalized intersection during the a.m. and p.m. peak hours.

(This page intentionally left blank)

Article 10. Enforcement

10.1 Enforcement by Building Official

A. Enforcement

1. The City Manager shall appoint the Building Official and, as such, will be assigned the duty and authority to administer and enforce the provisions of this UDO.
2. If the Building Official shall find that any of the provisions of this UDO are being violated, he shall notify, in writing, the owner, occupant, contractor, and/or person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

B. Complaints Regarding Violations; Remedies

Whenever a violation of this UDO occurs, or is alleged to have occurred, any person may file written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Official. He shall record properly such complaint, immediately investigate, and take whatever action is necessary to assure compliance with this ordinance.

C. Remedies

In case any building or structure is proposed to be or is erected, constructed, reconstructed, altered, maintained, or used; or any land is proposed to be or is used in violation of this UDO, the Building Official, the City Council, the City attorney, or any other person aggrieved may, in addition to other remedies provided by law, institute an injunction, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

D. Sign Maintenance and Enforcement Generally

In order to ensure that signs are erected and maintained in a safe and aesthetic manner, the following maintenance requirements shall be observed for all signs visible from any public street, and any deficiency shall be corrected within 30 working days of being detected:

1. No sign shall have more than 10 percent of its surface area covered with disfigured, cracked, ripped or peeling paint or poster paper;
2. No sign shall stand with bent or broken sign facings, broken supports, loose appendages or struts or be allowed to stand more than fifteen degrees away from the perpendicular;
3. No sign shall have weeds, trees, vines or other vegetation growing upon it or obscuring its view from the street from which it is to be viewed; and
4. No internally illuminated sign shall stand with only partial illumination.

E. Violation Notice

The Building Official and duly authorized staff shall have the authority to issue a violation notice and shall be empowered to enter upon the premises of any person subject to this article for the purpose of enforcing the provisions herein.

F. Impoundment of Signs

1. The Building Official shall have the authority to remove all signs, without notice to the owners thereof, placed within any street or highway right-of-way, signs attached to trees, fenceposts, telephone and utility poles, other natural features or signs otherwise prohibited by this article, and to impound them for a period of 10 days.
2. The owner of a sign impounded may recover same upon the payment of \$150.00 for each sign, prior to the expiration of the 10-day impoundment period. In the event it is not claimed within 10 days, the Building Official shall have authority to dispose of such sign.
3. If the owner or lessee fails to remove the sign during the permitted time, then the City or an independent contractor secured by the City shall remove the sign and ensuring charges shall be assessed to the owner or lessee.

G. Beaufort Historic District and Design District Enforcement

When a Certificate of Appropriateness or Design District approval and a Building Permit have been issued, the Building Official or other designated staff member shall conduct timely inspections of the alteration or construction approved by such certificate. The property owner shall be required to have copies of the approved plans and the building permit on the premises for inspection. If alterations and/or construction are noted which are not in accordance with such approved plans, this information shall be immediately transmitted to the Codes Enforcement Office. If the Building Official finds that the alteration or construction is not in accordance with or is in violation of the approved plans, he shall issue a "stop work order" and notify in writing the recipient of the building permit and the Department of Planning and Development Services indicating the nature of the violation and ordering the action necessary to correct it.

10.2 Penalties for Violation

A. Penalties for Violation

1. Any person violating any provision of this UDO shall be guilty of a misdemeanor, shall be prosecuted according to procedures established under Section 1-3048(a), (b) and (c) for misdemeanors, and, upon conviction, shall be fined as determined by the court for each offense. Each day such violation continues shall constitute a separate offense.
2. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

- B.** Any person who violates the provisions of this article, upon conviction, shall be guilty of a misdemeanor and shall forfeit and pay the maximum penalty allowed by state law and/or 30 days imprisonment, or both, at the discretion of the court for each violation. Each day shall constitute a separate offense.

C. Subdivision Penalties

1. The owner or agent of the owner of any land located within the platting jurisdiction of the Planning Commission as described herein who transfers or sells or agrees to sell such land before such plat has been approved by the Planning Commission and recorded in the office of the Clerk of Court in and for the County of Beaufort shall be guilty of a misdemeanor for each lot so transferred or sold or agreed or negotiated to be sold, and upon conviction thereof, shall be punished in the discretion of the Court. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The City may enjoin such transfer or sale or agreement by appropriate action.
2. The County official whose duty it is to accept and record real estate deeds and plats may not accept, file, or record a land development plan or subdivision plat involving a land area subject to land development regulations adopted pursuant to this UDO unless the development plan or subdivision plat has been properly approved. If a public official violates the provisions of this section, he is, in each instance, subject to the penalty provided in this article and the affected governing body, private individual, or corporation has rights and remedies as to enforcement or collection as are provided, and may enjoin any violations of them.

D. Violation of Sexually Oriented Businesses Provisions

1. Suspension

- a. The City Manager or his/her designee shall suspend a sexually oriented business permit if he/she determines that a permittee or an employee of a permittee has:**
- (1) Violated or is not in compliance with any section of this article;
 - (2) Been under the influence of alcoholic beverages while working in the sexually oriented business premises;
 - (3) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;
 - (4) Knowingly permitted gambling by any person on the sexually oriented business premises;

- (5) Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance, or regulation, whether federal, state, or local, said determination being based on investigation by the division, department, or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance, or regulation violation, the city manager or his/her designee, shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven-day period, the city manager or his/her designee, shall forthwith suspend the permit and shall notify the permittee of the suspension;
 - (6) In the event that the City Manager or his/her designee, suspends a permit on the grounds that a permittee engaged in a permit transfer contrary any section of the Code of Ordinances of the City of Beaufort, the City Manager or his/her designee shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this article has been satisfied.
 - (7) Operated the sexually-oriented business in violation of the hours of operation Section 5.3D.16.h.
 - (8) Knowingly employs a person who does not have a valid permit as required any section of the Code of Ordinances of the City of Beaufort.
- b. The suspension shall remain in effect until the violation of the statute, code, ordinance, or regulation in question has been corrected.

2. Revocation

- a. The City Manager or his/her designee shall revoke a permit if a cause of suspension in section 5-6216 occurs and the permit has been suspended within the preceding 12 months.
- b. The City Manager or his/her designee shall revoke a permit if he/she determines that:
 - (1) A permittee gave false or misleading information in the material submitted to the codes enforcement division during the application process;
 - (2) A permittee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - (3) A permittee or an employee has knowingly allowed prostitution on the premises;
 - (4) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
 - (5) A permittee has been convicted of a "specified criminal act" for which the time period required in the Code of Ordinances of the City of Beaufort has not elapsed;
 - (6) On two or more occasions within a twelve-month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction

has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit;

- (7) A permittee has been operating more than one sexually oriented business under a single roof;
 - (8) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted premises;
 - (9) A permittee is delinquent in payment to the county or state for any taxes for fees past due.
 - c. When the City Manager or his/her designee revokes a permit, the revocation shall continue for one year, and the permittee and/or licensee shall not be issued a sexually oriented permit for one year from the date revocation became effective. If, subsequent to revocation the City Manager or his/her designee finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the date the revocation became effective.
- 3. Additional Criminal Prohibitions for the Operation of a Sexually Oriented Business Without a Valid Permit
 - a. In addition to the criminal provisions found at other sections of this article, the following additional criminal provisions shall also apply to sexually oriented business.
 - b. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this article, and said person knows or should know that:
 - (1) The business does not have a sexually oriented business permit under this article for any applicable classification; or
 - (2) The business has a permit which is under suspension; or
 - (3) The business has a permit which has been revoked; or
 - (4) The business has a permit which has expired.
- 4. Exemptions
 - a. It is a defense to prosecution under Section 5.3D.11.c. that a person appearing in a state of nudity did so in a modeling or dance class or dance troupe operated or wholly sponsored:
 - (1) By a proprietary school, licensed by the state of South Carolina, a college, junior college, or university supported entirely or partly by taxation;
 - (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - (3) In a structure:

- (a)** Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
 - (b)** Where, in order to participate in a class a student must enroll at least three days in advance of the class; and
 - (c)** Where no more than one nude model is on the premises at any one time.
 - b.** It is a defense to prosecution for a violation of this article that an employee of a sexually oriented business, regardless of whether or not [sic] is permitted under this article, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.
- 5.** Criminal penalties and additional legal, equitable and injunctive relief
 - a.** A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license or in violation of Section 5.3D.25.b of this UDO is subject to a suit for injunction as well as prosecution for criminal penalties. Such violations shall be punishable by a fine not to exceed the maximum penalty allowed by state law and/or 30 days imprisonment, or both, at the discretion of the court for each violation.
 - b.** In addition to whatever penalties are applicable under the South Carolina Penal Code, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this article, such person upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed the maximum penalty allowed by state law and/or by imprisonment not to exceed 30 days in jail, or both, at the discretion of the court. Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation or noncompliance shall be considered as a separate offense.
 - c.** Nothing herein contained shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include, but not be limited to, an equitable action for injunctive relief or an action at law for damages.
 - d.** Further, nothing in this section shall be construed to prohibit the City from prosecuting any violation of this article by means of the City's Code Enforcement Office.
 - e.** All remedies and penalties provided for in this section shall be cumulative and independently available to the City and the City shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.

Article 11. Definitions

11.1 General

Except as specifically defined herein, all words used in this UDO have their customary dictionary definitions. For the purpose of this UDO, certain words or terms used herein are defined as follows:

- A.** Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.
- B.** The word "shall" is always mandatory.
- C.** The word "may" is permissive.
- D.** The word "lot" includes the word "plot" or "parcel."
- E.** The word "structure" includes the word "building."
- F.** The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- G.** The words "used" or "occupied" as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.
- H.** The terms "map," "Zoning Map" or "Official Zoning Map," shall mean the Official Zoning Map of the City and refer to all maps so titled and bearing the seal of the City, together with the signature of the Administrator, as well as the date of adoption of this UDO.
- I.** The terms "Council" or "City Council" refer to the City Council of the City of Beaufort.
- J.** The term "Planning Commission" refers to the City of Beaufort-Town of Port Royal Joint Municipal Planning Commission.
- K.** The term "Zoning Board of Appeals" refers to the duly appointed Board authorized by City Council to hear and act upon appeal of a decision of the Building Official or any request for a Variance from any provision of this UDO.
- L.** The term "Building Official" refers to the person subsequently and specifically designated by the City Manager and so employed and empowered as the Building Official for the City.
- M.** The term "Administrator" refers to the person designated by the City Manager to administer and enforce the provisions of this UDO.

11.2 Defined Terms

Abandoned Vehicle. Any vehicle found or left on a public street, parking lot, or wrecker lot, for which the owner cannot be identified and/or located within a period of seven days.

Accessory. A use or building subordinate to the principal building on a lot and used for purposes customarily incidental to the main or principal use or building and located on the same lot herewith.

Accessory Dwelling Unit. A second dwelling unit either in or added to an existing single-family detached dwelling or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility with provision within the accessory dwelling unit for cooking, eating, sanitation, and sleeping. Such a dwelling is accessory and subordinate to the primary dwelling

Adjusted Caliper Inches (ACI). The number of inches of diameter of a tree trunk resulting from the multiplication of the diameter at breast height (DBH) of the tree trunk times the tree species factor (TSF) times the new tree factor (NTF).

Adult Arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

Adult Bookstore, or Adult Video Store. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas";
- (2) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others; or
- (3) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas".

An establishment will not be considered an adult bookstore or adult video store if the establishment demonstrates that the items of adult material offered for sale or rental comprise less than 10 percent of the inventory of stock used in trade and/or publicly displayed in the establishment and which are not accessible to minors.

Adult Cabaret. A nightclub, bar, restaurant, "bottle club", or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- (1) Persons who appear in a state of nudity or seminudity;

- (2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult Car Wash. A car wash where some or all of the employees are seminude or nude and/or where "specified anatomical areas" are exhibited.

Adult Health Club or Adult Bath House. A health club or bath house where some or all of the employees are nude or seminude, or in which "specified anatomical areas" are exhibited.

Adult Motel. A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

Adult Motion Picture Theater. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult Theater. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

Adverse Effect. An undertaking is considered to have an adverse effect when the effect on an historic resource may diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.

Alley. A secondary way which affords access to the side or rear or abutting property.

Antenna. A device, dish, or array used to transmit or receive telecommunications signals.

Archeological Resources. As defined in the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa-470mm) Section (1): The term "archeological resource" means any material remains of past human life which are of archeological interest. Such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of the foregoing items. Non-fossilized and fossilized paleontological specimens, or any portion or piece thereof, shall be considered archeological resources, under the regulations under this paragraph, unless

found in the archeological context. No item shall be treated as an archeological resource under regulations under this paragraph unless such item is at least 50 years of age.

Archeological Site. For the purposes of this Ordinance, an archeological site is the area of the development identified as being listed in, or having the potential for listing in the National Register of Historic Places.

Awning. A structure made of wood, cloth, vinyl or other flexible material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building.

Banners, Pennants and Balloons. Any animated rotating, fluttering or non-stationary device made of flexible materials designed to attract attention.

Banquet hall. An establishment which is rented by individuals or groups to accommodate private (invitation only) functions including, but not limited to banquets, weddings, anniversaries and other similar events. Such a use may include kitchen facilities for preparation of food to be consumed on the premises, and outdoor gardens or reception facilities.

Bed and Breakfast. A lodging establishment having one to five guest rooms providing overnight accommodations to transient guests.

Berm. A linear earthen mound designed as a landscape element or to screen undesirable views.

Body Piercing. The creation of an opening in the body of a human being so as to create a permanent hole for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of a lip, tongue, nose or eyebrow. "Body piercing" for the purpose of this UDO does not include piercing an ear lobe.

Body Piercing Facilities. Any room, space, location, area, structure, or business, or any part of these places, where body piercing is practiced or where the business of body piercing is conducted.

Bona fide Silviculture or Agricultural Operation. An operation where the product is harvested or cultivated periodically for sale or consumption followed by timely reforestation, replanting, self-seeding or recultivation providing for the ongoing production of the resource.

Buffer. Portion of land usually in the form of linear strips maintained with natural or installed landscaping used to soften the impact of development. Depending upon the purpose of the buffer, there may be no screening where only grass is planted, partial screening where some shrubbery or trees are planted, or total screening where a hedge or fence is installed. Buffers generally, but not necessarily, are located along property boundaries.

Build-to-line. An alignment established a certain distance from the property line to a line along which the building shall be built. Front porches and handicap ramps shall be exempt from build-to-line requirements, but must occur behind the property line.

Buildable Area. That portion of any lot which may be used or built upon in accordance with the regulations governing the given zoning district within which the particular lot is located once the various front, side, and rear yard requirements required for the district have been subtracted from the total lot area. For instructions related to the determination of buildable area, see Section 6.4.

Building. A structure which is completely enclosed by a roof and by solid exterior walls along whose outside faces can be traced an unbroken line for the complete circumference of the

structure, which is permanently affixed to a lot or lots, and used or intended for the shelter, support, or enclosure of persons, animals or property of any kind.

Building, Principal. A building in which is conducted the principal use of the lot on which the building is situated.

Building Line. The line which represents the distance a building or structure must be set back from a lot boundary. The building lines of a lot shall be determined to run parallel to and set back the appropriate distance required within the district in which the lot is located from lot boundary lines.

Caliper. Standard measure of tree size for trees to be newly planted. The measurement is taken six inches above the ground for trees four inches in diameter or less and twelve inches above the ground for trees over four inches in diameter. (See Diameter at Breast Height.)

Camper. A Manufactured Home, tent, trailer, or other self-contained vehicle, designed for recreational purposes, made of metal or other materials, mounted on two or more wheels and either self-propelled or rigged for towing, provided such vehicle is less than 30 feet in length and is not used for residential purposes within the City.

Canopy. A structure constructed of rigid materials, including, but not limited to, metal, wood, concrete, plastic, canvas or glass, which is attached to and supported by a building or by columns, poles or braces extended to the ground.

Carnival. A temporary outdoor amusement center, bazaar, or fair, either involving use of special purpose equipment or conducted by professional operators or both, and where activities include such things as rides, exhibitions, food service, sales, small-scale games, or animal displays.

Clinic. n establishment where medical or dental patients, who are not lodged overnight, are admitted for examination or treatment.

Commercial or Industrial Center. Two or more separate occupancies located within the same or adjacent building or buildings on the same commercial or industrial plat of record.

Condominium. See "Dwelling, Condominium."

Conifer or Cone Bearing Tree. Tree with needle leaves and woody cone fruit, usually evergreen though a few species are deciduous.

Critical Area. All saline waters and related lands which are subject to the ebb and flood of the tide including coastal waters, tidelands, coastal wetlands, mudflats, marshes and shallows. The critical area is seaward of the critical line, as delineated by the Department of Ocean and Coastal Resources Management of the South Carolina Division of Health and Environmental Control, which represents the landward-most point at which vegetation is influenced by saline water.

Cul-de-sac. A minor street with only one outlet and culminated by a turnaround.

Day Care, Family. An occupied residence providing or designed to provide day care for not more than six children.

Density. The number of dwelling units per gross acre of land developed or used for residential purposes. Unless otherwise clearly stated, density requirements in this UDO are expressed in dwelling units per gross acre.

Development. Any change or improvement to land or structures requiring a building permit. Development includes, but is not limited to, paving, establishment of vehicular use areas, or redevelopment of any site.

Diameter at Breast Height (DBH). Standard measure of tree size for existing trees. The tree trunk diameter is measured in inches at a height of four and one-half (4.5) feet above the ground. If a tree splits into multiple trunks below four and one-half (4.5) feet, then each trunk is considered as a separate tree. (See Caliper.)

District. The term applied to various geographical areas of the City for purposes of interpreting the provisions of this UDO. The districts are designated with the use of symbols on the Official Zoning Map. Regulations controlling land use in the various districts within the City are set forth in Section 5.5B.7.e. The terms "district" and "zoning district" are synonymous and are used interchangeably throughout this ordinance.

Double Frontage Lot. A lot having frontage and access on two or more streets. A corner lot shall not be considered having double frontage unless it has frontage and access on three or more streets.

Drive-in. A retail or service enterprise oriented to automobile driving patrons wherein service is provided to the consumer on the outside of the principal building. The term "drive-in" includes drive-in restaurants, and dairy bars, theaters, banks, laundries, food stores or car washes.

Dwelling. A building or portion of a building arranged or designed to provide living quarters for one or more families. The terms "dwelling" and "residence" shall be interchangeable.

Dwelling, Condominium. A building or series of buildings on the same lot or portions thereof containing more than one dwelling unit under separate ownership, with joint ownership of common open spaces.

Dwelling, Group. A building or portion of a building occupied or intended for occupancy by several unrelated persons or families, but in which separate cooking facilities are not provided for such resident persons or families. The term "group dwelling" includes but is not limited to the terms rooming house, apartment hotel, fraternity house, or sorority house, Y.M.C.A. or Y.W.C.A. A hotel, motel, or Bed and Breakfast shall not be deemed to be a group dwelling as herein defined.

Dwelling, Multifamily (or Multiple-Family). A building or series of buildings on the same lot or portions thereof used or designed and rented as dwellings for three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-family. A detached dwelling other than a Manufactured Home designed for or occupied exclusively by one family on a single lot.

Dwelling, Two-family. A dwelling arranged or designed to be occupied by two families in separate dwelling units living independently of each other on a single lot.

Dwelling, Townhouse. One of a series of three or more attached one-family dwelling units on separate lots.

Dwelling Unit. One or more rooms connected together and constituting a separate, independent housekeeping establishment with provision for cooking, eating, and sleeping and physically set apart from any other rooms or dwelling units in the same structure or another structure.

Easement. A grant to the general public, a corporation, or a certain person of a strip off a parcel of land for use for a specific purpose.

Effect. An undertaking has an effect on a historic resource when the undertaking may alter the characteristic of the resource that may qualify the resource for inclusion in the National Register of Historic Places.

Escort. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency. A person or business association who furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment. For the purposes of any requirements regarding sexually-oriented businesses, an establishment means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

Existing Sign. Any sign that was erected, mounted or displayed prior to the adoption of this Unified Development Ordinance (UDO).

Exterior Architectural Appearance. Exterior architectural appearance shall include architectural character, general composition and general arrangement of the exterior of the structure, including the kind, color and texture of the building material and type and character of all windows, doors, light fixtures, signs and appurtenant elements, visible from the street or public thoroughfare.

Façade. The entire building wall, including main street wall face, and parapet, fascia, windows, doors, canopy and roof on any complete elevation.

Flag Lot. A lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building with the frontage street.

Full Cut-Off Fixture or Luminaire. A luminaire that allows no direct light from the luminaire above a horizontal plane through the luminaire's lowest light-emitting part, in its mounted form.

Fall Zone. The determined area within which the structure can be predicted to collapse in the event of failure.

Family. One or more persons occupying a single dwelling unit provided that unless all members are related by blood or marriage, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises.

Frontage. The length of the property line of any one premises parcel serving as a public right-of-way line.

Garage, Private. An accessory building or portion of a principal building used only for the private storage of motor vehicles as an accessory use. A garage may contain non-habitable space used exclusively for storage. Garages or other storage buildings that contain habitable space shall be considered accessory dwelling units for purposes of review and permitting.

Grand Tree. Any existing broad-leaved overstory tree with a DBH of 24 inches or greater; any existing understory tree with a DBH of twelve inches or greater; and any Palmetto tree having a clear trunk height of at least two feet.

Ground Cover. Vegetation growing close to the ground including grass, ivy and some species of juniper.

Ground disturbance. Any activity which would result in any tangible modification to the surface of the ground including, but not limited to, building new structures or additions, paving, grading, excavating or tree removal.

Hardscape. Any nonliving material such as berms, mulch, walls and fences commonly used in landscaping designs.

Height of Freestanding Sign. The vertical distance measured from the average elevation of the nearest road centerline to the top of the sign face or sign structure, whichever is greater.

Historic Resources. According to the National Historic Preservation Act of 1966, as amended through 1992, (16 U.S.C. 470 et seq.) Section 101(a)(1)(A):

The secretary of the Interior is authorized to expend and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

Criteria set forth by the Secretary of the Interior states that any district, site, building, structure, or object that is at least 50 years of age, is significant in American history, architecture, archeology, engineering, and culture may be considered for inclusion on the National Register of Historic Places.

Home Occupation. An occupation conducted from a residence in accordance with the provisions of this ordinance.

Hotel/Motel. A lodging establishment of 26 or more guest rooms providing overnight accommodations to transient guests.

Housing, Short Term Rental. A single-family or individual two-family or multifamily dwelling that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 days.

Impervious Surface. Any area of land that cannot be landscaped or planted and which does not allow for the natural passage of water through it, including paved areas, all buildings, and asphalt or concrete parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt and/or any water bodies, and roof surfaces.

Infill. Development or redevelopment of land that has been bypassed, remained vacant, and/or is underused as a result of the continuing urban development process.

Inn. A building used as a lodging establishment having six to 25 guest rooms providing overnight accommodations and breakfast to transient guests.

Intensive Level Survey. An Intensive Level Survey will be based on a systematic approach to the entire tract, to differentiate between having high or low potential for containing archeological resources. Topography and soil types are also taken into consideration to help determine the areas of high and low potential. In addition, sub-surface activity, such as shovel tests are done (unless surface exposure is evident) and the materials are sifted. All of the findings, as well as a determination of eligible sites will be compiled into a final report.

Landscaping. Any vegetation or organic material including grass, ground covers, vines, shrubs, trees, mulch, and earth; landscaping may include hardscape, as well.

Limbing. The severe cutting back of limbs to stubs larger than three inches in diameter to such a degree that the natural configuration is removed and the tree is disfigured.

Live-aboard Boat. A boat or vessel designed primarily for, and capable of, navigation on navigable waters and occupied in the City limits for more than 90 out of 365 days.

Loading Space, Off-street. Space logically and conveniently located for pickups and deliveries off public rights-of-way, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required Off-street parking spaces are filled.

Lot. A single parcel or tract of land (in individual ownership.) An area designated as a separate and distinct parcel of land on a legally recorded subdivision plot or in a legally recorded deed as filed in the official records of the county. The terms "lot," "plot," "lot of record," "parcel," "property," "site" or "tract" whenever used in this ordinance, are interchangeable.

Lot, Corner. A lot located at the intersection of two or more streets.

Lot, Double Frontage. A lot which has frontage on more than one street, provided, however, that no corner lot shall qualify as a double frontage lot unless the corner lot has frontage on three or more streets.

Lot Depth. The mean horizontal distance between front and rear lot lines.

Lot of Record. See "lot."

Lot Width. The distance between side lot lines measured at the front building line.

Manufactured Home. Any vehicular or similar portable structure in excess of 30 feet in length having wheels, jacks, or skirtings and so designed or constructed as to permit single-family occupancy for dwelling or sleeping purposes. The term "Manufactured Home" includes the term "house trailer."

Manufactured Home Park. Premises where two or more Manufactured Homes are parked for living or sleeping purposes, or where spaces are set aside or offered for sale or rent for use for Manufactured Homes for living or sleeping purposes, including any land, building, structure, or facility used by occupants of Manufactured Homes on such premises.

Manufactured Home Space. A plot of ground within a Manufactured Home Park designed for the accommodation of one Manufactured Home.

Massage Parlor. Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented business shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional, or professional athlete or athletic team or school athletic program.

Memorandum of Agreement. An agreement between the City of Beaufort and the applicant to avoid, reduce, or mitigate adverse effects on archeological and historic properties, or to accept each effect in the public interest.

Mobile Home. A transportable, factory-built structure that was manufactured prior to enactment of the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Section 5401) and that is designed to be used as a single dwelling unit.

Motel. See "Hotel"

Moving message board. Any electrical sign having a continuous message flow across its face by utilization of lights or other electrical impulses forming various words or designs, such as a time and temperature sign.

New Tree Factor. The value attributed respectively to preserved and planted trees in determining adjusted caliper inches, as follows: (1) Preserved (existing) trees have a value of 1. (2) Planted (new) trees have a value of 3.

Nonconforming Property. Lawful development which was permitted prior to the adoption of this UDO and which does not meet the requirements of this UDO.

Nonconforming Sign. Any sign which has a valid permit, was erected or displayed prior to the effective date of this article or any subsequent amendment hereto and does not conform with any provision of this article.

Nonconforming Use. A structure or land lawfully occupied by an existing use which does not conform with the permitted uses for the zoning district in which it is situated, either at the effective date of this chapter or as the result of subsequent amendments to this ordinance.

Notable Properties. These shall include those individual structures, sites, and properties located within the BCN deemed to embody a particularly high degree of significance which are subject to Beaufort Historic District standards, guidelines, and procedures rather than BCN standards, guidelines, and procedures.

Nude Model Studio. Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity or State of Nudity. A state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

Occupancy. Any use of or activity upon the premises.

Open Space. Outdoor or unenclosed area on the ground accessible for outdoor living, recreation, pedestrian access, or landscaping. Open space shall not include parking areas, driveways, deck or terrace areas, utility or service areas, or any space with a dimension of less than 6 feet in any direction.

Operator. The owner, permit holder, custodian, manager, operator or person in charge of any permitted premises.

Overstory Tree (or Canopy Tree). A tree with an expected mature height of at least 40 feet. Overstory trees compose the top layer or canopy of vegetation. Broad-leaved overstory trees develop a large, spreading crown.

Panel. The primary surface of a sign upon which the message of the sign is carried.

Parapet. A vertical false front or wall extension above the roof line.

Parcel. See "lot."

Parking Lot. Any public or private open area used for the express purpose of parking automobiles and other vehicles with the exception of areas on the premises of single-family dwellings used for parking purposes incidental to the principal use. Parking lots may be the principal use on a given lot or an Accessory Use to the principal use on a given lot.

Parking Space. A space within a parking lot or on a single-family dwelling lot expressly provided for purposes of parking an automobile or other vehicle.

Permitted Premises. Any premises that requires a permit and that is classified as a sexually oriented business.

Permittee. A person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

Person. An individual, proprietorship, partnership, corporation, association, or other legal entity.

Plot. See "lot."

Pennant. See definition of banners, pennants and balloons.

Permitted sign. A sign for which a valid permit has been issued.

Premises. A lot or other tract of land including the buildings or structures thereon.

Private Street. Any newly treated street is a private street unless (1) its right-of-way has been dedicated to the State of South Carolina, Beaufort County, or to the City of Beaufort; and (2) the appropriate public body has accepted the street for the purpose of maintaining it.

Property. See "lot."

Protected Width of Buffer, Median or Bed. That portion of a landscaped buffer, median or bed located adjacent to parking spaces in which shrubbery would be protected from overhanging car bumpers. The protected width is that portion beyond the line located two feet inward from the face of the wheelstop or curb facing the tire of a parked vehicle.

Public Building. Any building owned, leased, or held by the United States, the state, the county, the City, any special district, the school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

Public Park or Recreation Area. Public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation or management of the City or County park and recreation authorities.

Public Right-of-Way. The entire area between property boundaries which is owned by a government, dedicated to public use, or impressed with an easement for public use; which is primarily used for pedestrian or vehicular travel; and which is publicly maintained, in whole or in part, for such use, and includes without limitations the street, curb, shoulder, sidewalk, sidewalk area, parking or parking strip, planting strip, and any public way.

Public Right-of-Way Line. The line where the property meets the public right-of-way at a public street or public waterway, provided that this definition shall not include unimproved alleys, easements or other similar dedicated uses.

Public Way. Any street, highway, road, path or right-of-way, whether privately or publicly owned, which is designed, or used for vehicular or pedestrian traffic either by public right or custom, or by invitation of two or more common owners.

Qualified Personnel. Professional consultants meeting the criteria set forth by the Secretary of the Interior as well as the South Carolina Historical Preservation Office and published in their *Guidelines and Standards for Archeological Excavation*.

Reader Board. A sign or portion thereof with character, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered a moving message board and not a reader board for purposes of this UDO.

Redevelopment. For purposes of this UDO, Redevelopment is defined as:

- (1) The substantial modification of the developed portions of site, including footprints, arrangement, or exterior design of buildings, paved areas or vehicular use areas; and
- (2) Development on land which is currently vacant, but which contained a primary structure or structures which were demolished within the last five years.

Redevelopment Area. For purposes of this UDO, the following areas are defined as Redevelopment Areas:

- (1) The area defined by the lots on the north side of Calhoun Street, the lots on the east side of Carteret Street, the centerline of Bay Street, and the lots on the west side of Ribaut Road; and
- (2) U.S. 21 Design District; and
- (3) Any lot within one-quarter mile of the intersection of Ribaut Road and Mossy Oaks Road.

Religious Institution. Any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

Removal of Trees. The cutting of a tree or any intentional or negligent act which causes or will likely cause a tree to die including damaging the root system, changing the natural grade by excavation or filling over the root system or severe pruning.

Residence. A building or portion of a building arranged or designed to provide living quarters for one or more families. The terms "Dwelling" and "Residence" shall be interchangeable. See "Dwelling."

Residential District or Use. A single-family, duplex, townhouse, multifamily, Manufactured Home Park, or subdivision located in within the incorporated limits of the City of Beaufort, South Carolina.

Restaurant, drive-in. A building and adjoining parking area used for the purpose of furnishing food, soft drinks, ice cream, and similar confections to the public normally for consumption outside the confines of the principal building, typically in vehicles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided inside for patrons. Services are effected principally while patrons remain in their vehicles.

Roof. The exterior upper covering of the top of a building.

School. Any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

Screening. Use of wood, masonry, or plants to block or partially block the view of an adjacent use. Screening is measured by degree of opacity (e.g. 50 percent opacity) in the vertical plane.

Seminude. A state of dress in which in which clothing covers no more than the genitals, pubic regions, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

Service Station. See "Automobile Service Station."

Setback Line. That line which represents the distance a building or structure must be back from a lot boundary according to the terms of this UDO. In all cases, the setback lines of a lot shall be determined to run parallel to and set back the appropriate distance required within the zoning district in which the lot is located from lot boundary lines.

Sexual Encounter Establishment. A business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or seminude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Sexually Oriented Business. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, massage parlor, nude model studio or sexual encounter center.

Shrub. Woody plant, usually multi-stemmed or well branched from the base.

Shrub Coverage. A rough calculation within a buffer, median, or bed, in the horizontal plane, of the percent of ground covered by the crowns of shrubs. This is based upon reasonable projections of shrub size and shape at maturity when those shrubs are maintained and pruned in an appropriate manner. Ground cover plants such as creeping juniper are not included in the calculation.

Sign. The term "Sign" shall mean and include every sign, billboard, poster panel, freestanding ground sign, roof sign, projecting sign, pylon sign, illuminating sign, sign painted on a wall, window, marquee, awning or canopy, and shall include any announcement, declaration, demonstration, display, ribbon, banner, illustration or insignia used to advertise or promote the interests of any person when the same is placed in view of the general public, traveling along a public street right-of-way.

- (1) **Abandoned Sign.** A permitted sign which was erected on property in conjunction with a particular use which use has been discontinued for a period of 30 days or more, or a permitted temporary sign for which the permit has expired.
- (2) **Canopy Sign.** A sign which is suspended from, attached to, supported from or forms a part of a canopy.
- (3) **Changeable Copy Sign.** A sign on which message copy is changed manually in the field, through the utilization of attachable letters, numbers, symbols and other similar characters or changeable pictorial panels.
- (4) **Dilapidated Sign.** Any sign which is structurally unsound, has defective parts or it in need of painting or maintenance.
- (5) **Directional Sign.** A sign used to guide vehicular and/or pedestrian traffic by using symbols and/or such words as 'entrance', "exit", "parking", "one-way", or similar directional instructions.
- (6) **Easel Sign.** A sign or message board displayed on a portable open frame, the outline of which (the frame) is roughly pyramidal in shape.
- (7) **Flashing Sign.** Any lighted or electrical sign which emits light in sudden transitory bursts.
- (8) **Freestanding Sign.** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
- (9) **Ground Sign.** A sign suspended or supported by two uprights or braces anchored in the ground with no more than 18 inches of clearance from the bottom of the sign to the ground below.
- (10) **Illuminated Sign, External.** Any sign which is directly lighted by an external source.
- (11) **Illuminated Sign, Internal.** Any sign which transmits light through its face or any part thereof.

- (12) **Incidental Sign.** A sign, generally informational, that has a purpose secondary to the use of the parcel on which it is located, such as "no parking", "loading zone", "telephone", and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
- (13) **Inflatable Sign.** A sign that is either expanded to its full dimensions or supported by gasses contained within the sign, or sign parts, at a pressure greater than atmospheric pressure.
- (14) **Monument Sign.** A sign constructed on the ground with a continuous footing or foundation with the base of the sign at grade.
- (15) **Off-premise Sign.** Any sign located or proposed to be located at any place other than within the same platted parcel of land on which the specific business or activity being promoted on such sign is itself located or conducted. For purposes of this UDO, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premises sign.
- (16) **On-premises Sign.** Any sign located or proposed to be located at any place, if otherwise permitted by this article, within the plat of record for the business or other activity identified on such sign.
- (17) **Painted Wall Sign.** A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas on any outside wall or roof or on glass of any building.
- (18) **Political Sign.** A sign erected by a political candidate, group or agent thereof, for the purpose of advertising a candidate or stating a position regarding an issue upon which the voters of the city shall vote.
- (19) **Project Sign.** Any sign erected and maintained on the premises temporarily while undergoing construction by an architect, contractor, developer, finance organization, subcontractor or materials vendor upon which property such individual is furnishing labor, services or material.
- (20) **Projecting Sign.** Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure more than 18 feet.
- (21) **Real Estate Sign.** A temporary sign erected by the owner, or his agent, advertising the real property upon which the sign is located for rent, for lease or for sale.
- (22) **Roof Sign.** A sign erected over or on, and wholly or partially dependent upon, the roof of any building for support, or attached to the roof in any way.
- (23) **Rotating Sign.** Any sign which revolves around one or more fixed areas.
- (24) **Sandwich Board Sign.** A portable sign shaped like an A-frame with a sign panel on one or both sides where the sign panel is integral to the structure of the sign.
- (25) **Snipe Sign.** A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes or fences, or to other objects.

- (26) **Special Event Sign.** A sign which carries message regarding a special event or function which is of general interest to the community.
- (27) **Suspended Sign.** A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
- (28) **Temporary Sign.** Any sign or information transmitting structure intended to be erected or displayed for a limited period.
- (29) **Tenant Directory Sign.** A sign listing only the names and/or use, or location of more than one business, activity or professional office conducted within a building, group of buildings or commercial center. This sign is located on the interior of the lot.
- (30) **Time and Temperature Sign.** An electrical sign utilizing lights going on and off periodically to display the current time and temperature in the community.
- (31) **Vehicle Sign.** A permanent or temporary sign affixed, painted on or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, which is displayed in public view under such circumstances as to location on the premise, time of day, duration, availability of other parking space on the premises where it is loaded, unloaded or otherwise carries out its principal function, which circumstances indicate that the primary purpose of the display is to attract the attention of the public rather than to serve the business of the owner thereof in the manner which is customary for the vehicle.
- (32) **Wall Sign.** A sign mounted parallel to or painted on a building facade or other vertical building surface. Wall signs shall not project more than 18 inches from the wall surface.
- (33) **Window Sign.** Any sign which is painted on, applied to, attached to or projected upon or within the exterior or interior of a building glass area, including doors, or located within 15 feet of the identification, message, symbol, insignia, visual representation, logotype, or any other form which communicates information, can be read from off-premises contiguous property or public right-of-way.
- (34) **Window Sign, Temporary.** A window sign of a temporary nature used to direct attention to the sale of merchandise, or a change in the status of the business, including, but not limited to, sign for sales, specials, going out of business, and grand openings.

Sign Area. The area of a sign is the area of the face of the sign formed by a perimeter consisting of a series of straight lines enclosing all parts of the sign. The area square foot area enclosed by the perimeter of the sign face. With respect to signs which are composed of individual symbols, letters, figures, illustrations, message, forms or panels, sign area shall be considered to include all lettering, wording, and accompanying designs and symbols together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions; but shall not include any supporting structure or bracing.

Sign Face. The part of the sign that is or can be used to identify, advertise, communicate information or for visual representation which attracts the attention of the public for any purpose. Sign face includes any background material, panel, trim, color and direct or self-illumination used that differentiates the sign from the building, structure, backdrop surface or object upon which or against which it is placed. The sign structure shall not be included as a portion of

the sign face provided that no message, symbol or any of the aforementioned sign face criteria are displayed on or designed as part of the sign structure.

Sign Structure. A supporting structure erected, used or intended for the purpose of identification or attracting attention, with or without a sign thereon, situated upon or attached to the premises, upon which any sign may be fastened, affixed, displayed or applied, provided however, this definition shall not include a building, fence, wall or earthen berm. A freestanding sign structure may contain a sign or signs on one side only or it may be a V-shaped structure or one containing signs back to back. A freestanding sign structure is one sign.

Significant Resources. Historic resources eligible for listing in the National Register of Historic Places.

Sight Triangle. Area at the intersection of the road right-of-way and an access point to property where driver visibility must be maintained as required in this ordinance.

Significant Species. A species of tree deemed to be of particularly high value and worthy of preservation.

Site. See "lot."

Special Exception. A use so specifically designated in this chapter that would not be appropriate for location generally or without restriction throughout a given zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would in the opinion of the Zoning Board of Appeals, promote the public health, safety, welfare, morals, order, comfort, convenience, appearance or general welfare.

Specified Anatomical Areas. Specified anatomical areas as used in this ordinance means and includes any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernable turgid state, even if completely and opaquely covered.

Specified Sexual Activities. Specified sexual activities means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (5) Excretory functions as part of or in connection with any of the activities set forth above.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and ceiling next above it.

Street. A dedicated and accepted public right-of-way or approved private right-of-way for vehicular traffic which affords the principal means of access to abutting properties. A dedicated public way or private way for vehicular traffic, whether designated as an avenue, boulevard, thoroughfare, road, highway, expressway, lane, drive, or any other public or private way.

Street Centerline. That line surveyed and monumented by the governing body shall be the centerline of a street; or in the event that no centerline has been so determined, it shall be that line running midway between the parallel to the general direction of the outside right-of-way lines of such streets.

Structure. Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground. A "building," as defined in this section, is a "structure." The structure shall include walls, fences, signs, light fixtures, steps or appurtenant elements thereof. Structures may not encroach into the sidewalk or right-of-way without the approval of the City Manager.

Subdivider. Any person, firm, or corporation who divides or develops any land deemed to be a subdivision as herein defined.

Subdivision. The division of land into two or more parcels.

- (1) **Minor Subdivision.** The division of land into five (5) or fewer parcels where no new streets are created.
- (2) **Major Subdivision.** Any subdivision that is not a Minor Subdivision.

Substantial Enlargement of a Sexually Oriented Business. The increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on the date of adoption of this UDO.

Tattoo or Tattooing. To indelibly mark or color the skin by subcutaneous introduction or nontoxic dyes or pigments.

Tattoo Facility. Any room, space, location, area, structure, or business, or any part of these places, where tattooing is practiced or where the business of tattooing is conducted.

Telecommunications. Defined in the Federal Telecommunications Act of 1996 as the transmission between or among points specified by the users of information of the user's choosing, without change in the form of content or other information as sent and received.

Telecommunications Tower. A tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, freestanding, guyed, or on a building. This does not include private home use television reception antennae and satellite dishes, or communications towers for amateur radio operation licensed by the Federal Communications Commission (FCC).

Tidal Area Buffer. A buffer established adjacent to the critical area on all property located alongside the critical area.

Topping. The severe cutting back of limbs within the tree's crown to stubs larger than three inches in diameter to such a degree that the normal canopy is removed and the tree is disfigured. Other common terms for this injurious practice include stubbing, heading, lopping, and hatracking.

Town House. See "dwelling, townhouse."

Tract. See "lot."

Trailer or Mobile Commercial Structure. Any vehicle or structure capable of moving, or being moved, over streets and highways on its own wheels or on flat beds or other carriers, which is designed or utilized to:

- (1) Provide temporary or permanent quarters for the conduct of business, profession, trade or occupation; or
- (2) Serve as a carrier of people, new or used goods, products or equipment.

Transfer of Ownership or Control. Transfer of ownership or control of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Tree. Any self supporting woody plant usually having a single trunk and a likely DBH of two inches or greater.

Tree Protection Zone. An area surrounding the base of a tree, generally circular in shape, within which neither construction activity nor physical development is permitted.

Tree Save Area. An area composed of closely grouped trees designated for preservation.

Tree Species Factor--TSF. The numerical value assigned by this ordinance to each tree category for the purpose of determining required tree coverage.

Understory Tree. Tree under 40 feet at maturity capable of thriving in the lower light intensities found under the canopy of overstory trees.

Use, Accessory. See "accessory."

Use, Principal. The primary purpose for which a lot is occupied and/or used.

Valance. The permanent decorative area suspended from the lower horizontal supports of an awning.

Variance. A modification of the strict terms of this UDO granted by the Zoning Board of Appeals where such modification will not be contrary to the public interest, and where, owing to conditions peculiar to the property and not as the result of any action on the part of the property owner, a literal enforcement of this chapter would result in unnecessary and undue hardship, and where such modification will not authorize a Principal or Accessory Use of the property which is not permitted within the zoning district in which the property is located.

Vehicular Service Station. Buildings and premises on any parcel or lot where gasoline, oils, and greases, batteries, tires and automobile accessories may be supplied and dispensed at retail (or in connection with a private operation) where no part of the premises is used for the storage of dismantled or wrecked vehicle parts, and also where the following services may be rendered and none other:

- (1) Sale and servicing of spark plugs, batteries and distributors;
- (2) Tire repair and servicing, but no recapping;
- (3) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, floor mats, seat covers, wiper blades, windshield wipers, grease retainers, and wheel bearings;
- (4) Washing and polishing;
- (5) Greasing and lubrication;
- (6) Exchanging fuel oil pumps and installing fuel lines;
- (7) Minor servicing and replacing of carburetors;
- (8) Emergency wiring repairs;
- (9) Adjusting and repair of brakes;
- (10) Minor adjustment of engines not involving removal of the head and/or crank case, or racing the motor; and
- (11) Sale of cold drinks and packaged foods, as accessory only to principal operation.

Vehicular Use Area. Any area, whether paved or unpaved, designed for use by motor vehicles including driveways, parking areas, parking aisles, and loading areas.

Wrecked or Disabled Vehicle. Any vehicle in a state of disrepair or which is incapable of moving under its own power.

Yard. A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings and structures are expressly permitted.

- (1) **Yard, Front.** A yard situated between the front building line and the front lot line extending the full width of the lot.
- (2) **Yard, Rear.** A yard situated between the rear building line and the rear lot line and extending the full width of the lot.
- (3) **Yard, Side.** A yard situated between a side building line and a side lot line and extending from the front yard to the rear yard.

Zoning District. See "district."

(This page intentionally left blank)

APPENDIX

A. Applications Requirements

- 1. Subdivision**
- 2. Site Plan**
- 3. Certificate of Compliance**
- 4. Sign Permits**
- 5. Special Exception**
- 6. Development Design Review**
- 7. Certificate of Appropriateness**

B. Gas Station Design Guidelines

C. Applications Requirements

1. Subdivision Application requirements

a. Subdivision Sketch Plan Requirements

The sketch plan, if submitted, should be drawn at an approximate scale of 200 feet to one inch and should show the tentative street layout, approximate street right-of-way widths, lot arrangement, the location of the nearest water and sewer lines, water courses, drainage and utility easements, existing structures, total acres, approximate number of lots, adjoining streets, north arrow, tract boundary, proposed use of land, existing zoning, source and type of water supply and waste system proposed.

b. Preliminary Subdivision Plat Requirements

The preliminary subdivision shall be submitted at a scale of not less than one inch to 200 feet and shall include and show the following information:

- (1) Name and address of owner of record;
- (2) Proposed name of the subdivision, date, north point, and graphic scale;
- (3) Name and seal of registered surveyor or civil engineer;
- (4) Name of municipality or county in which subdivision is located;
- (5) Vicinity map showing location of the subdivision;
- (6) Exact boundaries of the tract of land being subdivided shown with bearings and distances;
- (7) All wooded areas, marshes, flood plains, and any other conditions affecting the site;
- (8) The location of existing streets, buildings, water courses, railroads, transmission lines, sewers, culverts and drainage pipes, water mains, City limit lines, and any public utility easements on and adjacent to the tract being subdivided;
- (9) Should the Planning Commission determine that the land to be subdivided warrants special consideration because of conditions peculiar to the site, the subdivider shall then submit, upon request, a topographic map at an interval deemed necessary by the Commission;
- (10) Proposed streets and alleys, rights-of-way, and street names, together with an indication of whether the streets are proposed to be publicly or privately maintained. For private streets, the method by which said streets will be maintained shall be noted;
- (11) Proposed utility easements, widths, and layouts;
- (12) Proposed lot lines with bearings and distances, and lot and block numbers;
- (13) Proposed minimum building setback lines;
- (14) Site data:
- (15) Acreage in total tract.
- (16) Smallest lot size.

- (17) Total number of lots.
- (18) Lineal feet in streets.
- (19) Proposed parks, school sites, or other public open spaces, if any; and
- (20) Preliminary plan for surface drainage, storm drainage and/or other drainage structures.

c. Final Subdivision Plat Requirements

The final plat shall be drawn on permanent unshrinkable reproducible film, measuring not more than 24 by 36 inches, and shall conform substantially to the preliminary plat as approved. If the final plat is drawn in two or more sections, each section shall be accompanied by a key map showing the locations of the several sections. The final plat shall be prepared by a Registered Surveyor or Civil Engineer and shall show the following information:

- (1) Name and address of owner of record.
- (2) Name of subdivision, date, north point, and graphic scale.
- (3) Name and seal of registered surveyor or civil engineer.
- (4) Name of municipality or county in which subdivision is located and location map.
- (5) Exact boundaries of the tract of land being subdivided shown with bearings and distances. Distances are to be shown to the nearest one/tenth (1/10) of a foot and angles to the nearest minute.
- (6) Streets and alleys, right-of-way, and street names. For subdivisions containing private streets, the method by which said streets shall be maintained shall be noted and the following notation shall be lettered or stamped on the final plat in such a manner as to ensure that said notation will be legible on any prints made therefrom:

Notice Of Private Streets

The streets, or certain of the streets within this subdivision, have been platted as private streets which do not conform to minimum public right-of-way standards. As such, these private streets may not be turned over for public acceptance and maintenance.

- (7) Lot lines and lot and block numbers.
- (8) Parks, school sites, or other public open spaces, if any.
- (9) Accurate description of the location of all monuments and markers.
- (10) Existing railroads, water courses, and City limit lines.
- (11) Utility easements and widths for:
 - (12) Water mains
 - (13) Gas and electrical lines
 - (14) Sanitary and storm lines
- (15) Forms for Final Certification. The following certificates shall be lettered or rubber stamped on the final plat in such a manner as to insure that said certificates will be legible on any prints made therefrom.

- (a)** Certification of Owner's Consent. All Major Subdivision applications shall contain certification that the owner of the land has given consent to the proposed subdivision.
- (b)** Certification of Title Source. Subdivision applications shall contain certification signed by the surveyor setting forth the source of title of the owners of the land subdivided or a copy of the deed by which the property was conveyed to the owner.
- (c)** Open Space and Public Dedication Narrative. A detailed narrative explaining how the subdivision will meet the open space and public dedication requirements, as applicable, of Section 8.2 of this UDO. The narrative shall include:
- (d)** Description of the form of organization proposed to own and maintain the open space in conformance with the requirements for Property Owners Associations or the equivalent, as specified in Section 8.2 of this UDO;
- (e)** Identification of how the open space and facilities relate to existing and proposed open space areas, bikeways and recreational facilities of the City of Beaufort, as shown in the Comprehensive Plan, or more detailed plans adopted by the Planning Commission such as neighborhood plans; and
- (f)** If dedication is proposed to exceed the minimum City standards, the applicant should state what bonus incentive, if any, is being requested as a result of such additional dedication.

D. Site Plan Requirements

A development plan application shall be considered complete when the following items have been submitted:

1. Application Form

An application form as published by the Administrator.

2. Property Deed

Copy of property deed to the lot of record or portions thereof which constitute the proposed development site.

3. Boundary Survey Plat

Two copies of the boundary survey plat of the lot of record or portions thereof which constitute the proposed development site at a minimum scale of 1" = 50' or other appropriate scale acceptable to the ordinance administrator. Upon such plat shall appear:

- a. Location of primary control points used in the survey, with ties to such control points to which all dimensions, angles, bearings, distances, block numbers, and similar data shall be referred;
- b. Computed acreage of the surveyed tract. Where only a portion of any tract is proposed for development, there shall appear on the plat the acreage to be developed (except in the case of subdivisions, where precise acreages shall be shown) in addition to the overall tract acreage;
- c. Seal and signature of a South Carolina registered land surveyor;
- d. Date of survey and date of any revisions;
- e. Notation of specific reference plats, if applicable; and
- f. Graphic scale and reference meridian.

4. Written Narrative

A written narrative outlining:

- a. The nature and details of the proposed development;
- b. If the proposed development plan is a phase of a previously approved multiphase plan or PUD master plan, a description of how such phase relates to such plan, in whole or in part;
- c. The specifically contemplated form of ownership of the development (e.g., fee simple, horizontal property regime, property owner association, interval ownership, etc.) and detailed provisions for maintenance responsibility for all improvements, including, but not limited to, streets, parking areas, bikeways, pedestrian ways, storm drainage facilities, water and sewer systems, open space areas, and the like;
- d. Any proposed dedication of improvements to any public agency, specifying such improvements and the affected agencies; and
- e. Any other information deemed necessary by the applicant to further clarify the proposed development.

5. Site Development Plan

Four prints of a final site plan or set of plans, at a minimum scale of 1" = 30' or other appropriate scale acceptable to the Administrator, showing the following:

- a. Name of development and developer;
- b. Graphic scale and reference meridian;
- c. Date of drawing and date of any revisions;
- d. Vicinity sketch showing the general site location and depicting vehicular access routes accurately referenced to the nearest public road;
- e. Topographic survey or other topographic information when required by the ordinance administrator;
- f. All permanent structures and facilities within approximately 150 feet of the proposed development tract;
- g. Proposed site development, including land uses, any building or other structure locations, street, driveway, bike and pedestrian way, and parking area layouts, turning radii, and interconnections with off-site facilities, if applicable. The plan view of buildings shall show limits of roofed areas, and indicate the exterior wall line dimensioned to property lines;
- h. Location of proposed drainage system, including off-site areas of interconnection;
- i. Location of proposed water and sewer system, including off-site areas of interconnection;
- j. Location of other proposed waste disposal systems, including solid waste collection areas;
- k. Location and dimensions for parking and off-street loading areas, where applicable;
- l. Location of other utilities such as electrical, telephone, gas line service and cable TV to the development;
- m. Location of proposed buffer areas as required by Section 7.2 Landscaping and tree Conservation;
- n. Table indicating calculations for required parking;
- o. Delineation of any zoning district boundary which traverses or is contiguous to the development site, including overlay zones;
- p. Where applicable, surveyed delineation of any wetland area;
- q. Where applicable, topographic contour line corresponding to the 100-year base flood elevation affecting, the proposed development;
- r. Where applicable, surveyed delineation of any known archeological or historical resource feature located on or contiguous with the proposed development tract; and
- s. Fire hydrants and fire lanes.

6. Approvals, Certifications and Recommendations

Copy of approvals, certifications, and recommendations required by all appropriate city, county, state, and federal regulations for the proposed development, and documentation of compliance with such, as applicable. Failure of the ordinance administrator to request an approval or certification required does not relieve the applicant of responsibility for compliance. This includes but is not limited to:

- a. South Carolina Department of Health and Environmental Control approval to construct water and sewer [lines], where applicable;
- b. Beaufort County Health Department approval of septic system or temporary sanitary waste disposal system;
- c. South Carolina Department of Health and Environmental Control and/or South Carolina Office of Ocean and Coastal and Resource Management permits, approvals, or certification related to fresh water or salt water wetlands and the like;
- d. U.S. Army Corps of Engineers permits related to dredging, filling, wetlands, or other elements of the development; and
- e. South Carolina Department of Transportation encroachment permit, if necessary for proposed or required work.

7. Legal Guarantees

Legal guarantees for the installation and maintenance of required and other improvements; applicable only to those developments involving the sale or other transfer of lots, building sites, individual dwelling units, commercial units, or structures either attached or detached, where the alternate procedure of posting such guarantees is chosen in lieu of actual construction of such improvement prior to final approval.

8. Offers of Dedication to Public Ownership

Any offers of dedication to public ownership and permanent public maintenance of improvements, such as streets and drainage systems, parks, pathways, etc.

9. Legal Documents

Draft deed restrictions, articles of incorporation, bylaws of a homeowners association, easements, and other legal documents pertaining to the operation and management of the proposed development, or, if required, by any other section of this UDO.

10. Additional Information

The Administrator may require submission of additional maps, data, or proposed methods of addressing other pertinent matters relative to the proposed development where, owing to the nature, size, and location of the proposed development, particular elements critical to the health, safety, and welfare of the community and its citizens should be addressed. Such elements may be, but are not limited to, traffic study, hurricane evacuation, other emergency preparedness and response, environmental preservation, historical preservation, shoreline erosion, public access, community linkages, public education, and the like.

E. Certificate of Compliance Requirements

The applicant shall submit the following applicable documents to the Administrator for review and approval:

1. A registered engineer's or registered landscape architect's sealed certification of completed roads, parking, drainage systems and utilities.
2. Certification of Compliance with approved landscaping and tree planting plan by a registered landscape architect or a landscape contractor.
3. Two complete sets of as-built drawings, indicating accurate site conditions of pavements, parking spaces, utilities, structures, and drainage.
4. South Carolina Department of Health and Environmental Control permits to operate water and sewer systems.
5. City agreement to accept ownership and maintenance responsibility for dedicated roads and drainage systems where applicable.
6. Other applicable agencies' final certification.
7. An owner's affidavit stating that all work has been completed consistent with the applicant's development permit and any applicable provisions of this chapter, plus a copy of the documents that clearly set forth the ownership and maintenance provisions and responsibilities for infrastructure improvements, amenities reflected under the approved plan, and any open space areas required.

F. Sign Permit Requirements

Applications for sign permits shall be made to the Building Official and shall include:

- 1.** A complete application form as approved by the Building Official and appropriate fee;
- 2.** A site plan showing data relating to the number of signs to be placed on the lot, locations, design, materials, colors, height, width, depth, square footages;
- 3.** For facade signs, a scaled drawing showing the entire facade or tenant space facade, the proposed sign location, and any existing facade signs;
- 4.** The name, address and telephone number of the sign owner and of the sign erector; and
- 5.** Any other pertinent data as may be required to ensure compliance with this section.

G. Special Exception Requirements

Applications for special exception shall be submitted to the Administrator and shall consist of information necessary for the Zoning Board of Appeals to make a determination regarding the special exception request. Applications shall include the following materials:

- 1.** A completed application form as provided by the department and appropriate fee as established, from time to time, by the City Council;
- 2.** A legal plat of the property drawn to scale showing property lines, the location of existing buildings, and all easements and rights-of-way;
- 3.** An accurate scaled site plan (site plan) of the property showing property lines; location of existing and proposed buildings and structures, location of buildings and structures on adjacent properties; existing and proposed parking and traffic circulation; location of existing and proposed screening including fences, walls and plantings; and location, type and size of existing and proposed signs;
- 4.** Building elevation drawings for proposed buildings and additions that include information on building heights, cladding material, and basic building and roofing material;
- 5.** A description of the color of proposed buildings and additions; materials and color of proposed walls, fences, and screens; and species of any plantings that will be used; and
- 6.** Any other information or materials which may be reasonably required by the Administrator or the Zoning Board of Appeals to facilitate the review process.

H. Development Design Review

- 1.** Applicants shall submit the following items for review by the Design Review Board before an application shall be considered complete:
 - a.** Photographs, including a general view of the street showing the building site and adjacent properties (i.e. the streetscape); individual photographs of the buildings immediately adjacent to and across from the site; and a frontal view of the building site from the street;
 - b.** Site plan meeting the requirements of Section 3.8;
 - c.** Floor plans and elevation drawings showing the design of all elevations, proposed grade, finish floor elevations, roof slopes, mechanical vents and equipment, location and type of outdoor lighting fixtures, location of signage, proposed materials including walls, roofs, gutters and down spouts, and porches and railings; and
 - d.** Material specifications which can include samples, brochures, and or photographs of all exterior materials, finishes, colors, and fixtures.
- 2.** Preliminary project review requires items (1) and (2) above. Final project review requires items (1) through (4) above.
- 3.** A conceptual presentation requires item (1) above; a site plan to scale showing the existing site and location of proposed changes; and conceptual elevation drawings showing the proposed design of the building.

I. Certificate of Appropriateness Requirements

All of the following data shall be filed with the Administrator which shall allow the data to be made available to the Board.

- 1.** Drawings required for alterations and/or additions to existing structures or for new construction. Every application for review involving (a) alterations and/or additions to existing structures in the Beaufort Historic District or (b) existing structure erected prior to 1900 or (c) the erection of any new structure within the Beaufort Historic District shall be accompanied by drawings signed by the architect or draftsman and submitted in duplicate, for the proposed alterations, additions or changes, and for new construction of buildings or property use. In cases where the planning staff determines that a third set of plans will be needed due to the complexity of a project, the applicant shall submit a third set upon request. As used herein, drawings shall mean plans and exterior elevations drawn to scale with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of buildings, including proposed materials, textures and colors, including samples of materials or color samples and the site plan or site layout, including all improvements affecting appearances such as walls, walks, terraces, planting, accessory buildings, signs, lights and other elements. Such documents shall be filed with the office of planning and community development, which shall allow such documents to be made available to the board.
- 2.** Photographs required with application for demolition of existing structures. In the case of application for the demolition of structures within the city constructed prior to 1900 or the demolition of an existing structure situated within the Beaufort Historic District, regardless of age, the applicant shall submit legible photographs of all sides of the building under consideration and photographs showing contiguous properties.
- 3.** Photographs required with applications for repair, alteration, and/or additions to existing structures. In the case of application to repair, alter or make additions to a structure within the city constructed prior to 1900 or to structure situated within the Beaufort Historic District regardless of age, the application shall be accompanied by legible photographs of all sides of the structure.
- 4.** Photographs required with applications for new construction. In the case of application to construct a new building situated within the Beaufort Historic District the application shall be accompanied by legible photographs of the adjoining properties.

J. Contents of Landscaping Plan

- 1.** The Landscaping Plan shall be in the form and shall contain such information as may reasonably be required by the Administrator to evaluate compliance with the requirements of this section, including but not limited to:
 - a.** Site plan at a maximum scale of 1" = 20' showing:
 - (1) Location and calculation in square feet of total site area;
 - (2) Location and calculation in square feet of all existing and proposed structures and appurtenances;
 - (3) Location of all existing and proposed vehicular use areas, walkways, and bicycle paths;
 - (4) Amount and percent of impervious area including building footprints and vehicular use areas;
 - (5) Location of all utilities;
 - (6) Location of all existing and proposed ponds, ditches, and other drainage structures;
 - (7) Location of all existing and proposed decks, terraces, trellises, walls, fences, and other screening devices with calculation of percentage of opacity; and
 - (8) Limits of construction.
 - b.** Tree survey at the same scale as the site plan meeting the requirements of Section a. above.
 - c.** Tree installation plan at the same scale as the site plan showing location, species, quantities, and caliper inches of all trees proposed to be installed;
 - d.** Shrub installation plan at the same scale as the site plan showing location, species, quantities, and size (in gallons) of all shrubs proposed to be installed;
 - e.** Grading and drainage plan at the same scale as the site plan, including a plan for preserving on site any disturbed topsoil within pervious areas;
 - f.** Methods and details for protecting existing vegetation during construction;
 - g.** An irrigation plan at the same scale as the site plan for new plantings showing location, size and type of sprinkler heads and type of system, and typical planning details; and
 - h.** The name, signature, and address of the landscape designer; where the designer is a landscape architect, the seal of that landscape architect.

K. Contents of Tree Survey

- 1.** The tree survey shall show the locations, species, and sizes of all trees on the parcel as follows:
 - a.** Trees having a DBH of eight inches or greater located within the area to be disturbed and 25 feet beyond in each direction;
 - b.** Other trees having a DBH of eight inches or greater that the applicant proposes to remove; and
 - c.** All trees that will be counted toward meeting minimum tree coverage requirements of the manual.
- 2.** All tree surveys shall be conducted and certified by a landscape architect, land surveyor, or arborist certified by the International Society of Arboriculture. On smaller projects this requirement may be waived at the discretion of the Administrator.
- 3.** All tree surveys shall be no more than two years old.
- 4.** Prior to issuance of the building permit, the applicant shall stake out the site indicating all ground areas which will be disturbed. The Administrator shall visit the site to confirm the accuracy of the survey and site plan. If there is any significant inaccuracy then the Administrator may require resubmittal of a corrected survey.
- 5.** Prior to commencement of construction activity the applicant shall erect protection barriers around trees to be preserved in accordance with provisions of this Section.

L. Contents of Tree Removal Application

- 1.** The Tree Removal Application shall be in the form and shall contain such information as may reasonably be required by the administrator to evaluate compliance with the requirements of this article, including, but not limited to the name of the property owner; address of the property; name of the proposed contractor, if any; a brief written narrative stating the reason for the requested removal; a sketch of the site showing the location of the trees and identifying them by species and diameter, but where numerous trees with a DBH of eight inches or greater are to be removed as a result of construction or ground disturbance, a tree survey, as specified below, may be required by the administrator at his discretion.
- 2.** The trees shall be marked by the applicant on the site for inspection.

M. Gas Design Guidelines

GAS STATION DESIGN GUIDELINES

October 20, 2010

These standards are in addition to standards set out in the main body of the Unified Development Ordinance. If there is a conflict between these standards, and the Design District standards set out in Section 6.8 of the Unified Development Ordinance, these Gas Station Design Guidelines shall apply.

Key Objectives

- Protect and enhance the character and quality of commercial districts and adjacent neighborhoods where gas station and convenience stores are located.
- Create a high level of expectation in the quality of gas station and convenience store architecture.
- Provide needed flexibility to respond to unique conditions and constraints inherent to specific areas within the community.
- Minimize negative impacts to adjacent uses resulting from on-site activities.
- Maintain and strengthen the city's identity and character.

Character/Context

A variety of character/contextual settings exists in Beaufort ranging from historic urban settings in downtown, to suburban settings in outlying areas. Each setting warrants differing responses in terms of site development and design. Gas station and convenience store design should contribute to the established or desired character and identity of the community and neighborhood.

Site Design

1. All development proposals should show evidence of coordination with the site plan, arrangement of buildings and planning elements of neighboring properties:
 - Seek shared-access with adjoining commercial uses where feasible to minimize curb cuts and enhance pedestrian and vehicular areas.
 - Minimize cross traffic conflicts within parking areas.
2. Mitigate the negative impacts from site activities on adjoining uses:
 - Service areas, storage areas, and refuse enclosures should be oriented away from public view and screened from adjacent sites.
3. ATMs and other vending machines should be located within the primary retail building.
4. Sidewalks shall be provided from the primary entrance to the public sidewalk.

5. Vacuum stations and similar equipment are prohibited on the sides of the principle structure abutting a residential use.
6. When pumps are proposed at existing facilities which do not meet the design standards for gas stations in this UDO, a decorative wall not less than three feet in height shall be required along any side of the property adjoining a street.
7. Provide significant architectural or landscape features at the corner on corner sites in order to address the public realm and enhance the streetscape.

Architecture

The intent of the following architectural guidelines is to encourage creative architecture that is responsive to local and regional context and contributes to the aesthetic identity of the community.

1. The building should be appropriately sized and scaled for the site and the overall context. "Kiosk"-type fuel sales are not permitted. A kiosk in this context is defined as an ancillary building from which an attendant sells sundries and monitors the pump; customers are generally not allowed into the building.
2. Buildings should not derive their image from applied treatments that express corporate identity.
3. The primary building should be at least 50% as long (measured parallel to the street) as the distance along the longest line of pumps parallel to the street.
4. The design of stand-alone gas stations and convenience stores should conform to the dominant existing or planned character of the surrounding neighborhood. This can be accomplished through the use of similar forms, materials and colors.
5. All sides of a building should express consistent architecture detail and character. All site walls, screen walls and pump island canopies and other outdoor covered areas should be architecturally integrated with the building by using similar material, color and detailing.
6. Building colors should emphasize earth tones. The use of highly reflective or glossy materials should be limited and will not be appropriate in all contexts.
7. Canopy:
 - Canopy should relate to the building in architectural design and materials.
 - Canopies with a pitched roof are encouraged. Multiple canopies or canopies that express differing architectural masses are encouraged.
 - Canopy support columns should be entirely encased with materials that complement the primary building.
 - Canopy fascia should be compatible in scale with building fascia.

- Canopy band face should be of a color consistent with the main structure or an accent color.
- Canopy ceiling should be recessed.
- Outlining of canopies with light bands or tubes is prohibited.

Pump Island

The intent of this section is to encourage pump island designs that are well organized and consolidated to minimize visual clutter. Pump island components consist of: fuel dispensers, refuse containers, automated payment points, safety bollards, and other appurtenances.

1. The design of pump islands should be architecturally integrated with other structures on-site using similar colors, materials and architectural detailing.
2. The color of the various components of the pump island, including dispensers, bollards and all appurtenances, are encouraged to be muted.
3. All elements of the pump island or canopy that are not operational should be architecturally integrated by use of color, material, and architectural detailing.
4. The use of translucent materials and internally lighted cabinets are discouraged as finishes or as applied treatments at the pump island or on the canopy.
5. Either a pump island curb or bollard is recommended for the protection of dispensing units.

Lighting

1. Light fixtures mounted under canopies should be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface (ceiling) of the canopy.
2. The sides (fascias) of the canopy should extend below the lens of the fixture 12 inches to block the direct view of the light sources and lenses from property line.
3. Lights should not be mounted on the top or sides (fascias) of the canopy and the sides (fascias) should not be illuminated.

Landscaping

1. A solid screening structure made of wood or finished masonry shall be installed along the property line when the facility adjoins land in residential use or zoned for single-family development. When the facility adjoins undeveloped property zoned for mixed use, the approval body has the authority to waive or revise this requirement.
2. Provide ample landscaping and or a decorative wall to enhance the streetscape and define the street edge when setting building structures back from the street is unavoidable.

See Section 7.3. for specific landscaping requirements.

Signs

See Section 7.2 for specific signage requirements. The following provision supersedes the reader board requirements in Section 7.2.G.1.g:

Gas stations in any district where permitted by this UDO may be approved to have a reader board included in a freestanding sign. The reader board shall be no more than 40% of the size of the sign face.