

Article 4. Administration and Enforcement

400. ZONING ADMINISTRATOR.

400.1. This Zoning Ordinance shall be administered and enforced by the Zoning Administrator who shall have all powers and duties authorized by statute and ordinance for a Zoning Administrator.

400.2. The duties of the Zoning Administrator shall include:

- A. Interpretation of terms and provisions of this Zoning Ordinance;
- B. Administration of this Zoning Ordinance by the issuance of zoning permits and certificates of compliance, including the collection of authorized fees;
- C. Review and issuance of administrative waivers per the requirements of § 405 – *Administrative Waivers*.
- D. Processing applications for appeals to the Board of Zoning Appeals from the decision of the Zoning Administrator, variances, and special exceptions;
- E. Preparation of the record for appeal to the circuit court from the decisions of the Board of Zoning Appeals;
- F. Maintenance of the Official Zoning Map, amendments to the Zoning Ordinance, and all public records related to zoning and planning;
- G. Enforcement of the Zoning Ordinance, and investigation and resolution of zoning complaints;
- H. Serve as staff and provide administrative assistance to the Board of Zoning Appeals, the Planning Commission, and the Architectural Review Board with regard to their functions under this Zoning Ordinance; and
- I. Any other duties as may be authorized by this Zoning Ordinance or assigned by the City Manager.

401. CITY MANAGER.

The City Manager shall appoint the Zoning Administrator and shall have the authority to exercise any and all duties and authorities assigned to such.

402. ELECTED AND APPOINTED BOARDS AND COMMISSIONS.

402.1. City Council. The City Council shall have the following duties related to this Zoning Ordinance:

- A. To review and from time to time initiate changes to this Zoning Ordinance.

- B. To decide upon any application or request for amendment to this Zoning Ordinance or the official zoning maps.
- C. To take any other action not otherwise delegated to staff, the Planning Commission or the Board of Zoning Appeals as the City Council may deem desirable and necessary to implement the provisions of this Zoning Ordinance.

402.2. Planning Commission. The Planning Commission, as established in §§ 2-51 through 2-56 of the *City of Newberry Code of Ordinances*, shall have certain duties related to this Zoning Ordinance including, but not limited to, the following:

- A. To review and from time to time initiate changes to this Zoning Ordinance.
- B. To review and make recommendations on applications for amendments to this Zoning Ordinance or the zoning maps.
- C. Any other duties as may be assigned by the City Council consistent with state law.

402.3. Board of Zoning Appeals.

- A. Board established. A Board of Zoning Appeals is hereby established which shall consist of five members appointed by City Council. Members shall serve a three-year staggered term to coincide with the terms of the council member making the appointment. A vacancy shall be filled for the unexpired term in the same manner as the original appointment. Members of the Board may be removed by Council for cause.
- B. Elections and appointments. The Board shall elect or re-elect one of its members as Chairperson for a term of one year. The Board may elect other officers as provided by its rules of procedure. The Board shall appoint a Secretary who may be an officer of the City approved by the City Manager.
- C. Rules of procedure. The Board shall adopt rules of procedure and bylaws for the conduct of its meetings and hearings in accordance with *South Carolina Code of Laws § 6-29-790*.
- D. Quorum. A quorum shall be required to take any official action. A majority of the Board shall constitute a quorum.
- E. Meetings. Meetings of the Board shall be held at the call of the Chairperson or at such times as the Board may determine. Public notice of all hearings shall be published in a newspaper of general circulation in the City. Notices for meetings involving variances or special exceptions, and appeals from a determination of

the Zoning Administrator that have a site-specific effect on a particular lot, shall be posted on or adjacent to lots affected with at least one notice visible from each public street abutting the lot.

- F. Powers and duties. The Board of Zoning Appeals has the following powers and duties.
1. Appeal from Zoning Administrator. The Board may hear and decide appeals from a decision of the Zoning Administrator. Any person aggrieved by such a decision may appeal that decision to the Board of Zoning Appeals in writing on a form provided by the Zoning Administrator within 30 days after actual notice of the decision. An appeal stays the implementation of the decision of the Zoning Administrator unless he certifies to the Board that a stay would cause imminent peril to life or property. The Board may affirm or reverse, wholly or in part, or may modify the decision by a written order separately stating findings of fact and conclusion of law.
 2. Variances. The Board may grant variances from the terms of this Zoning Ordinance according to the standards and procedures prescribed in § 406 - *Variances*.
 3. Special Exceptions. The Board may permit uses by special exception subject to the terms and conditions set forth for such uses by this Zoning Ordinance and according to the procedures prescribed in § 407 - *Special Exception Regulations*.
- G. Decisions of the Board of Zoning Appeals.
1. In exercising the above powers, the concurring vote of the majority of the members present shall be required to reverse or affirm, wholly or in part, or modify any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Zoning Ordinance, and to that end, shall have the powers of the officer from whom the appeal is taken and may direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and, in case of contempt, may certify such fact to the circuit court having jurisdiction.
 2. The Board shall keep minutes of its proceedings, showing the vote of each member of each question, or if absent or failing to vote by reason of conflict, and shall keep records of its examinations and other official actions filed in the City of Newberry Planning and Zoning Department office as public record.

- H. Appeals from a Decision of the Board of Zoning Appeals. A person who has a substantial interest in any decision of the Board of Zoning Appeals, or an officer or agent of the city authorized by City Council, may appeal to circuit court in and for the County of Newberry by filing with the Clerk of Court a petition in writing setting forth plainly, fully and distinctly why the decision is contrary to law. The appeal must be filed with the Clerk of Court and Secretary of the Board within 30 days after the decision of the Board is mailed. Within 30 days after receipt of the notice of filing a petition, the Zoning Administrator or Secretary of the Board, with assistance of the City Attorney, shall file with the Clerk of Court a certified copy of the Board proceedings, including a transcript of evidence and findings and conclusions of the Board. Alternatively, a property owner whose land is the subject of a decision of the Board of Zoning Appeals may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with *South Carolina Code of Laws § 6-29-825*.

402.4. Architectural Review Board.

- A. Authority. The Architectural Review Board is established by the legislative body of the City of Newberry, consisting of five residents of the City, in accordance with the provisions of *South Carolina Code of Laws § 6-29-870*.
- B. Appointment. Members of the Architectural Review Board (ARB) shall be nominated and appointed by City Council. Membership of the Board shall consist of persons with a demonstrated interest in historic preservation that are able to prepare for and attend scheduled meetings. It shall be the policy of City Council to seek persons who have educational backgrounds or work experience related to the Architectural Review Board (ARB). It shall further be the policy of City Council that all five of the positions on the Architectural Review Board (ARB) be restricted to residents of the City of Newberry.

Members of the Architectural Review Board (ARB) shall assume their duties and be installed at the first regular meeting of the Board following appointment. Members shall serve without compensation, except for reimbursement for authorized expenses attendant to the performance of their duties.

- C. Terms of Office.
1. The term of office for each member of the Board shall be two years.
 2. Place numbers one through five shall identify membership. Terms of office in the three odd-numbered places shall expire in odd-numbered years and those in even-numbered places shall expire in even-numbered years; provided, that each member of the Board shall serve until his/her successor is appointed and duly installed.

3. In the event of a vacancy on the Board due to removal, resignation, or any other cause, the City Council shall appoint a replacement within 60 days for the remainder of the unexpired term.
- D. Officers. The Board shall elect from its membership a chairperson and vice-chairperson who shall serve for one year or until their successors are elected. No member shall be elected chairperson or vice-chairperson for more than three consecutive years. The Board shall request the City Manager to appoint a secretary, who may be an officer or employee of the City. The secretary shall be a non-voting member of the Board, and shall assist the Chairperson in the coordination of the activities of the Board.
- E. Conflicts of Interest. Any member of the Board who has a direct or indirect interest in any property, which is the subject of matter of, or affected by, a decision of the Board, shall be disqualified from participating in the decision of the Board in connection therewith.
- F. Liability of Members. Any member of the Board acting within powers granted by this Zoning Ordinance shall be relieved from personal liability for any damage and held harmless by the City of Newberry. A legal representative shall defend any such suit brought against any member of the Board by the City of Newberry until termination of the proceedings.
- G. Duties and Powers, General. It shall be the duty of the Board to promote the purposes and objectives of this Zoning Ordinance and to review plans and applications, as hereinafter provided, for all construction within the Historic Buildings Preservation Overlay District, including both modifications to existing buildings, demolitions, and new construction. The Board shall have the power to approve, approve with modifications, or deny approval of such applications in accordance to prescribed procedures and guidelines.
- H. Regular Meetings. Regular meetings for transaction of business of the Board may be held with such frequency as the Board may determine, but not less than four times a year. The first regular meeting following the beginning of the City's fiscal year shall be designated the annual organization meeting for the election of officers and organization of the Board. The Chairperson may hold special meetings of the Board at any time upon call.
- I. Public Hearing and Notice. When required under the provisions of this Zoning Ordinance, the Board shall hold public hearings. Unless postponed for reasonable cause, any such hearing shall be held within 30 days after the Board has been notified of the filing of appropriate application or petition concerning the matter in question. All meetings of the Board shall be open to the public, and reasonable notice of the time and place shall be given to the public. Notices of

the meeting shall be posted at City Hall and sent to the news media as required by the *Freedom of Information Act*.

- J. Rules and Records. The Board shall adopt rules of procedure and shall keep records or minutes of its recommendations, findings, approvals and denials. These rules will govern the application process for a Certificate of Appropriateness and will be in compliance with South Carolina law and due process requirements of the United States Constitution. Such rules and all records will be a public record. A quorum, consisting of a majority of the total membership of the Board, shall be required to conduct business.

Decisions or actions by the Board shall be by a majority vote of qualified members present and voting. Proxy votes shall not be permitted.

- K. Annual Report. The Board shall annually present to the Newberry City Council a summary of the activities and initiatives it has undertaken during the period of time that has elapsed since its last presentation. Such presentation shall be at a regular meeting of the council and shall be public record kept with the Board's minutes.
- L. Maintenance and Repair. Nothing in this Zoning Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of structures in the Historic Buildings Preservation Overlay District which does not involve a change in design, material, color or outer appearance thereof, not to prevent the construction, reconstruction, alteration or demolition of any such feature of the structure which the building inspector or similar official shall certify is required because of an unsafe or dangerous condition.
- M. Certificate of Appropriateness. Prior to the issuance of a building or demolition permit, new construction, alteration, modification or addition to a structure within the Historic Buildings Preservation Overlay District, a Certificate of Appropriateness shall be required. The chairperson or vice-chairperson of the Board, stating that the Board has approved the request by majority vote, shall direct the City Manager, or his designee, to sign and issue a Certificate of Appropriateness. Application for a Certificate of Appropriateness must be made by the owner of the property or by their authorized agent. Any building permit or other permit not issued in conformity with this section shall be considered void.
- N. Interior Alterations to Structures. The interior arrangement or any alteration to the interior of any structure shall not be considered when issuing a Certificate of Appropriateness.

- O. Criteria for Consideration by Architectural Review Board.
1. Construction and renovation. In reviewing an application for construction and renovation, the Board shall consider among other things, the general design, character, and appropriateness of design, scale of building, arrangement, texture, materials and color of structure in question, and the relation of such elements to similar features of structure in the immediate surroundings.
 2. Demolitions. In reviewing an application to demolish, remove or alter the exterior architectural appearance of any existing structure in the Historic Buildings Preservation Overlay District, 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 citizens of the City of Newberry.
 3. Signs. In reviewing an application for a sign, the Board shall consider color, lighting, scale, placement, and material in order to determine appropriateness.
 4. Painting. The Board shall be responsible for approving paint colors to be used on the exterior of buildings. All approved paint colors must conform to a color chart approved by City Council. Approval shall be secured prior to painting.
 5. Hardship. The Board shall consider applications for hardship that would allow the performance of work for which a Certificate of Appropriateness would be denied.
 6. Expenditures. The Board shall recommend to City Council expenditures of such gifts, grants and money as may be appropriate for the purposes of this Zoning Ordinance.
 7. Recognition. The Board may confer recognition upon the owners of structures or properties designated under the Historic Buildings Preservation Overlay District by means of certificates, plaques or marker.
- P. Guidelines and Standards. In reviewing an application for a Certificate of Appropriateness, the Architectural Review Board shall take into account the architectural significance of the structure under consideration, the exterior form and appearance of any proposed additions or modification to the structure, and the effect of such change or additions upon other structures in the vicinity. The Architectural Review Board shall use the following standards in reviewing and acting upon applications for Certificates of Appropriateness:

1. Modifications. All modifications to exterior architectural features and all new construction within the Historic Buildings Preservation Overlay District shall generally comply with the standards comprising the Newberry Commercial District Design Review Guidelines adopted by Newberry City Council and the City of Newberry Architectural Review Board.
- Q. Exception to Design Review Standards. The City of Newberry recognizes that from time to time, the Newberry Commercial Design Review Standards may present difficulties to property owners who wish to repair and adaptively use structures within the Historic Buildings Preservation Overlay District. Accordingly, the Architectural Review Board may, but is not required to, grant an exception to the adopted design review guidelines if it expressly finds:
1. The proposed action will maintain the overall appearance of period authenticity;
 2. New, repaired or replacement features will be consistent with the architectural features of the structure; and
 3. The proposed action will not adversely affect adjacent structures, nor diminish the character of the Historic Buildings Preservation Overlay District as a whole.

In reviewing a request for an exception, the Board may require the property owner to provide materials and documents regarding the condition of the structure, available alternatives to the proposed action, costs, and financing options. All exceptions must be specified in a written attachment to the Certificate of Appropriateness.

- R. Requirement of Municipality, County Government and Public Utilities. The City of Newberry, County of Newberry, and all public utility companies shall be required to obtain approval from the Board in accordance with this Zoning Ordinance prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures, and buildings on property in the Historic Buildings Preservation Overlay District.
- S. Required Procedure. An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the appropriate administrative official as designated by the Board. Applications shall be filed, completed in form and content, at least seven calendar days prior to the regular meeting.
- T. Contents of Application.
1. Drawing required for alterations and additions to existing structures or for new construction. Applications involving (a) alterations or additions to

existing structures, or (b) the erection of any new structures shall be accompanied by drawings signed by the architect or draftsman and submitted in duplicate for the proposed work. As used herein, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show, as far as they regulate: exterior appearances, the architectural design, including proposed materials, textures and colors, and the site plan, including all improvements affecting accessory buildings, signs, lights, or other elements. Such documents shall be filed with the Board.

2. Photographs required with application for the demolition of existing structures. In the case of demolition, the applicant shall submit legible photographs of all sides of the building under consideration and photographs showing contiguous properties.
3. Drawing required with application for a sign or sign change. Every sign application shall be accompanied by drawings to scale with sufficient detail to determine the relationship of the sign to the building and neighboring properties.

U. Action on the Application.

1. Upon application approval, the secretary of the ARB shall cause a Certificate of Appropriateness to be issued to the applicant, stating the basis upon which such approval was made. If the Board shall fail to take final action upon any case within 90 days after the receipt of an application, it shall be deemed to be approved.
2. In case of disapproval, the Board shall state the reasons in a written statement to the applicant and may give verbal advice and illustrative drawing to the applicant and make recommendations with regards to appropriateness of design, arrangement, texture, material, color, and the like. The Board shall issue no permit in the event of disapproval. The permit may be denied when such design is not in compliance with the requirements of this Zoning Ordinance. The Board shall place in the minutes of its meetings the reasons for its actions, whether it is approval, approval with modifications, or denial.

- V. Copies of Drawings. The Board shall submit to the Building Official and any other affected department copies of all proposed work drawings concerning projects within the Historic Buildings Preservation Overlay District. The Board in rendering its decision shall consider any recommendations from these departments.

- W. Submission of a New Application. If the Board denies a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantial change is made in the plans for the proposed construction, reconstruction, alteration, or restoration.
- X. Appeals. Any persons, officer, department, or board aggrieved by any final decision of the Board must follow procedures for Appeal as outlined in the *South Carolina Code of Laws § 6-29-900*.

403. ZONING PERMITS.

- 403.1. Permit required.** No building or land shall hereafter be used or occupied, and no building, sign, or structure shall be erected, moved, expanded, altered, or demolished without a zoning permit issued by the Zoning Administrator. No permit shall be issued by the Zoning Administrator except for a use which is in conformity with the provision of this Zoning Ordinance or for a use authorized by order of the Board of Zoning Appeals.
- 403.2. Purpose of the permit.** The process of applying for and receiving a zoning permit serves to determine that the work and use as planned will meet the requirements of the Zoning Ordinance if conducted and completed according to the description provided by the applicant in the permit application. A zoning permit shall be required prior to issuance of building permits or any other work on or use of the land as described in § 403.1 – *Permit required* above.
- 403.3. Fees for permits.** A fee established by regulation of City Council shall be paid for each zoning permit or certificate of zoning compliance issued by the Zoning Administrator.
- 403.4. Application requirements for permits.**
 - A. An application for a zoning permit must be made on a form provided by the City of Newberry Planning and Development Department.
 - B. Applicants must be 18 years of age or older.
 - C. The fact that a person, business or corporation possesses other types of state, or city permits or licenses does not exempt them from the requirement of obtaining a zoning permit.
 - D. Applications for zoning permits shall be accompanied by a site plan drawn to scale of all included parcels showing, at a minimum, the dimensions and shape of all parcels drawn to scale. A copy of the most recently recorded plat of the included properties drawn to scale with parcel dimensions is also required.

- E. The application shall include any other information as may be required by the Zoning Administrator to determine conformance with this Zoning Ordinance, including, but not limited to, existing or proposed buildings or alterations, existing or proposed uses of buildings and land, number of families, housekeeping units, rental units, and existing conditions on adjacent properties. Application requirements may be found on the City's website or obtained from the Zoning Administrator.
- F. A copy of the site plan shall be returned to the applicant with the signed approval or disapproval of the Zoning Administrator noted on the zoning permit application at the time of issuance.

403.5. Denial of permit request. Any one of the following conditions shall result in denial of a zoning permit request.

- A. The applicant failed to provide information reasonably necessary for issuance of the permit or has falsely responded to a question or request for information on the application.
- B. The application fails to meet one or more of the requirements of this code.
- C. The applicant has failed to obtain proof of compliance with the requirements of another applicable regulating agency pertaining to the use or construction.
- D. The permit fee has not been paid as required by resolution of City Council.

403.6. Expiration of permits. If the work described in a zoning permit has not begun within six months from the date of the permit and no valid building permit is outstanding for the work authorized by the zoning permit, or within the time specified by a special exception, the permit shall expire and be null and void. Once a zoning permit has expired, construction on the property in question cannot proceed until a new zoning permit has been issued.

404. CERTIFICATES OF ZONING COMPLIANCE.

404.1. Certificates required. It shall be unlawful for any person to use, occupy, or permit the use or occupancy of any building or lot created, erected, changed, converted, altered, or enlarged, in whole or in part, until a certificate of zoning compliance has been issued by the Zoning Administrator stating the proposed use conforms to the requirements of this Zoning Ordinance.

404.2. Purpose of the certificate of zoning compliance. The process of requesting and receiving a certificate of zoning compliance serves to determine that the work as

completed and the use as established does, at the time the certificate is issued, meet the requirements of the Zoning Ordinance.

- 404.3. Temporary uses.** Certificates of zoning compliance may be issued and renewed by the Zoning Administrator for permitted temporary uses for the times permitted by the zoning district regulations.

405. ADMINISTRATIVE WAIVERS.

In cases where a minor waiver is needed to accommodate development, a zoning permit or certificate of zoning compliance may be issued by the Zoning Administrator without the approval of a variance from the Board of Zoning Appeals or an exception from the Architectural Review Board under the following conditions:

- 405.1.** If a setback waiver of less than 18 inches is desired, and:
- A. The adjoining property owner affected certifies in writing his or her agreement to the requested waiver; and
 - B. The adjoining property is vacant and undeveloped, or there exists double the required setback between all buildings on the adjoining property and the immediately adjoining property lines to the property whose owner is requesting the waiver.
- 405.2.** If a minimum lot width waiver of less than three percent of the required lot width is desired and:
- A. The waiver request is for only one new lot on any present lot of record;
 - B. The waiver request is for a platted subdivision containing not more than two planned lots in total, one of which will meet the required lot width;
 - C. The adjoining property owners affected certify in writing their agreement to the requested waiver; and
 - D. The adjoining properties are vacant or there exists double the required lot width on both adjoining properties.
- 405.3.** If a minimum lot size waiver of less than five percent of the required lot size is desired:
- A. The waiver request is for only one new lot on any present lot of record;

- B. The waiver request is for a platted subdivision containing not more than two potentially planned lots in total, all but one of which will meet the required lot width;
- C. The adjoining property owners affected certify in writing their agreement to the requested waiver; and
- D. The adjoining properties are vacant or there exists double the required lot size on both adjoining properties.

406. VARIANCES.

- 406.1.** When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Zoning Ordinance, the Board of Zoning Appeals shall have the power to vary or modify any of the regulations or provisions of this Zoning Ordinance relating to the use, construction or alteration of buildings or structures or the use of the land so the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- 406.2.** An owner or authorized agent may request a variance by filing such with the Zoning Administrator on a form provided by the Zoning Administrator. Applications shall be filed before the first workday in the month prior to the Board of Zoning Appeals meeting at which it will be heard. Posting and notification requirements for hearings are provided in § 402.3(E). At the hearing, any party may appear in person or by agent or attorney.
- 406.3.** A variance may be granted if the Board makes and explains in a written order all of the following findings and conclusions:
- A. There are extraordinary and exceptional conditions pertaining to a particular piece of property;
 - B. These conditions do not generally apply to other property in the vicinity or in that district;
 - C. Because of these conditions, the application of the Zoning Ordinance to a particular piece of property would effectively prohibit or unreasonably restrict use of the property;
 - D. The authorization of the variance will not be substantial detriment to adjacent property or to public good, and the character of the district will not be harmed by the granting of the variance; and

- E. The effect of the variance would not allow the establishment of a use not otherwise permitted in the zoning district; would not extend physically a nonconforming use of the land; would not change the zoning district boundaries shown on the official zoning map.

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

406.5. In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

406.6. Failure to begin or complete an action for which a variance is granted within the time limit specified as a condition of the variance shall void the variance.

407. SPECIAL EXCEPTIONS.

407.1. A property owner or authorized agent may appeal to the Board of Zoning Appeals for a special exception for a use permitted by zoning district regulations as a special exception after review, subject to applicable criteria.

407.2. A request for a special exception may be made by the owner of the property in question or an authorized agent of the property owner, on a form provided by the Zoning Administrator. Application requirements may be found on the City's website or obtained from the Zoning Administrator.

407.3. The Board shall review the request to determine compliance with this Zoning Ordinance and all applicable regulations within the City's planning jurisdiction.

407.4. No special exception permit shall be approved by the Board of Zoning Appeals unless the following general findings of fact are made concerning the proposed special exception.

- A. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to the information submitted.
- B. The use complies with all regulations and standards of this Zoning Ordinance.
- C. The use will not substantially injure the value of adjoining properties, or the use is a public necessity.

- D. The location and character of the use, if developed according to the information as submitted and approved, will be in harmony with the area in which it is to be located.
- E. The use will not create traffic impacts that will endanger public safety, or create or contribute to congestion.
- F. The use will not create noise, light, glare, odor, or obstruction of air flow on adjoining properties.
- G. That the proposed use will not be in conflict with but will further the objectives of the City of Newberry Comprehensive Plan for the area in which it is located.

407.5. In considering special exceptions, the Board may prescribe appropriate requirements and additional conditions deemed necessary to remove danger to health and safety, relieve or reduce adverse impact of a special exception, and to protect adjacent properties and the character of the area.

408. AMENDMENTS.

408.1. Authority. This Zoning Ordinance, including the official zoning map, may be amended from time to time by the City Council as herein specified, but no amendment shall become effective unless it shall have first been submitted to the Planning Commission for review and recommendation.

408.2. Initiation of Amendment.

- A. An amendment to the official zoning map may be initiated by adopted motion of City Council, adopted motion of the Planning Commission, the Zoning Administrator, the owner of the property affected, or an authorized agent with written authorization from the property owner.
- B. A request for a zoning map amendment by a property owner or their agent shall be initiated by submittal of a completed application form provided by the Zoning Administrator, accompanied by a copy of the most recently recorded plat for each included parcel and any other relevant supporting information for inclusion in the agenda packet for the Planning Commission, and a filing fee established by resolution of City Council.
- C. Any citizen may make a request for a text amendment to either the City Council or the Planning Commission. Should the Council or Commission choose to act on such request, it shall direct the Zoning Administrator to study the request and present a recommendation at their next regular meeting. At that time, if the Council or Commission chooses to pursue the amendment, it shall direct the

Zoning Administrator to prepare the amendment for their consideration at a later meeting.

- D. An identical amendment to the district designation of the same or a portion of the same property for which a rezoning has been denied shall not be initiated more often than once in each 12-month period after denial unless the Planning Commission determines either:
 - 1. There has been a substantial change in the character of the area; or
 - 2. Evidence or factors exist which were not considered in the previous deliberations which might substantially alter the basis for the Planning Commission recommendation.
- E. A complete application for amendment must be received at least two weeks prior to the Planning Commission meeting in order to be considered at the meeting.

408.3. Minimum District Size.

No amendment shall be initiated which would create a new zoning district with an area of less than two acres; except that the minimum area for a PDD (Planned Development District) district shall be four acres. The minimum requirement does not apply to extension of an existing district, or addition of any commercial district to any other commercial district or industrial district to any other industrial district.

408.4. Amendment Procedure.

The following procedural steps are required for adoption of a text or map amendment; amendments shall be initiated pursuant to § 408.2.

- A. Amendment ordinance shall be prepared in written form required by City Code.
- B. The proposed amendment shall be referred to Planning Commission for review and recommendation.
- C. The Planning Commission shall not conduct a public hearing, but the property owners whose land is the subject of a proposed amendment shall be allowed to present oral or written comments to the Commission. If oral or written comments are to be presented by the property owner, the Commission shall give other interested members of the public, including adjoining property owners, 10-days' notice and allow them to comment in the same manner.

- D. Planning Commission review shall include a determination of whether the proposed amendment is in conformity with the City of Newberry Comprehensive Plan.
- E. The Planning Commission shall file with City Council its report and recommendation on the proposed amendment within 30 days after receipt. If the Commission does not make a recommendation to approve, approve with conditions, deny, or defer a decision on a proposed amendment within 30 calendar days after the petition has been referred to it, then the Commission shall be considered to have recommended approval of the proposed amendment.
- F. Notice of a public hearing before City Council shall be published in a newspaper of general circulation in the City at least 15 days prior to hearing.
- G. Notices of public hearing shall be posted on or adjacent to property to be rezoned at least 15 days prior to the hearing, with one notice visible from each street bordering the property. Posted notices shall contain letters not less than one inch in height.
- H. Notice of public hearing shall be mailed at least 15 days prior to the hearing to adjacent landowners and groups which have filed a written request for notices.
- I. City Council may introduce an amendment ordinance for first reading and hold a public hearing on the same date. Planning Commission recommendation shall be reviewed and considered.
- J. City Council, after receiving the recommendation of the Planning Commission, shall within a reasonable time reject the proposed amendment, approve the proposed amendment, with or without modifications, or defer action until it has time to consider any new evidence. City Council may adopt or reject the amendment ordinance on second reading at least six days after first reading. Map amendments may be adopted or rejected for all or any portion of the property; however, a zoning district designation which was not included in the public notices shall not be adopted. An amendment may be withdrawn in writing by the initiator at any time prior to final action by City Council. A withdrawn amendment is not subject to the 12-month limitation in § 408.2(D).
- K. All amendments shall be noted and placed in the copy of the Zoning Ordinance maintained by the Zoning Administrator and in the official copy of the City Code maintained by the Zoning Administrator. Map amendments shall be reflected on the Official Zoning Map.

409. ENFORCEMENT.

- 409.1. Penalties generally.** Where any building, structure or sign is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure, sign, or land is or is proposed to be used in violation of this Zoning Ordinance, the Zoning Administrator may in accordance with the provisions of *South Carolina Code of Laws § 56-7-80*, as amended, issue an ordinance summons, or institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate the violation or to prevent the occupancy of the building, structure, or land. Each day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed a separate offense.
- 409.2. Specific remedies.** Specific remedies for the violation of any provision of this Zoning Ordinance include the following:
- A. Permit revocation. The Zoning Administrator may revoke any zoning permit issued by staff after written notification to the permit holder when violations of this Zoning Ordinance have occurred, when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or site plan, or a permit has been mistakenly issued in violation of this Zoning Ordinance.
 - B. Misdemeanor; penalties. It shall be unlawful for any person to use property, or to construct, alter, enlarge, or demolish any structure without a permit or permits required by this Zoning Ordinance. Conviction for violation of this Zoning Ordinance is punishable as a misdemeanor under the general penalty provisions of the City code.
 - C. Withholding of permits. The Zoning Administrator shall deny a zoning permit for any use or work which fails to comply with this Zoning Ordinance. The Zoning Administrator or other appropriate official shall withhold all other City permits for work which violates this Zoning Ordinance.
 - D. Stop-work orders. The Zoning Administrator is authorized to issue a stop work order pursuant to *South Carolina Code of Laws § 6-29-950(B)* requiring work to cease until specific code violations are corrected. Failure to comply with a stop work order of the Zoning Administrator is a misdemeanor punishable under the general provisions of the City code. Issuance of a stop work order may be appealed to the Board of Zoning Appeals.
 - E. Criminal penalties. Any person violating any provision of this Zoning Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined as determined by the court for each offense.

- F. **Injunction.** Enforcement of the provisions of this Zoning Ordinance may also be achieved by injunction. When a violation occurs, the Zoning Administrator may, either before or after the institution of other authorized action, apply to the appropriate division of court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.
- G. **Order of abatement.** In addition to an injunction, the Zoning Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:
1. Buildings or other structures on the property be closed, demolished, or removed;
 2. Fixtures, furniture or other moveable property be moved or removed entirely;
 3. Improvements, alterations, modifications or repairs be made; or
 4. Any other action be taken that is necessary to bring the property into compliance with this Zoning Ordinance.
- 409.3. Complaints.** A written complaint specifying facts showing a violation of this Zoning Ordinance filed by any person shall be investigated by the Zoning Administrator. Upon determination that a violation has occurred, the Zoning Administrator shall take appropriate enforcement action authorized by this Zoning Ordinance.
- 409.4. Ordinance summons.** The Zoning Administrator is authorized to issue an ordinance summons pursuant to City code provisions for violations of this Zoning Ordinance.