

Chapter 5: Administration

5.1: Nonconforming Land Uses

5.1.1: Nonconforming land uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. However, to avoid undue hardship, the lawful use of any building or land use at the time of the enactment of this Ordinance may be continued even though such use does not conform with the provisions of this Ordinance except that the nonconforming building or land use shall not be:

- A. Changed to another nonconforming use.
- B. Reestablished after discontinuance for three (3) months.
- C. Repaired, rebuilt, or altered after damage exceeding fifty percent (50%) of its preexisting (before damaged) assessed market value. Reconstruction must begin within six (6) months after damage is incurred.
- D. Enlarged or altered in a way which increases the nonconformity.

5.1.2: Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

5.2: Lots of Record

Where a lot of record at the time of the effective date of this Ordinance (or revision thereto) has less area or width than herein required in the district in which it is located, said lot may nevertheless be used for a permitted use in the district.

5.3: Administration, Enforcement, Appeal, Complaints, and Remedies

5.3.1: Administrative Officer: This Ordinance shall be administered and enforced by the City Zoning Administrator.

5.3.2: Building Permits: Building permits are required for all structures and signs constructed or erected after the effective date of this ordinance. No building permit shall be issued until a zoning permit has been issued by the Zoning Administrator.

5.3.3: Zoning Permits: A zoning permit will only be issued only after it is demonstrated to the satisfaction of the Zoning Administrator that all land development and zoning codes will be met.

A. General Provisions: No building or structure shall be erected or occupied, no use, or change in use commenced, and no excavation or grading commenced relating thereto unless a zoning permit has been issued by the Zoning Administrator and is still valid.

B. Permit Applications: All applications for building permits shall be accompanied by plans in duplicate drawn to scale, showing the following:

1. the actual dimensions and shape of the lot to be built upon;
2. the exact size and locations on the lot of buildings already existing, if any;
3. the location and dimensions of the proposed building or alteration;
4. the number, size, location, and lighting of proposed and existing signs, if any; and
5. the number, size, and location of proposed and existing off-street parking lots or spaces.

The application shall include such other information as lawfully may be required by the Zoning Administrator, including:

1. existing or proposed uses of the building and land;
2. the number of families, housekeeping units, or rental units the building is designed to accommodate;
3. conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

One (1) copy of the plans shall be returned to the applicant by the Zoning Administrator, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original copy of the plans, similarly marked, shall be retained by the City.

C. Records: The Zoning Administrator shall maintain a record of all zoning permits on file at his office, and copies shall be made available on request to interested parties.

D. Expiration of Building and Zoning Permits: Any building and zoning permit issued in accordance with this Ordinance will lapse and become invalid unless the work for which it was issued is started within six (6) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year. Written notice of the permit lapse shall be given to the persons affected, together with notice that further work as described in the canceled permits shall not proceed unless and until new permits have been obtained.

5.3.4: Certificate of Occupancy:

A. Inspections:

1. An inspection of the structure will be required prior to the issuance of a certificate of occupancy. This inspection will be conducted either by employees of the County, or by an entity under contract with the County.
2. The inspection will evaluate whether the structure complies with the provisions of this ordinance, and with any conditions required by the building permit, or Clinton Land Development Regulations.

5.3.5: Planning Commission: The Clinton Planning Commission as established by Clinton City Council, shall function as an advisory committee to the Zoning Administrator with respect to the provisions of this ordinance.

5.3.6: Violations: If the Zoning Administrator shall find that any of the provisions of this chapter are being violated or has received reliable information indicating that a violation of this Ordinance is about to occur, he shall:

- A.** notify in writing the person responsible for such violations and the property owner, if different, indicating the nature of the violation; and
- B.** take such action as is necessary to correct the violation and prevent further, similar violations from occurring.

C. Selection of Remedial Action:

1. In order to correct a violation of this ordinance, or to mitigate the adverse impacts resulting from a violation of this ordinance, the Zoning Administrator has the discretion to select among the following courses of action, as appropriate under the circumstances;
 - a) order a discontinuance of the illegal action;
 - b) require cessation of construction, or of an unauthorized activity or use, pending the submission and approval of a building permit, or Development Plan as provided for in this ordinance;
 - c) require the developer or owner to take specific actions to bring the construction or activity in question into compliance with this ordinance;
 - d) where compliance is not practicable, require the developer or owner to take specific actions that will minimize the extent and impacts of the non-compliance, so long as this will not work an undue hardship on adjoining or nearby property and uses;
 - e) where the severity of the situation warrants, require the removal of illegal structures, additions, and uses;
 - f) require the developer or owner to take appropriate actions to mitigate the adverse impacts caused by, or associated with, the violating action or use; and/or
 - g) require the developer or owner to otherwise make reasonable restitution for damage caused or expenses incurred as a result of the violation of this Ordinance.

D. Penalties: Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined, as determined by the Municipal Court for each offense. Each day such violation continues shall constitute a separate offense. Nothing herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

E. Appeals: The developer or owner may appeal any action of the Zoning Administrator under this section to the Board of Zoning Appeals. Such appeal must be filed within thirty (30) days of the receipt of notice of such action. The Zoning Administrator's action will remain in effect during the appeal process.

F. Judicial Action: The Zoning Administrator is empowered to seek injunctive relief or specific performance to enforce the provisions of this ordinance, or of any requirements for remedial action taken under this section. Injunctive relief is especially warranted when land altering activity is commenced, or is about to commence, which could be construed as contrary to the provisions of this ordinance.

5.3.7: Appeal from the Decision of the Zoning Administrator: It is the intention of this Ordinance that all questions arising in connection with the enforcement of the Ordinance shall be presented first to the Zoning Administrator and that such questions shall be presented to the Board of Zoning Appeals only on appeal from the written decision of the Zoning Administrator.

5.4: Amendments

5.4.1: The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

5.4.2: Application to City:

- A.** Any amendments, change or supplement to the Zoning Map or ordinance must first be submitted to the Zoning Administrator for review and recommendation.
- B.** Application form, together with the application fee for zoning amendment shall be filed with the Zoning Administrator. The Zoning Administrator shall review the application as to proper form. Within fifteen (15) working days of receipt, applicant shall receive written notice from the Zoning Administrator of review, if application is incomplete and notice of the proposed meeting date, or if additional information is required.
- C.** Upon receipt of a complete application the Zoning Administrator shall then transmit application and recommendation to the Planning Commission within fifteen (15) days.
- D. Required Information:** The applicant shall set forth a detailed description of the amendment on an application provided by the Zoning Administrator. When the amendment involves a change in the Zoning Map, the applicant shall submit the following information:
 - 1. A legal description and street address of the subject property, together with a property boundary map if subject property is not explicitly delineated on the Zoning Map.
 - 2. Name, address, and phone number of applicant.
 - 3. Name of property owner(s) and applicant's interest in the property if not the owner in fee simple title.
 - 4. Filing date of application.
 - 5. Applicant's and property owner's signature.

5.4.3: Notice:

- A. Newspaper Notice:** A notice shall be placed in a newspaper of general circulation in the City at least 15 days prior to the hearing. The notice must list the hearing time and place.
- B. Posting Property:** In rezoning cases, conspicuous notices shall be posted on or adjacent to the affected property by the Zoning Administrator. One notice must be visible from each public street that borders the property. Such sign(s) shall be posted at least 15 days prior to the public hearing.
- C. Mail Notice:** Written notice must be mailed to all interested groups requesting notice.

- 5.4.4: Planning Commission Review:** All proposed amendments must be submitted to the Clinton Planning Commission for its review and recommendation. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have recommended approval of the requested amendment. In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factor relevant to the petition. These facts should include, but not be limited to, the following:
- A. Whether or not the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.
 - B. Whether or not the requested zoning change is consistent with the comprehensive plan.
 - C. The precedents, and the possible effects of such precedents, which might result from approval or denial of the petition.
 - D. The capability of the City or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
 - E. Effect of approval of the petition on the condition and/or value of property in the City.
 - F. Effect of approval of the petition on adopted plans and policies of the City of Clinton.
- 5.4.5: Public Hearing:** The City Council shall conduct a public hearing. City Council shall review the Planning Commission report and comments made at the Public Hearing before taking action to either adopt or reject the ordinance.
- 5.4.6: Limit on Re-application:** Except for requests which are continued with the mutual consent of the applicant and the Planning Commission, a property owner or owners shall not initiate action for a zoning amendment affecting the same parcel of property, or any part thereof, more often than once every twelve (12) months.
- 5.4.7: Adoption of Ordinance:** After the required public hearing and Planning Commission review, the amendment or rezoning is submitted to City Council for consideration of adoption. Adoption of the amendment or rezoning must be by ordinance. After adoption, the Zoning Administrator shall make the necessary changes to the Zoning Ordinance text and Official Map.

5.5: Board of Zoning Appeals

- 5.5.1: Establishment of Board of Zoning Appeals:** A Board of Zoning Appeals is hereby established. Said Board shall consist of five (5) members.
- 5.5.2: Membership:**
- A. Members shall be citizens of Clinton
 - B. Members shall be appointed by the Council for overlapping terms of five (5) years.
 - C. Members may serve up to two (2) terms.
 - D. Members may continue to serve until a successor is appointed.
 - E. Initial appointment shall be one member each for terms of one, two, three, four, and five years.
 - F. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.
 - G. Members shall serve without pay, but may be reimbursed for expenses incurred while representing the Board.
 - H. Members cannot hold any other public office or position in the City.
- 5.5.3: Proceedings of the Board of Zoning Appeals**
- A. The Board of Zoning Appeals shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected.
 - B. The Board shall appoint a secretary, who may be a City officer, a City employee, a member of the Planning Commission, or a member of the Board of Zoning Appeals.
 - C. The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and the South Carolina Code of Laws, 1994, Title 6, Chapter 7; as amended.
 - D. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.
- 5.5.4: Decisions of the Board of Zoning Appeals:** The concurring vote of three (3) members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter

upon which it is required to pass under this Ordinance or to affect any variation of this Ordinance. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be filed in the office of the Board and shall be a public record. On all appeals, applications and other matters brought before the Board of Zoning Appeals, the Board shall inform in writing all the parties involved of its decision(s) and the reason(s) heretofore.

5.5.5: Procedures for Appeals and Variances:

- A. Application:** Any person displeased with the written decision of the Zoning Administrator may appeal it to the Board of Zoning Appeals. Such appeals shall be filed with the secretary within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator. The applicant and parties to the permitting process are entitled to notice of the appeal.
- B. Stay of Proceedings:** Filing an appeal to the Board stays all legal proceedings to enforce the appealed action unless the appealed officer certifies that a stay would cause imminent peril to life and property. In such cases, a Board or court restraining order may stay the action.
- C. Hearings:** The Board of Zoning Appeals shall hold a public hearing within thirty (30) days of receiving written application for the hearing, give public notice there of at least 15 days prior to the hearing by placing notice in a general circulation newspaper in the community.
- D. Posting Property:** In cases involving variances, staff must post conspicuous notices on or next to the affected property. At least one notice must be visible from each street that borders the property.

5.5.6: Powers of the Board of Zoning Appeals:

- A. Administrative Review:** The Board may hear and decide appeals where it is alleged the Zoning Administrator erred in an order, requirement, decision, or determination. In such cases, the Board may reverse or affirm, wholly or in part, the Zoning Administrator's actions. The Board has all the powers of the Zoning Administrator in such cases and may direct the issuance of a permit.
- B. Variances:** The Board has the power to hear and decide requests for variances when strict application of the Zoning Ordinance would cause an unnecessary hardship.
 - 1. The following standards must apply for finding an unnecessary hardship:
 - a) Extraordinary Conditions:** There are extraordinary and exceptional conditions pertaining to the particular piece of property, which could exist due to topography, street widening, or other conditions which make it difficult or impossible to make an economically feasible use of the property.
 - b) Other Property:** Extraordinary conditions generally do not apply to other property in the vicinity.
 - c) Utilization:** Because of these extraordinary conditions, the application of the ordinance to a particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
 - d) 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 granting of the variance.
 - 2. **Conditions:** In granting a variance, the Board may attach conditions to it. These conditions may address the location, character, or other features of a proposed building, structure, or use. The Board sets the conditions to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.
 - 3. **Use Variances:** The Board may not grant use variances. A "use variance" involves the establishment of a use not otherwise permitted in a zoning district, or extends physically a non-conforming land use or changes the zoning district boundaries shown on the official zoning map.

5.5.7: Appeals from Decisions of Board of Zoning Appeals:

- A.** Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal from any decision of the Board to the circuit court filing with the clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision

is contrary to law. Such appeal shall be filed within thirty (30) days after the decision of the Board is rendered.

5.6: Fees

The City Council shall establish a schedule of fees, charges and expenses, and a collection procedure for Building Permits, Zoning Permits, Zoning Amendments, and Variances, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.