

ORDINANCE NO.

AN ORDINANCE TO AMEND AND CLARIFY ARTICLE 13. - CLUSTER SUBDIVISIONS, ADOPTED IN ORD. NO. 04-11-68 ON NOVEMBER 23, 2004, AND SUBSEQUENTLY-AMENDED IN ORD. NO. 09-04-16 ON APRIL 13, 2009, CONTAINED IN THE ZONING AND DEVELOPMENT STANDARDS ORDINANCE, "BERKELEY COUNTY ZONING ORDINANCE".

WHEREAS, Berkeley County Council adopted a Zoning and Development Standards Ordinance, on August 27, 2001, pursuant to Title 6, Chapter 29, of the Code of Laws of South Carolina, 1976, as amended; and

WHEREAS, Berkeley County Council adopted such regulations for the purpose of promoting the public health, safety, convenience, order, appearance, prosperity, and general welfare of the County; and

WHEREAS, Berkeley County Council has determined that certain amendments are now necessary,

NOW THEREFORE, BE IT ORDAINED, that Ordinance No. 04-11-68, as amended in Ordinance No. 09-04-16, is hereby deleted in its entirety and replaced with the following:

ARTICLE 13. - CLUSTER SUBDIVISIONS³¹

13.1. - Purpose.

The purpose of this article is to promote cluster subdivisions in order to:

- A. Maintain the character of undeveloped Berkeley County.
- B. Provide legitimate useable open space for the community and county citizens.
- C. Preserve existing historical and ecologically significant lands.
- D. Reduce the need for costly infrastructure that sprawling subdivisions require.
- E. Reduce the total impervious coverage while maintaining as much existing natural cover as possible.
- F. Reduce non-point source pollutants and other site runoff that negatively affects local and regional water quality.
- G. Provide for flexible site layouts that are sensitive to the land's natural features.
- H. Provide a mixture of lot sizes, housing choices, and densities within a development.
- I. Meet the demand for housing within the rural areas of the county without compromising rural character.

- J. Provide opportunities for social interaction among community members by promoting walking, biking, and other outdoor activities.

(Ord. No. 09-04-16, 4-13-2009)

13.2. - Definitions.

- A. *Active Use Recreational Facility*: Any recreational facility which meets one of the following needs of a neighborhood or community: athletic fields, buildings or structures for recreational activities, community garden, workout courses, swimming pool, ball courts (tennis or basketball), children's play areas, noncommercial dog play area, waterway accesses and facilities, trails constructed of an all-weather surface. Other active use recreational facilities, not listed, may be approved upon review by the Administrative Officer.
- B. *Allowable Base Units*: The amount of units allowed for each zoning classification prior to the calculations of density bonuses.
- C. *Bonus Density*: An increase in density which can be added to the yield plan as a matter of right on an additive basis up to 45% of the Allowable Base Units based on established criteria found in Section 13.6.
- D. *Civic Land Use*: Land dedicated and accepted by the county for public facilities such as, but not limited to, libraries, fire stations, EMS stations, schools, law enforcement stations, emergency facilities, satellite offices, excluding roadway dedications, utility easements, drainage easements, and improvements.
- E. *Cluster Developable Acreage*: The area of a development site derived by subtracting the land designated as *Secondary Protected Areas* from the Gross Buildable Acreage. The Cluster Developable Acreage is used to determine the Allowable Base Units.
- F. *Density Multiplier*: Amount of density permitted per acre for each specified zoning category.
- G. *Floodway*: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as identified by the Federal Emergency Management Agency (FEMA) or the Local Floodplain Administrator.
- H. *Gross Buildable Acreage*: The remaining number of acres in a tract, parcel, or property after the Primary Protected Area is subtracted from the Total Site Acreage.
- I. *Man-Made Waterbodies*: Surface waterbodies, such as lakes or ponds, engineered for purposes of stormwater retention or detention, recreation, or scenic, landscape, or decorative features. This definition does not include drainage conveyances; such as ditches or swales.
- J. *Maximum Gross Density*: The maximum density allowed under a cluster subdivision as computed based on the Total Site Acreage. To compute Maximum Gross Density, the Total Units Allowed, including any allowance for Density Bonus up to 45%, are divided by the Total Site Acreage.
- K. *Open Space Inventory*: An inventory map and description which shows all protected areas, both primary and secondary; and any other areas to remain as permanent open space after development.
- L. *Open Space Multiplier*: The unit found in the unit yield plan calculation chart which is utilized to calculate the Cluster Developable Acreage.

- M. *Passive Recreation*: Recreational activities that involve leisurely or less intensive physical activity, such as walking, sitting, and picnicking. Passive recreational amenities include, but are not limited to, nature trails, walking paths, picnic areas and shelters, sitting areas, and wildlife viewing areas.
- N. *Primary Protected Areas*: Those areas that should be permanently protected from development, which under a conventional subdivision scenario would not be developable, including, but not limited to, bodies of water and streams, floodways, jurisdictional wetlands, utility and drainage easements, public rights-of-way, historic sites, cemeteries and required bufferyards in existence at the time of Unit Yield Plan submittal. The Primary Protected Areas are removed from the Total Site Acreage to yield the Gross Buildable Acreage.
- O. *Secondary Protected Areas*: Those lands that are not considered Primary Protected Areas, but are set aside as permanent open space in fulfillment of this ordinance. These lands may include, but are not limited to, areas of prime wooded or agricultural lands, scenic viewsheds, and lands with active or passive recreational opportunities. Secondary Protected Areas may not contain proposed or existing roadway rights-of-way. The Gross Buildable Acreage is multiplied by the Open Space Multiplier to determine the minimum amount of land that is required to be designated as Secondary Protected Areas. Secondary Protected Areas may contain a portion of Man-Made Waterbodies as permitted in Section 13.5(A)(v) and defined herein.
- P. *Specimen Tree*: Any tree, other than a pine species, that measures 24 inches or larger in diameter, measured at a point four feet above the ground. For trees with multi-stemmed trunks, all stems shall be measured and added together to determine the total diameter. Pine trees that are 30 inches [in] diameter or larger shall also be considered specimen trees.
- Q. *Street Tree*: An approved canopy or understory tree planted within the right-of-way of proposed neighborhood streets meeting all requirements of the *Berkeley County Street Tree Planting Standards Manual*.
- R. *Total Site Acreage*: Entire acreage of the tract, parcel or property to be developed.
- S. *Unit Yield Plan*: A plan identifying the Cluster Developable Acreage utilizing the procedures outlined herein. The unit yield plan outlines the formula and calculation of density available on site.
- T. *Viewshed*: An area of land, water, and other environmental elements that is visible from a fixed vantage point both on site or from a public corridor. Viewsheds are areas of particular scenic or historic value that are deemed worthy of preservation against development or other change as determined during the planning process. As an example, a view of a historic plantation home from the road would be considered a viewshed worth preserving for the community as a whole.

(Ord. No. 09-04-16, 4-13-2009)

13.3. - General provisions.

All subdivisions that wish to reduce lot sizes and gain additional density through cluster development within Berkeley County must be designed according to the following:

- A. Each cluster development is subject to the underlying residential zoning classification for determining the base density, base lot size, uses, and accessory uses.

- B. Those lands that do not meet the minimum requirements must adhere to the minimum lot size and coverage within each specific zoning classification. If septic service is to be utilized, SC DHEC must approve the capacity for all proposed lots to support private septic systems prior to submittal (only applicable for lots 14,000 square feet or greater).
- C. The minimum total land area to apply for a cluster subdivision is 10 acres.
- D. One principal dwelling per lot. (Ord. No. 09-04-16, 4-13-2009)

13.4. - Application procedure and approval process.

- A. A pre-submittal meeting is strongly suggested, but not required, with the Departments of Planning, Engineering, and applicable Water and Sewer Authority prior to the submission of the Unit Yield Plan and Preliminary Plan.
- B. When the request for Unit Yield Plan approval is received, three copies of the unit yield plan must be submitted to the Administrative Officer and used as the baseline for the review of subsequent preliminary plan and final plat submittals.
- C. The Unit Yield Plan must include the following information:
 - i. Recorded plat.
 - ii. Open Space Inventory.
 - iii. Conceptual Subdivision Plan, showing proposed lots, roadway network, Primary and Secondary Protected Areas, recreational amenities, floodplains, bodies of water, streams, drainage network, wetlands, and bufferyards.
 - iv. A breakdown of the yield calculations for net buildable acres and any bonus density.
 - vi. Any and all other supporting documentation.
- D. All changes to the Unit Yield Plan resulting in an increase in dwelling units or a decrease in open space must be reviewed and approved by the Administrative Officer. This constitutes a new approval.

(Ord. No. 09-04-16, 4-13-2009)

13.5. - Procedures for Preparing the Unit Yield Plan and Calculating the Total Units Allowed.

- A. Identify the land to be designated as Primary and Secondary Protected Areas as defined in Section 13.2 and subject to the following requirements.
 - i. No less than 20 percent of the *Gross Buildable Acreage* must be designated as Secondary Protected Area;
 - ii. All open space, both the Primary and Secondary Protected Areas, shall be conveyed or held as permanent open space;
 - iii. At least 60 percent of the total required open space, either Primary or Secondary Protected Areas, must be useable, accessible, and contain amenities for active or passive recreation;
 - iv. At least 60% of the total required open space, either Primary or Secondary Protected Areas, shall be connected to the other designated on- or off-site open space areas;
 - v. Man-Made Waterbodies may be placed within Secondary Protected Areas so long as (1) no more than 50% of the acreage of the Secondary Protected Areas is used for Man-

Made Waterbodies, and (2) all Man-Made Waterbodies placed within Secondary Protected Areas are accessible for active or passive recreation by walking or biking trails; and

vi. The Administrative Officer may permit the inclusion of utilities and/or drainage conveyances (with the exception of man-made waterbodies) within Primary and Secondary Protected Areas so long as the improvement(s) will not detract from the intended purpose, use, and enjoyment of the Protected Area.

B. A Unit Yield Plan must be submitted showing how many acres, to the tenth of an acre, are contained within both the Primary and Secondary Protected Areas The plan should also indicate those lands contained within the Primary and Secondary Protected Areas that will be accessible for active or passive recreation. Accessible is interpreted as land that can be accessed by a minimum 20-foot required right-of-way. While creating the yield plan, take into consideration needed rights-of-way and stormwater facilities.

C. To calculate the total units allowed, all the Primary Protected Area acreage is subtracted from the Total Site Acreage, which yields the Gross Buildable Acreage. The Gross Buildable Acreage is then multiplied by the Open Space Multiplier found in the yield plan calculation chart to get the Cluster Developable Acreage. The Cluster Developable Acreage is then multiplied by density multiplier found in the unit yield plan calculation chart to determine the Allowable Base Units. The Allowable Base Units are then multiplied by the percentage of bonus density that the Administrative Officer has approved up to 45 percent and added to the Allowable Base Units to yield the Total Units Allowed on site provided that the Maximum Gross Density requirement is not exceeded

Unit Yield Plan Calculation and Lot Size Regulations Chart					
	Open Space Multiplier	Density Multiplier	Maximum Gross Density	Minimum Lot Size	Average Lot Size
R-1, R-1MM, R-2	.80	3.00	3.50	5,500 sq. ft.	7,000 sq. ft ¹
R-1R	.70	.87	.75	1.25 Acre	N/A
Flex 1	.70	.77	.70	30,000 sq. ft.	N/A
All lots that are less than 14,000 square feet are required to be served by both public water and public sewer as established in Section 13.7(c).					

Calculation for figuring Total Units:

Total Site Acreage - Primary Protected Area Acreage = Gross Buildable Acreage

Gross Buildable Acreage × Open Space Multiplier = Cluster Developable Acreage

Cluster Developable Acreage × Density Multiplier = Allowable Base Units

Allowable Base Units x allowance for Density Bonus up to 45% (Bonus ≤ 45%) = Total Units Allowed

Total Units Allowed ÷ Total Site Acreage = Gross Density

Note: All calculations rounded up or down to the nearest whole number Example: 5.55 = 6, whereas, 5.45 = 5

(Ord. No. 09-04-16, 4-13-2009)

13.6. - Bonus density.

- A. The following bonus densities may be added to the yield plan as a matter of right. Bonus densities are additive in nature up to 45 percent per subdivision.
- B. Additional open space bonus density.
 - i. For every ten percent additional land set aside as Secondary Protected Area above the minimum required amount, a five-percent bonus density may be applied, or fraction thereof, up to ten percent.
- C. Recreational/civic uses bonus density.
 - i. For active use recreational facilities and/or civic land set aside totaling one to five acres, a two and one-half-percent bonus density may be applied.
 - ii. For active use recreational facilities and/or civic use land set aside totaling between five acres but below ten acres, a five-percent bonus density may be applied.
 - iii. For active use recreational facilities and/or civic use land set aside totaling above ten acres, a seven and one-half-percent bonus density may be applied.
 - iv. For every connection of a proposed bicycle or pedestrian network to existing pedestrian and/or bicycle facilities located outside of the development, an additional two and one-half-percent bonus density may be applied per connection not to exceed ten percent.
 - v. If impervious multi-use paths of at least 10 feet in width are provided in lieu of all required sidewalks *as established in Section 59-94, Sidewalks, of the Land Development and Subdivision Regulations* along proposed neighborhood collector streets, highways, and thoroughfares as subject to the following requirements, a ten percent bonus density may be applied.
 - a. The proposed multi-use path is located outside of the proposed rights-of-way of neighborhood collector streets, highways, and thoroughfares unless otherwise permitted to encroach within the public rights-of-way through Encroachment Permit.
 - b. The multi-use path will be perpetually maintained by the Property Owners' Association.
 - c. The proposed multi-use path provides connectivity to other existing and proposed pedestrian and bicycle facilities located along adjoining rights-of-way or trail networks.
 - d. The County Engineer, applicable water and sewer authority, and the Planning and Zoning Administrative Officer concur with the proposed placement of the multi-use path, construction materials, and design.
 - e. The multi-use path and ramps must accommodate the needs of disabled pedestrians, including compliance with prevailing regulations associated with those needs.
- D. Smart design/low impact design bonus density.
 - i. If the subdivision is designed such that no residential structures are built within the 100-year FEMA floodplain, a five-percent bonus density may be applied.
 - ii. If cul-de-sacs or dead end roads are not utilized within the subdivision, a five-percent bonus density may be applied.

- i. For every point of connection, not including the main entrance, to an arterial roadway as defined in Section 10.3.2, the Arterial Roads Development Standards Overlay District, or a designated state secondary paved roadway, five percent bonus density may be applied per connection not to exceed ten percent.
- iv. For designs that protect and preserve 50 percent of the existing specimen trees within the Gross Buildable Acreage, a five percent density may be applied.
- v. If street trees are provided within the proposed rights-of-way of internal neighborhood streets throughout the entire development/subdivision, as subject to the standards listed below, a bonus density of seven and one-half-percent can be applied:
 - a. The County Engineer, applicable water and sewer authority, and the Planning and Zoning Administrative Officer concur with the proposed street tree planting plan.
 - b. Applicable Encroachment Permits are issued by Berkeley County Roads and Bridges.
 - c. The location, type, height, caliper, spacing, distribution, and species of proposed street trees is required to adhere to those standards found in the **Berkeley County Street Tree Planting Standards Manual**.
 - d. Trees shall be maintained by the Developer and/or Homeowners Association. Trees that die due to natural causes, neglect, or utility/road maintenance repair shall be replanted by the Developer and/or Homeowners Association or similar entity. Maintenance responsibilities shall be clearly defined in all encroachment permits and covenants and restrictions.

(Ord. No. 09-04-16, 4-13-2009)

13.7. - Subdivision layout design criteria.

- A. Upon approval of the yield plan, an application for a Preliminary Plan may be submitted for review and approval by the Plan/Plat Review Committee. This submittal must comply with the Berkeley County Land Development Regulations, Berkeley County Zoning Ordinance, and other applicable regulations.
- B. For all districts that have access to water and sewer services, lot sizes should vary throughout the subdivision with a minimum lot size of 5,500 square feet and an average lot size of at least 7,000 square feet.
- C. Lots that will be served by either individual septic or well services are required to be a minimum of 14,000 square feet in size, and lots that will be served by both individual septic and well services are required to be a minimum of 30,000 square feet in size. When lots will be served by individual septic systems, SC DHEC must approve the capacity for all proposed lots to support private septic systems or the Cluster Developable Acreage may be reduced by the area of land that is not suitable for septic through an amended Unit Yield Plan
- D. Dwelling unit visibility from external roads should be minimized through the use of appropriate bufferyards per Article 17 and meandering entrances that limit the views into a subdivision.
- E. Areas designated as Primary and Secondary Protected shall be indicated in the Preliminary Plan. Those Secondary Protected Areas that are designated as usable and accessible shall also be clearly identified, detailing any proposed recreational facilities.
- F. All site setbacks must meet the underlying zoning requirements.

G. The Administrative Officer and/or Plan/Plat Review Committee may add to the required standards or modify a proposed design in order to ensure that the overall purposes and intents of the ordinance are maintained.

(Ord. No. 09-04-16, 4-13-2009)

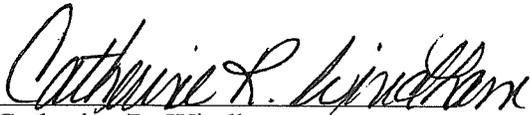
APPROVED on the 22nd day of May, 2017.

BERKELEY COUNTY, SOUTH CAROLINA



William W. Peagler, III, Chairman
Berkeley County Council

ATTEST:



Catherine R. Windham
Clerk to County Council

First Reading:	March 27, 2017
Second Reading:	April 24, 2017
Public Hearing:	May 22, 2017
Third Reading:	May 22, 2017

MEMBERS OF COUNTY COUNCIL

_____	_____	<i>excused</i>	_____
C. KEVIN COX	Voting _____	DENNIS L. FISH	Voting _____
_____	_____	<i>excused</i>	_____
JOSHUA S. WHITLEY	Voting <i>YES</i>	JACK H. SCHURLKNIGHT	Voting _____
_____	_____	<i>APR</i>	_____
KENNETH E. GUNN, JR.	Voting <i>YES</i>	CALDWELL PINCKNEY, JR.	Voting <i>YD</i>
_____	_____	<i>excused</i>	_____
JOE T. NEWELL	Voting <i>YES</i>	STEVE C. DAVIS	Voting _____