



**NEWBERRY COUNTY COUNCIL
COUNTY COUNCIL AGENDA
Newberry Courthouse Annex
1309 College Street, Newberry, SC 29108
January 8, 2025
6:00 P.M.**

Call to order: Todd Johnson, Chairman.
Invocation and Pledge of Allegiance: Leon Fulmer Jr., Councilman.

1. Oath of Office:

- a. Todd Johnson – District 1; Leon Fulmer Jr. – District 2; Robert “Nick” Shealy – District 4; Stuart Smith – District 5.

(Meeting turned over to Joanie Winters, County Attorney, to preside over the election of officers for calendar year 2025)

2. Election of Chair for 2025.

3. Election of Vice-Chair for 2025.

4. Adoption of Consent Agenda:

- a. Newberry County Council Meeting Minutes – December 04, 2024.

5. Additions, Deletions & Adoption of the Agenda.

6. Ordinance No. 11-01-2024. An Ordinance to Amend Chapter 91 of the Code of Ordinances of the County of Newberry to Adopt Road and Development Design Standards and Specifications.

- a. Third Reading.

7. Ordinance No. 12-01-2024. An Ordinance to Amend Chapter 152 of the Code of Ordinances of the County of Newberry to Adopt Updated Standards for the Reduction of Flood Hazards.
 - a. Public Hearing.
 - b. Second Reading.

8. Consideration of a motion to adopt the proposed 2025 County Council Committee Meeting Schedule.

9. Consideration of a motion to adopt the proposed 2025 Newberry County Budget Calendar.

10. Appointments.

11. Public Comments.

12. Comments/Requests from County Administrator.

13. Comments/Requests from Council.

14. Future meetings:
 - a. Newberry County Council Work Session – January 15 at 5 p.m.
 - b. Newberry County Council – January 15 at 6 p.m.
 - c. Martin Luther King, Jr. Holiday – Offices Closed – January 20.
 - d. Public Safety and Courts Committee – January 27 at 5 p.m.

15. Adjournment.

**NEWBERRY COUNTY COUNCIL
MINUTES
December 4, 2024**

Newberry County Council met on Wednesday, December 4, 2024, at 6:01 p.m. in Council Chambers at the Courthouse Annex, 1309 College Street, Newberry, SC, for a regular scheduled meeting.

Notice of the meeting was duly advertised, as required by law.

PRESENT: Todd Johnson, Chairman (Virtually)
Robert Shealy, Vice-Chairman
Leon Fulmer Jr., Council Member
Les Hipp, Council Member
Travis Reeder, Council Member
Karl Sease, Council Member
Johnny Mack Scurry, Council Member
Jeff Shacker, County Administrator
Joanie Winters, County Attorney
Captain Ben Chapman, NCSO
Rick Farmer, Economic Development Director
Eric Nieto, I.T. Director
Andrew Wigger, Clerk to Council/PIO

ABSENT:

Mr. Shealy called the meeting to order at 6:00 p.m.

Mr. Scurry led the invocation and Pledge of Allegiance.

1. Adoption of Consent Agenda:

- a. Newberry County Council Work Session – November 20, 2024.
- b. Newberry County Council Meeting – November 20, 2024.

c. Newberry County Economic Development Committee Meeting – November 25, 2024.

- Mr. Sease made a motion to adopt the minutes as presented; Mr. Scurry provided the second and the motion carried 7-0.

2. Additions, Deletions & Adoption of the Agenda.

- Mr. Hipp made a motion to adopt the agenda as presented; Mr. Reeder provided the second and the motion carried 7-0.

3. Resolution No. 09-2024. A Resolution Honoring Councilman Leslie “Les” Hipp.

- Mr. Sease made a motion to adopt the Resolution; Mr. Reeder provided the second and the motion carried 6-0, with Mr. Hipp recusing himself from the vote.
- Mr. Hipp thanked his fellow councilmembers for this honorable Resolution, and he appreciates it immensely.
- Mr. Hipp said he could not do this without his wife, Mrs. Beth Hipp, who supported him this entire time.
- Mr. Hipp was presented with a plaque for his years of service to Newberry County.

4. Ordinance No. 11-01-2024. An Ordinance to Amend Chapter 91 of the Code of Ordinances of the County of Newberry to Adopt Road and Development Design Standards and Specifications.

a. Public Hearing

- Mr. Shealy declared the Public Hearing open, with no one signing up or standing to speak, Mr. Shealy declared the Public Hearing closed.

b. Second Reading.

- Mr. Fulmer made a motion to approve second reading; Mr. Hipp provided the second and the motion carried 7-0.

5. Ordinance No. 12-01-2024. An Ordinance to Amend Chapter 152 of the Code of Ordinances of the County of Newberry to Adopt Updated Standards for the Reduction of Flood Hazards.

a. First Reading.

- Mr. Sease made a motion to approve first reading; Mr. Fulmer provided the second and the motion carried 7-0.

6. Consideration of a motion to adopt the proposed 2025 County Council Meeting Schedule.

- Mr. Fulmer made a motion to adopt the 2025 County Council Meeting Schedule; Mr. Scurry provided the second.
- Mr. Sease said usually the first meeting in July they do not have a meeting, but it looks like there is one scheduled for next year; Mr. Shacker answered in the affirmative and said that is what staff was proposing.
- The motion carried 7-0.

7. Consideration and approval of a bid for HVAC Replacements of thirteen units (seven Newberry County locations) (Bid No. 2024-9).

- Mr. Shacker said this was a project staff proposed the grant application to the S.C. Energy Office, to which council approved. Staff submitted an application for the federal fund for replacement of heating/air units. The scope of the project is 13 units in seven buildings. The project budget that was previously approved \$156,300, \$75,000 of which would be funded via the grant.
- The lowest bidder was Fulmer Heating and Cooling was under budget at \$104,646, making the local share \$29,646.
- Mr. Sease made a motion to approve the low bid from Fulmer Heating and Cooling; Mr. Reeder provided the second.
- Mr. Hipp said he thinks it is good they got these bids in under what they expected, and was glad the lowest bidder was local to the county.
- Mr. Johnson said he thinks it is good business, and it will save the county money in the long run.
- The motion carried 7-0.

8. Appointments.

- There were no appointments.

9. Public Comments.

- There were no public comments.

10. Executive Session:

a. Contractual Matter(s):

i. Discussion of matters related to the proposed purchase of real estate pursuant to SC Code of Laws Section 30-4-70(a)(2)

- Mr. Hipp made a motion to go into Executive Session; Mr. Fulmer provided the second and the motion carried 7-0. Newberry County Council went into Executive Session at 6:19 p.m.
- Mr. Fulmer made a motion to come out of Executive Session; Mr. Sease provided the second and the motion carried 7-0. Newberry County Council came out of Executive Session at 6:59 p.m.
- No action was taken.

11. Comments/Requests from County Administrator.

- Mr. Shacker said staff appreciates this council, and that Mr. Hipp and his service to Newberry County and staff will miss him greatly.
- Mr. Shacker wished council a Merry Christmas and a Happy New Year.

12. Comments/Requests from Council.

- Mr. Scurry said he hopes Mr. Hipp enjoys himself in retirement, and he is so proud to see everyone in attendance.
- Mr. Reeder said to Mr. Hipp that they would truly miss him. He said he hopes they get to do everything they want to do in that time. He then wished everyone a happy holiday and to be safe.

- Mr. Sease thanked Mr. Hipp for all of his years of service to the county. He added that he would not be on council if it wasn't for Mr. Hipp putting a bug in his ear to run and that it has been an eye-opening experience.
- Mr. Fulmer said it has been a pleasure working with Mr. Hipp. He added that he values Mr. Hipp's opinion and respects all the work he has done for Newberry County, and it is very much appreciated. Mr. Fulmer added that they are praying for Mrs. Johnson's recovery.
- Mr. Johnson said to Mr. Hipp that he gives him all the honor and that he is a blessing. He said Mr. Hipp has challenged and pushed him in many ways, and that he respects that, and he has made him better. He thanked him for his wisdom and guidance. He said the scriptures say iron sharpens iron, and Mr. Hipp has done that. Mr. Johnson said to everyone who has called and texted, thank you and they covet their prayers in the days to come.
- Mr. Shealy said he appreciates all Mr. Hipp has done for Newberry County, and all he has done for him.
- Mr. Hipp told Mr. Johnson his prayers are with him and Mrs. Johnson to have a full and rapid recovery. He said his wife is with him tonight, and he knows how important it is to have a spouse that supports you. Mr. Hipp thanked administration for all they have done to help him through the years he has been on council. He thanked those who came out earlier to the reception and was humbled by those who came out to wish him well. He said a questioning attitude is something they should all have in

their toolbox, and no one should hesitate to ask questions.

13. Future meetings:

- a. Newberry County Finance Committee – December 9 at 5 p.m. (Cancelled)
- b. Newberry County Council, if needed – December 18 at 6 p.m.
- c. Christmas Holiday – December 24-26 – Offices Closed.
- d. New Years Day – January 1, 2025 – Offices Closed.

14. Adjournment.

- Mr. Hipp made a motion to adjourn; Mr. Scurry provided the second and the motion carried 7-0.
- Newberry County Council adjourned at 7:09 p.m.

NEWBERRY COUNTY COUNCIL

Robert Shealy, Vice-Chairman

Andrew Wigger, Clerk to Council

Minutes Approved: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

ORDINANCE NO. 11-01-2024

AN ORDINANCE AMENDING THE NEWBERRY COUNTY CODE OF ORDINANCES, CHAPTER 91, EXPANSION OF THE COUNTY ROAD SYSTEM, RENAMING THE CHAPTER “NEWBERRY COUNTY CODE OF ORDINANCES CHAPTER 91 – ROAD AND DEVELOPMENT DESIGN”, ADOPTING STANDARDS FOR THE DEVELOPMENT AND DESIGN OF ROADS AND BRIDGES ACCEPTED INTO THE NEWBERRY COUNTY PUBLIC ROADS SYSTEM, AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH TO THE EXTENT NECESSARY TO GIVE THIS CHAPTER FULL FORCE AND EFFECT.

WHEREAS, the South Carolina General Assembly enacted an amendment to the Code of Laws of South Carolina to incorporate therein a new Chapter 29 to Title 6 of the Code of Laws of South Carolina, 197, as amended, entitled “South Carolina Local Government Comprehensive Enabling Act of 1994” which repealed certain previously-enacted planning acts and codes; and

WHEREAS, the 1994 South Carolina Local Government Comprehensive Planning Enabling Act, as amended, and other applicable provisions of the South Carolina Code of Laws, as amended, gives the County of Newberry the authority to protect and promote the public health, safety, and general welfare of the County by providing for the safe and efficient design of roads and developments in Newberry County; and

WHEREAS, Newberry County Council desires to require that new or expanded roads and developments meet safety and construction requirements before acceptance into the Newberry County Public Roads System; and

WHEREAS, existing roads that previously met applicable requirements and have been accepted and maintained by the County prior to the enactment of this Ordinance are not affected.

NOW, THEREFORE BE IT ORDAINED by the County Council of the County of Newberry, in Council duly assembled this 8th day of January 2025, that the provisions of *Newberry County Code of Ordinances Chapter 91 – Road and Development Design* are hereby adopted.

NEWBERRY COUNTY COUNCIL

BY: _____
Todd Johnson, Chairman

(SEAL)

ATTEST:

Andrew Wigger, Clerk to Council

Approved as to form:

Joanie Winters, Interim County Attorney

Jeff Shacker, County Administrator

1st Reading: November 20, 2024
2nd Reading: December 4, 2024
Public Hearing: December 4, 2024
3rd Reading: January 8, 2025

Table of Contents

ARTICLE I – AUTHORITY AND PURPOSE

- 91.01 TITLE AND AUTHORITY
- 91.02 JURISDICTION
- 91.03 PURPOSE
- 91.04 SCOPE
- 91.05 SEVERABILITY
- 91.06 RELATION TO OTHER ORDINANCES
- 91.07 REPEAL OF CONFLICTING ORDINANCES
- 91.08 EFFECTIVE DATE

ARTICLE II – ADMINISTRATION AND ENFORCEMENT

- 91.09 COUNTY COUNCIL
- 91.10 COUNTY ADMINISTRATOR
- 91.11 DIRECTOR OF PUBLIC WORKS

ARTICLE III - DEFINITIONS

- 91.12 GENERAL USAGE OF TERMS
- 91.13 DEFINITIONS

ARTICLE IV – ROAD ACCEPTANCE PROCESS

- 91.14 COUNTY ACCEPTANCE REQUIRED
- 91.15 DEVELOPMENTS AND SUBDIVISION PROCEDURES
- 91.16 INSPECTIONS
- 91.17 COUNTY ASSISTANCE AND ACCEPTANCE
- 91.18 CRITERIA FOR ACCEPTANCE
- 91.19 EXCEPTIONS

ARTICLE V - REGULATIONS

- 91.20 GENERAL REQUIREMENTS
- 91.21 STREET DESIGN STANDARDS
- 91.22 CULVERTS, PIPES, AND TRENCHES; STORM DRAINS; CATCH BASINS
- 91.23 NATURE OF STORM WATER FACILITIES
- 91.24 SUB-GRADE
- 91.25 BASE COURSE
- 91.26 PAVEMENT
- 91.27 BRIDGES
- 91.28 ROAD DEDICATIONS AND RESERVATIONS
- 91.29 POLICY STATEMENTS
- 91.30 NAMING OF ROADS
- 91.31 ROAD CLOSING
- 91.32 CUTTING OF TREES, BRANCHES, LIMBS, AND OTHER OBSTRUCTIONS

ARTICLE VI – PAVING OF UNPAVED COUNTY ROADS

- 91.33 COUNTY ROADS ONLY
- 91.34 NECESSARY RIGHT-OF-WAY FOR PAVING REQUESTS
- 91.35 APPLICATION PROCESS
- 91.36 NO GUARANTEE OF PAVING
- 91.37 METHOD OF PAVING

Article I – Authority and Purpose

§ 91.01 TITLE AND AUTHORITY.

This chapter is known and may be cited as *Newberry County Code of Ordinances Chapter 91 – Road and Development Design* and may be cited and abbreviated as “this Chapter”, “this Ordinance”, “Chapter 91” or the “RDD Ordinance.” The chapter is adopted pursuant to authority granted in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, S.C. Code §§ 6-29-310 *et seq.*, and other applicable provisions of the South Carolina Code of Laws, as amended.

§ 91.02 JURISDICTION.

The provisions of this chapter shall apply throughout the unincorporated area of Newberry County and to the areas within those municipalities that consent to have these regulations apply to the roads within such municipalities.

§ 91.03 PURPOSE.

The purpose of this Chapter is to protect and promote the public health, safety, and general welfare of the County by providing for the safe and efficient design of roads and developments in Newberry County. Specifically, it is to require that new or expanded roads and developments meet safety and construction requirements before acceptance into the Newberry County Public Roads System, which is cited and abbreviated as “County System.” Roads that have previously met the applicable requirements and have been accepted and maintained by the County are not affected.

§ 91.04 SCOPE.

- (A) No subdivision plat, land development plan, new road, or road expansion shall be approved unless the road or development can be used safely and is constructed to the standards provided in this Chapter and Chapter 154.
- (B) No new road or road expansion shall be approved or brought into the County System unless it meets the requirements of this Chapter and Chapter 154, as applicable.
- (C) The regulations and procedures contained within this code are the minimum provisions for the protection of the health, safety, and welfare of the general public. This Chapter is not intended to cover all situations that may be encountered; the developer, builder, and owner of the road or development is strongly encouraged to consult national, state, and local design standards that may apply to the property.
- (D) The Newberry County Director of Public Works or their designee may require higher standards than those provided in this Chapter to insure safety and the construction of quality infrastructure.

§ 91.05 SEVERABILITY.

Should any specific section, standard, or provision of this Ordinance 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. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

§ 91.06 RELATION TO OTHER ORDINANCES.

If the provisions of this Chapter conflict with the provisions of any other validly enforceable ordinance(s),

the most stringent provisions shall control.

§ 91.07 REPEAL OF CONFLICTING ORDINANCES.

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

§ 91.08 EFFECTIVE DATE.

These regulations shall become effective upon the date of their adoption by the County Council of Newberry County.

Article II – Administration and Enforcement

§ 91.09 COUNTY COUNCIL.

- (A) Newberry County Council has authority to adopt, repeal, or amend the provisions of this Chapter, and to take any other action as the County Council may deem desirable and necessary to implement the provisions of this Ordinance.
- (B) County Council has the sole authority to authorize the inclusion of a road or a road extension into the County System.

§ 91.10 COUNTY ADMINISTRATOR.

The Newberry County Administrator shall appoint the Newberry County Land Development Administrator and the Newberry County Director of Public Works and shall have the authority to exercise any and all duties and authorities assigned to such.

§ 91.11 DIRECTOR OF PUBLIC WORKS.

- (A) The Newberry County Director of Public Works is designated as the official to administer the provisions of this Chapter.
- (B) General duties of the Director of Public Works related to this Chapter include, but are not limited to:
 - (1) Receipt of any petition to have a road admitted into the County System.
 - (2) Verification that any proposed new road or development complies with the criteria provided in this Chapter.
 - (3) Coordination with the Newberry County Land Development Administrator in the review of all subdivision plats to insure that any new or expanded road or development meets the requirements of this Chapter and Chapter 154 – Land Development Regulations. The Director of Public Works or their designee may also assist with public street construction management and inspections as requested by the County Administrator or required by this Ordinance.
 - (4) Coordination with developers and persons constructing, expanding, or improving any road to ensure compliance with the requirements of this Chapter.
 - (5) Provision of a recommendation to County Council for all proposed new roads or road extensions for inclusion into the County System.
 - (6) The collection and presentation to the County Road Committee and County Council of all information necessary for those bodies to approve acceptance of proposed new or expanded roads into the County System.

- (7) The performance of any related duties as directed by the County Administrator and County Council.

Article III – Definitions

§ 91.12 GENERAL USAGE OF TERMS.

- (A) Except as specifically defined herein, all words and phrases used in Chapter 91 have their customary dictionary definitions.
- (B) The present tense includes the past and future tenses.
- (C) Singular words shall include the plural, and plural words include the singular.
- (D) The words “*County Council*” mean the County Council of Newberry County, South Carolina.
- (E) The words “*County Administrator*” mean the County Administrator of Newberry County, South Carolina as appointed by the County Council of Newberry County, South Carolina.
- (F) The words “*Land Development Administrator*” mean the Newberry County Land Development Administrator as designated by the County Administrator.
- (G) The words “*County Road Committee*” mean the Newberry County Road Review Committee as appointed by the County Administrator.
- (H) The words “*Director of Public Works*” mean the Newberry County Director of Public Works as appointed by the County Administrator.
- (I) Any reference to a “chapter” or “ordinance” shall mean a chapter of the *Newberry County Code of Ordinances*, unless otherwise specified.
- (J) The words “*Developer*,” “*Applicant*,” and “*Subdivider*,” whether capitalized or not, are interchangeable and mean the owner of land proposed to be subdivided or their representative who is responsible for any undertaking that requires review under this chapter.
- (K) The words “shall,” “will” and “must” are mandatory; and the word “may” is permissive, except when the context of the particular use is negative (e.g., “may not”).
- (L) The word “road” includes the words “street” and “highway.”
- (M) The word “person” includes an individual, firm, association, organization, partnership, corporation, company, trust, governmental unit, and any combination thereof.
- (N) The word “day” or “days” means calendar days unless otherwise specified.
- (O) Words used in the masculine gender include the feminine gender and vice versa.
- (P) The words “lot” or “property” include the words lot, plot, parcel, property, or tract.
- (Q) The word “structure” includes the words building and accessory structure.

§ 91.13 DEFINITIONS.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CLEARING AND GRUBBING. The removal of all vegetation, including trees, stumps, roots, brush, and any other objectionable material before grading begins typically within a proposed right-of-way.

COUNTY ROAD. Any road or street acquired by Newberry County either by donation, purchase, adverse possession, condemnation, dedication, or having previously been accepted for and continuously maintained by the County.

CUL-DE-SAC. A minor street having one end open to motor vehicle traffic and one end terminating in a turnaround.

DEDICATION AND WARRANTY PERIOD. A period of time following the date the final plat is approved by the County to final acceptance of the roadway into the County System that allows for the periodic review of the construction standards of the roadway.

FINANCIAL GUARANTEE. A financial surety made by a developer to Newberry County for the costs of improvements related to development. Financial guarantees include a cash bond, irrevocable letter of credit, or other acceptable security approved by Newberry County.

GRADING. The adjustment of the slope and soil elevation on a development site, including the removal of all trees, stumps, rocks, and vegetative matter, to a depth of two feet below sub-grade. Grading shall be complementary to the original topography of curves, hills, creeks, streams, and bridges.

LAND DEVELOPMENT. The changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease, or any combination of owner and rental characteristics.

NON-THROUGH ROAD. A road connecting to only one other road, which must be a publicly maintained through road.

RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses. See also "Easement."

ROADBED. The traveling surface of a road's right-of-way (typically not less than 22 feet), and which lies between the ditching or curbing portion of the right-of-way.

SPEED LIMIT. The maximum speed at which a vehicle may legally travel on a particular stretch of road.

STREET CLASSIFICATIONS.

- (1) **ARTERIAL ROAD.** A road of regional importance or a main road of the community that is expected to carry either heavy vehicular traffic volumes or high-speed traffic or both. Arterial roads form a connected network of continuous routes that provide countywide and regional linkages. Arterials are characterized as having access control, channelized intersections, and signalization. Service to abutting land is subordinate to the provision of travel service.
- (2) **COLLECTOR ROAD.** A road that is used or intended to be used for moving traffic from local roads to arterial roads. Collectors are generally shorter than arterials but carry high volumes of traffic. Collector roads carry primarily residential traffic but provide no or limited residential frontage.
- (3) **LOCAL ROAD.** Local roads primarily provide access to adjacent land and road systems of higher classification and travel over relatively short distances compared to collector roads. The local street system comprises all facilities not assigned a higher classification and offers the lowest level of mobility.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record.

THROUGH ROAD. A road connecting to two or more other roads, one of which must be a publicly maintained road.

Article IV – Road Acceptance Process

§ 91.14 COUNTY ACCEPTANCE REQUIRED.

- (A) **Generally.** It is hereby ordained by Newberry County Council that the County will not accept title to, easement for, or maintenance responsibility of any road or street unless the road or street meets the criteria of this Chapter and Chapter 154.
- (B) **Requirements.** Other than contained herein, all roads accepted into the County System shall be designed and constructed equal to, or better than, the standards and specifications required by the South Carolina Department of Transportation (SCDOT).
- (1) For roads and extensions of roads, the County will not accept rights-of-way less than 50 feet in total width for through roads or non-through roads.
 - (2) Additional right-of-way may be required by the County Road Committee or County Council for excessive cuts, fill slope areas, drainage, and cul-de-sac turnarounds.
 - (3) The County will not accept any road right-of-way that does not connect with an existing publicly maintained road or street which is:
 - (a) An existing state, county, or city owned and maintained street; or
 - (b) A street shown upon a plat approved by the Joint Planning Commission and recorded in the County Clerk of Court’s office. The street or highway must be suitably improved as required by these regulations and specifications or be secured by a performance bond required under this Chapter and Chapter 154 with the width and right-of-way required by this Chapter and Chapter 154.
 - (4) Road Acceptance.
 - (a) Acceptance of any road is subject to requirements of the dedication period, as defined in this Chapter. No road may be accepted unless accompanied by a financial guarantee in the amount specified in §91.14(B)(5), or in such greater amount determined by the County to be sufficient to cover any estimated cost of repairs for a period of two years from the date of acceptance by the County (i.e. the “dedication and warranty period”). This period serves to assure the County as to the quality of construction of the roadway.
 - (b) In the event that the road, as constructed, does not continue to meet the minimum standards approved for such road during the entire two-year dedication period, the County will be entitled to pursue its remedies under the financial guarantee given to the County. If such are insufficient to bring the road up to standards, the County may pursue civil remedies against the developer, contractor, grantor(s), or other responsible

party, and shall be entitled to collect all of its attorneys' fees and court costs from such responsible party in so doing.

- (c) If the acceptance of the road by the County was procured by a fraudulent act, or if the road cannot be brought into compliance with the funds available from the surety and from other resources readily obtainable from the responsible party, the County may seek a court order authorizing it to revoke its acceptance of such road and to remove it from the County System, in addition to any other remedies it may have pursued or been entitled to pursue. If such relief is sought, the County shall be entitled to collect all of its attorneys' fees and court costs in pursuing such relief, whether or not it is successful in obtaining such relief.
- (5) **Financial Guarantee.** The amount of financial guarantee to be provided for repairs required during the dedication period is as follows:
- (a) For roads paved with asphalt, \$35,199 per one-quarter (1/4) mile or a figure approved by County Council during the annual budget process.
 - (b) Provided, however, the financial guarantee for a new road may be more or less than the amount provided in §91.14(B)(5)(a) if determined warranted by the Director of Public Works when considering the soil type, storm water drainage, construction methods, or other conditions or circumstances affecting the road.
 - (c) Any aggrieved person may petition the County Administrator within 30 days of the determination adverse to the person so aggrieved by the Director of Public Works for a review of the financial guarantee required. The County Administrator's determination will be final.
- (6) All off-site road improvements required by traffic impact studies as required by the requirements of this Chapter and Chapter 154 must be completed and accepted by SCDOT and/or Newberry County before any new road can be approved by Newberry County. Where improvements to an existing street or road are identified as being required in a required traffic impact study, the applicant/developer shall be required at his sole expense and as a condition of approval, to provide and install such improvements, including securing the additional rights-of-way required in accordance with applicable provisions of this Chapter.
- (C) **Encroachments.** Encroachment permits must be obtained from the Newberry County Department of Public Works prior to the performance of any work within the right-of-way of any road within the County System by an individual or agency other than Newberry County or an agent of Newberry County. This includes non-routine maintenance of, and revisions to, any existing approved encroachment. The applicant or his agent will be responsible for completing all work in compliance with the approved encroachment permit. The applicant or his agent shall also be responsible for the cost to repair damage within the right of way prior to or upon completion of the permitted work. Further, the applicant or his agent shall be responsible for the cost to repair any future damage within the road right of way caused by the work performed by the contractor or actions taken by the contractor.
- (D) **Driveway/Access Point Installation Policy.**
- 1) Newberry County will provide one access point to any parcel within Newberry County which is contiguous to a road within the County System. If the parcel already has an existing access,

Newberry County will not provide any additional access points to that same parcel. Additional access points to the parcel may be installed by the owner of the parcel, at their own expense, and will be required to meet specifications and be documented via an approved encroachment permit. There will be no charge to the applicant for the permit.

- 2) The standard size access point installed by Newberry County shall be 24' in width, using either reinforced concrete pipe (RCP) or SCDOT-rated double walled HDPE plastic pipe at the discretion of the Director of Public Works with consideration given to the appropriate amount of cover and material necessary. If larger or wider access is desired, and the wider access is approved by the County, it will be the applicant's responsibility to provide the additional pipe. If there is not enough space to install the standard size access point, the Director of Public Works will adjust the width as necessary to install the access point appropriately.
- 3) Any access point that directly adjoins a road with a paved surface will be provided an asphalt apron to provide a proper transition and prevent damage to the edge of pavement.
- 4) Newberry County will assume maintenance responsibilities for any access point that the County installs or any access point that is permitted by the County, provided that it meets SCDOT specifications. Newberry County reserves the right to refuse maintenance if the access point is determined to be an unauthorized encroachment or if the access point pipe does not meet SCDOT specifications.
- 5) Access points must be installed no closer than five feet from an existing property line.
- 6) When an access point is requested, the applicant must provide proof of ownership of the parcel in the form of a plat or deed. Newberry County may request additional documentation if it deems necessary, such as a building permit or SCDES issued percolation test in specific situations.

§ 91.15 DEVELOPMENT AND SUBDIVISION PROCEDURES.

- A. Preliminary plats.** Preliminary plats must be submitted, reviewed, and approved in accordance with the requirements of Chapter 154.

§ 91.16 INSPECTIONS.

- (A)** Newberry County will inspect the project as required to monitor progress, conduct quality control tests, and observe construction procedures. All aspects of the development shall be constructed according to the approved land development plan and specifications. The project is subject to inspection at any time.
- (B)** Although an inspector may be aware of the construction process and arranges to be on-site when appropriate, there are certain stages of road construction which shall require approval prior to proceeding. A 24-hour notice is required to ensure that an inspector can be on-site at the requested time. The stages are as follows:
- (1) Before any base material is placed on the subgrade: in "virgin-cut" areas, proof-rolling can normally be used to check the stability of the subgrade; in fill areas and other questionable areas, compaction tests may be required.
 - (2) Prior to placement of the curb.
 - (3) Prior to application of the prime coat on the base material.

- (4) At the start of any paving/surfacing operation.
- (C) All required compaction and material tests shall be performed at the expense of the developer by a professional soils engineer to run compaction tests and certify in writing that the County's compaction and proof roll requirements have been achieved.

§ 91.17 COUNTY ASSISTANCE AND ACCEPTANCE

- (A) The County Administrator or the Director of Public Works shall provide assistance to the general public, developers, and contractors in matters related to this Chapter.
- (B) A copy of the County's road specifications will be available in the office of the County Administrator and the office of the Director of Public Works.
- (C) Upon satisfactory evidence that a road meets the minimum requirements as specified in this Chapter, County Council may, upon considering all information, accept responsibility for its maintenance.

§ 91.18 CRITERIA FOR ACCEPTANCE

The following criteria must be met for acceptance of a road into the County System.

- (A) All through and non-through roads accepted into the County System must include easements, executed by all adjoining property owners, granting the County a road and maintenance easement 50 feet in width for the road's entire length.
 - (1) Additional easements must be granted to the County, as required, for drainage and cul-de-sac turnarounds, and to otherwise ensure the safe use and proper maintenance of the road.
 - (2) Easement dimensions will be determined by the Director of Public Works.
- (B) Submission of appropriately executed easements, plats, deeds, or court orders concerning the road's ownership and legal disposition.
- (C) As befitting any road's status as a public road, there shall be no barriers, chains, gates, or fences that would block any portion of the road or street, and that would restrict movement of the traveling public.
- (D) Any developer, contractor, or grantor(s) shall provide a performance bond, certificate of deposit, or letter of credit with a two-year dedication and warranty period, as outlined in this Chapter.
- (E) All road signs, including but not limited to, stop, speed limit, curve, yield, hill, road name, and bridge marking, must be in place. Following acceptance, signs will be replaced by the County when damaged, upon reaching end of life, or at the discretion of the County. However, decorative signs installed by the developer, contractor or owner prior to acceptance by the County shall either be replaced with standard signs by the County at its discretion or replaced with decorative signs at the expense of the developer, contractor, grantor or property owners.
- (F) All utilities shall be located off the roadbed and shall not be laid in ditches or curb lanes. No portion of the roadbed shall be used for water, sewer, telephone, gas, electrical, or cable. All utilities shall be placed at the outermost portion of the right-of-way.
- (G) The County may require any developer, contractor or owner to conduct soil testing to determine the quality of soil in the roadbed and right-of-way.
- (H) Except as provided for in §91.29(A), after July 31, 2007, no road shall be accepted into the County System unless it has been paved to final specifications, including a final topcoat of paving, or unless

adequate provision has been made in the form of the posting of an adequate financial guarantee to provide for finishing the paving of the road as provided in Chapter 154. This bond is in addition to the surety required for the two-year dedication and warranty period set forth in section (D) above.

- (I) All drainage, base setting, paving, and other road construction standards shall be in accordance with the provisions of this chapter, and any other standards adopted by the County with regard to road design, construction and/or maintenance.
- (J) The maximum speed limit for all gravel, dirt, or unimproved roads in the County System shall be 25 miles per hour, or as otherwise approved by Newberry County Council. The speed limit for all triple treatment and asphalt roads shall be 30 miles per hour, or as otherwise approved by County Council.
- (K) Mail and newspaper boxes may not project over the dedicated right-of-way.
- (L) Roads shall not dead-end unless an acceptable cul-de-sac or turnaround is established and transferred to the County by easement.
- (M) All blind spots shall be eliminated in order to provide for the efficient and safe movement of traffic.
- (N) Each road shall be constructed in a manner that prevents water from causing a hazard to vehicles and property. Drainage pipes or ditches shall be constructed to prevent erosion and flooding to the road and to adjoining property.
- (O) The County will not accept any road into the County System that does not connect with an existing publicly maintained road.
- (P) No paving materials shall be laid on a roadbed that is unstable.

§ 91.19 EXCEPTIONS.

- (A) Under limited circumstances, County Council may accept into the County System roads that do not otherwise meet current construction and other acceptance standards, provided that all of the following criteria are met:
 - (1) Presentation of properly executed documents, including but not limited to, deeds, plats, written agreements, court orders, and/or easements, evidencing continuous and current maintenance of the road by a federal or state agency, or by a municipality of the county, for at least three years;
 - (2) Recording of documents granting easements to the County from adjoining property owners, as necessary to provide for a 50-foot right-of-way for the entire length of through and non-through roads; to provide for required turnarounds that terminate in cul-de-sacs; and to provide for any other maintenance, drainage, or other easements that, in the judgment of the Director of Public Works, are necessary for the road's safe use and proper maintenance; and
 - (3) Examination by County Council to determine any increased need for resources associated with accepting such roads.
- (B) County Council may accept a developer's or grantor's bond instead of a bond issued by an authorized insurance or bonding company.
 - (1) The bond must be in cash or certified check.
 - (2) The cash bond or certified check will be deposited into a designated account established in the name of the development for guarantee of completed work.
 - (3) A letter of credit may be accepted in lieu of cash or a certified check for a period of 24 months.

Article V – Regulations

§ 91.20 GENERAL REQUIREMENTS.

- (A) Proposed streets or roads should be coordinated with the present system in the surrounding area.
- (B) Street and road grades shall be consistent with the topography, classification, and function of the proposed road. In no case should the road or street grade exceed 12%.
- (C) Turnarounds shall be provided at the closed end of all streets and roads and shall have a minimum 50 foot radius.
- (D) No more than two streets shall intersect at any angle of less than 75 degrees.
- (E) All streets and roads shall have official SCDOT compliant stop signs, speed limit signs, curve, hill, bridge markings, and official Newberry County road name signs in place before Council acceptance. Following acceptance, signs will be replaced by the County when damaged, upon reaching end of life, or at the discretion of the County. However, decorative signs installed by the developer, contractor or owner prior to acceptance by the County shall either be replaced with standard signs by the County at its discretion or replaced with decorative signs at the expense of the developer, contractor, grantor or property owners.
- (F) Adequate sight distance and vision clearance shall be maintained at all intersections meeting the applicable requirements of the Newberry County Code of Ordinances, including Chapters 153 and 154, or SCDOT sight distance criteria if not specified.
- (G) **Grading and Improvement Plan.** Before grading is started, the entire right-of-way shall be cleared of all trees, stumps, roots, brush, and any other objectionable material. All proposed streets and roads shall be graded, constructed, and surfaced in accordance with the requirements of this Chapter and with appropriate standards and specifications established by the State of South Carolina and Newberry County or their duly authorized agents. All roadway designs and specifications shall be approved by the Director of Public Works, in accordance with the construction plans required to be submitted prior to final plat approval.
- (H) **Topography and Arrangement.**
 - (1) Roads shall be designed relative to the topography to provide safe and navigable passage for vehicles.
 - (2) All shoulders and slopes shall be shaped, trimmed, and compacted. The construction shall be so performed that the shoulders, adjacent ditches, and slopes will be adequately drained at all times. All shoulders on the earth-type base course for a width of 18 inches shall be compacted. All back slopes shall be graded to a minimum of 45 degrees. Ditches or gutters emptying from cuts to embankments shall be constructed to avoid erosion of the embankment.
 - (3) Buried utilities. All electrical, telephone, cable, telecommunications, fiberoptic, water, sewer, natural gas, and other such lines shall be buried in the right-of-way at a depth of at least 36 inches below the finished grade where the installation is being performed. All installations must be outside of the paved road area unless it is deemed impossible to do so by the Director of Public Works.
 - (4) Minor streets shall be curved whenever possible to avoid uniformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at or above

the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.

- (5) The location and width of all proposed streets shall be in conformity with official plans and maps and with existing amended plans of the Joint Planning Commission.
- (6) All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
- (7) Local roads shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
- (8) A rigid rectangular gridiron street pattern is not necessary. The use of curvilinear streets shall be encouraged where the use will result in a more desirable layout.

(I) Channel Seeding.

- (1) All constructed channels shall be uniform in cross-sections and fully grassed, including any berms, dikes, and spoil areas along the side of the channels. If a good planting or permanent grassing cannot be established, the property owner or his agent may sign an agreement stating that he will be responsible for the channels until they are accepted by the County. All road ditches are excluded.
- (2) Channel seeding shall conform to SCDOT seeding requirements.
- (3) The following are not recommended for slopes over 5%: weeping love grass, yellow bluestem, alfalfa, crab grass, and lespedeza.

(J) Street Extensions.

- (1) The street layout of proposed subdivisions shall provide for the continuation or projection of streets already existing in areas adjacent to the area being subdivided unless the Land Development Administrator and the Director of Public Works advise, and the Joint Planning Commission determines, that the continuation or extension is undesirable for specific reasons of topography or design.
- (2) Where the Land Development Administrator and the Director of Public Works advise and the Joint Planning Commission determines that it is necessary to provide street access to adjoining properties, and that other means of access are not reasonably available to the adjoining properties, proposed streets shall be extended by dedication to the boundaries of the properties. Where the Land Development Administrator and the Director of Public Works advise and the Joint Planning Commission deems it necessary, dead-end streets shall be provided with an approved temporary turnaround having a radius of at least 40 feet.
- (3) The street system for a proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

- (K)** In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types and modes of traffic, including pedestrian.

(L) Street Names.

- (1) Streets or roads that are extensions of, or obviously in alignment with, existing named streets shall bear that name.
- (2) The names of new streets and roads shall be subject to the approval of the Joint Planning Commission and shall not duplicate or be similar in sound to existing names, irrespective of the use of the suffix street, avenue, circle, way, boulevard, drive, place, or court or the like.

(M) Permanent Dead-end Streets.

- (1) Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Joint Planning Commission for access to adjoining property, its terminus shall not be nearer to the boundary than 50 feet.
- (2) The Joint Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities.
- (3) A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with the following specifications:
 - a) Streets or roads designed to be closed at one end shall be no longer than 2,000 feet, and shall be terminated by a circular right-of-way with a radius of not less than 50 feet;
 - b) If a street or road designed to be closed at one end is longer than 2,000 feet, it shall have a turnaround every 2,000 feet (Example: a road that is 4,000 feet in length that is also a cul-de-sac shall have two turnarounds).
 - c) The 2,000 foot distance shall be measured from the nearest road or street intersection to the road's end.
- (4) For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length in accordance with the design standards of these regulations.

- (N) Alleys.** Service alleys or drives may be required in developments with multiple dwellings and in commercial and industrial developments. Such service alleys and drives shall have a minimum surface treatment width of 15 feet but shall not be provided in one- and two-family residential developments unless the subdivider provides evidence satisfactory to the Joint Planning Commission of the need for alleys.

§ 91.21 STREET DESIGN STANDARDS.

- (A) General Requirements.** In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to law enforcement, firefighting, sanitation and road-maintenance equipment, and to coordinate so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required. Street classification may be indicated on the Major Thoroughfare Plan or Official Map; otherwise, it shall be determined by the Joint Planning Commission.

Improvement	Residential Development	Non-Residential Development
(1) Minimum Right-of-Way Width (feet)¹		
Local Road	50'	66'
Marginal Access Street	50'	66'
Cul-de-Sac	100'	100'
(2) Minimum Finished Surface Width (feet)^{2, 3}		
Local Road	22' ^{2, 4, 5}	36'
Marginal Access Street	22' ^{2, 4, 5}	36'
Cul-de-Sac	22' ^{2, 4, 5}	36'
Collector Street	24' ^{2, 5}	50'
Notes to Table Sections (1) and (2):		
¹ Right-of-way widths greater than minimum are encouraged because they make for a safer, more aesthetic, and more comfortable facility and permit future roadway widening without disrupting abutting properties.		
² Pavement widths shown do not provide for on-street parking; service lanes are intended only for loading and unloading of passengers and goods and for disabled vehicles and not for the storage of vehicles.		
³ An 18-inch wide grass strip should be provided between the right-of-way boundary and the outside edge or back of any sidewalk constructed within the right-of-way. This permits the placing of utility poles at the back of the sidewalk and retention of a grass strip between the sidewalk and the curb or edge of pavement; both of these features are highly desirable, particularly in terms of safety.		
⁴ When curb and gutter is used, 24' minimum measured from the face of each curb or from the low point of valley gutter to the low point of valley gutter.		
⁵ Measured from edge of pavement to edge of pavement when a typical State Highway Department farm-to-market road section is used.		
(3) Maximum Grade (percent)		
Local Road	10%	6%
Marginal Access Street	10%	6%
Cul-de-Sac	8%	6%
(4) Minimum Radius of Curve (feet)		
Local Road	150'	200'
Marginal Access Street	150'	200'
Cul-de-Sac	100'	200'
Collector Street	200'	300'
(5) Minimum Length of Tangents Between Reverse Curves (feet)		
Local Road	100'	200'
Marginal Access Street	200'	200'
Cul-de-Sac	100'	200'
Collector Street	300'	300'

Improvement	Residential Development	Non-Residential Development
(6) Minimum Design Speed (mph)		
Local Road	25	30
Marginal Access Street	25	30
Cul-de-Sac	20	30
Collector Street	30	35
(7) Minimum Turnaround (Diameter in feet)		
Cul-de-Sac (Right-of-Way)	100'	120'
Cul-de-Sac (Pavement Width)	80'	100'
Cul-de-Sac with Center Island (Right of Way / Island / Pavement Width)	100' / 40' / 30'	120' / 60' / 30'
(8) Maximum Length of Cul-de-Sac (feet)		
Permanent	1,000'	600'
Temporary	1,000'	1,000'

- (9) Primary and secondary arterial design standards are as required by the Major Thoroughfare or Official Map and the South Carolina Department of Transportation. Normally, the streets will require reservation or dedication of right-of-way by the subdivider and improvements by others.
- (10) Road Surfacing and Improvements.
- (a) After sewer and water utilities have been installed by the developer, the applicant shall construct curbs and gutters or valley gutters and shall surface or cause to be surfaced, roadways to the widths prescribed in these regulations. The surfacing shall be of a character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Surface types shall be as determined by the Director of Public Works. Adequate provision shall be made for culverts, drains, and bridges.
- (b) All road surfaces, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to all construction standards and specifications proposed by the Joint Planning Commission and the Director of Public Works and approved by Newberry County Council and shall be incorporated into the construction plans required to be submitted by the developer for plat approval. Plans shall be prepared and stamped by a registered professional engineer. All roads shall be hard surfaced (Portland cement, concrete, or asphaltic concrete) in all new subdivisions and expansions of existing subdivisions. Newberry County encourages developers, contractors, grantors and owners to consider constructing cool pavements using existing paving technologies, such as asphalt and concrete. The Joint Planning Commission may allow an alternate surfacing material for rural residential minor streets where it may be shown that an extreme hardship exists and where the surface is approved by the Director of Public Works.
- (11) Excess Right-of-Way. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. The slopes shall not be in excess of 2 to 1.
- (12) Railroads and Limited Access Highways. Railroad rights-of-way and limited access highways

where located as to affect the subdivision of adjoining lands shall be treated as follows:

- (a) In residential developments, a buffer strip at least 25 feet in width in addition to the normal width of the lot required in the zoning district shall be provided adjacent to the railroad right-of-way or limited access highway (per SCDOT classification for road access limitations). This strip shall be part of the platted lots and shall be designated on the plat. The strip is reserved for screening. Placement of structures on this reserved strip is prohibited.
- (b) In developments proposed for commercial or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, whenever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
- (c) Streets parallel to the railroad when intersecting a street that crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. The distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

(13) Intersections.

- (a) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles 100 feet from the center line of the through street. Not more than two streets shall intersect at any one point unless specifically approved by the Joint Planning Commission.
- (b) Proposed new intersections along one side of an existing street shall, whenever practicable, coincide with any existing intersections on the opposite side of the street. Street jogs with center line offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where opposing streets intersect collector streets, their alignment shall be continuous. Intersections of streets shall be at least 800 feet apart.
- (c) The minimum curb radius at the intersection of two local roads shall be at least 25 feet; and minimum curb radius at an intersection involving a collector road shall be at least 30 feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
- (d) Intersections shall be designed with a flat grade whenever practical. At the approach to an intersection in hilly or rolling areas, a leveling area shall be provided having not greater than a three percent (3%) rate at a distance of 60 feet, measured from the nearest right-of-way line of the intersecting street.
- (e) Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut the ground and/or vegetation (including trees) in connection with the grading of the

public right-of-way to the extent deemed necessary to provide an adequate sight distance.

- (f) The cross-slopes on all streets, including intersections, shall be no greater than 3% and no less than 0.5%.

§ 91.22 CULVERTS, PIPES, AND TRENCHES; STORM DRAINS; CATCH BASINS.

(A) Culverts, pipes, and trenches.

- (1) All culvert pipes must be Class III Reinforced Concrete Pipe (RCP) at a minimum.
- (2) The diameter of all culverts shall be designed for the 25-yr storm event using history and run-off data available at the USDA Soil and Conservation Service. No culvert less than 18 inches in diameter will be acceptable. The length of the culvert will be determined by the height of the fill, but shall be of sufficient length to provide a minimum 24-foot wide finished roadbed.
- (3) All concrete culverts shall conform to AASHTO M170 state requirements and only steel reinforced culvert will be acceptable.
- (4) All pipes shall be laid in a trench in all cases where possible. Trenches shall be excavated to the required grade and to a width sufficient to allow for proper joining of the pipe and compaction of the backfill under and around the pipe. The trench bottom shall be shaped to fit the bottom of the pipe and shall have recesses shaped to fit any projected hubs or bells. All culverts shall have a minimum of twelve inches of fill above the top of the culvert, excluding pavement or its base.

- (B) **Storm drains; catch basins.** Catch basins shall be required to receive surface water from roadside gutters or swales into piped or open ditch drains. Standard manholes and covers, inside step and gutter gratings may be required for some installations. The Director of Public Works will direct the application if applicable. All curves shall be designed to pass the peak rate of run-off from at least a 25-year rainfall return frequency for a one-hour storm.

§ 91.23 NATURE OF STORM WATER FACILITIES.

- (A) **Location.** The applicant may be required by the Joint Planning Commission to carry away via a pipe or open ditch any spring or surface water that may exist either previously to, or as a result of, the subdivision. The drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the county's standards and specifications.

(B) Accessibility to public storm sewers.

- (1) Where a public storm sewer is accessible, the applicant shall install storm sewer facilities. If no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the Director of Public Works. Inspection of facilities shall be conducted by the Director of Public Works.
- (2) If a connection to a public storm sewer will be provided eventually, as determined by the Director of Public Works and the Joint Planning Commission, the developer shall arrange for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for the connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.

- (C) **Accommodation of upstream drainage areas.** A culvert or other drainage facility shall in each case be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The Director of Public Works shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development expected in the Master Plan.
- (D) **Effect on downstream drainage areas.** The Director of Public Works shall also study the effect of each subdivision on existing downstream facilities outside the area of the subdivision. Local government drainage studies, together with other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility, the Joint Planning Commission may withhold approval of the subdivision until provision has been made for the improvement of the potential condition in the sum as the Joint Planning Commission shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
- (E) **Flood plain areas.** All subdivisions submitted for review and approval shall comply with the Newberry County Flood Ordinance.
- (F) **Dedication of Drainage Easements.** Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, a storm water easement or drainage right-of-way shall be provided that conforms substantially to the lines of the watercourse, and of the width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.
- (1) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least 12 feet in width for the drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
 - (2) When a proposed drainage system will increase the maximum flow of water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
 - (3) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, included in areas for dedication, shall be preserved and retained in their natural state as drainage ways.

§ 91.24 SUB-GRADE.

- (A) The work shall consist of the construction and preparation of the sub-grade on that part of the roadway intended to receive pavement and, when applicable, on sidewalks, curbs, gutters, base course, and shoulders. Preparation, compaction, and quality shall meet SCDOT specifications and recommendations from geotechnical investigation based on site soil condition.
- (B) All soft, unstable, or unsuitable material that will not compact readily shall be removed and replaced with satisfactory material. All rocks and boulders shall be removed or broken off to a depth of not less than eight (8) inches below the surface of the sub-grade.
- (C) All soil must be compacted so that holes, ruts, or depressions will not form or develop. Compaction

is extremely important to the longevity of any road system.

§ 91.25 BASE COURSE.

- (A) The base course work shall consist of crusher run stone or gravel of not less than six (6) inches thickness for plant mix pavement constructed on a prepared sub-grade. All materials, installation, and compaction shall meet SCDOT specifications and recommendations from geotechnical investigation based on on-site soils.
- (B) After base course of six (6) inches of crusher run stone or gravel has been applied, the minimum finish of asphalt shall be one and one-half (1½) inches thick.

§ 91.26 PAVEMENT.

- (A) Rolling and finishing shall start at the edge and proceed toward the center, except on super elevated curves where rolling shall proceed from the lower to the upper side and continue until the aggregate are firmly set.
- (B) Pavements of hot laid asphalt (plant mix) will be acceptable. All pavements shall be a minimum of 22 feet in width.
- (C) All plant mixed asphalt paving materials shall conform to standard specifications for highway construction and shall be delivered to the spreading at a temperature as provided in the South Carolina Department of Transportation Standard Specification Book (2007 Edition).
- (D) The surface of the mixture after compaction shall be smooth and true to establish crown and grade. Any mixture that becomes loose or broken, mixed with dirt, or in any way defective shall be removed and replaced with fresh mix which shall be immediately compacted to conform with the surrounding area. Joints between old and new pavement or between strips shall be made in such a manner as to ensure proper bond between the old and new surface.
- (E) Finished asphalt surface must be a minimum of one and one-half (1 ½) inches in thickness. The Contractor shall make allowance with a minimum of 24 hours' notice to allow the Director of Public Works or his designee to inspect the installation process to ensure compliance. The Contractor will supply trip tickets certifying quantities used for the project.
- (F) If there is any question about the actual thicknesses, the Contractor shall provide one core sample per 500 feet of road, or a minimum of three samples, whichever is greater. If the actual thickness is less than approved, the substandard areas shall have an overlay of one inch thickness of plant mix or the thickness shortfall plus one-half inch, whichever is greater.
- (G) **Additional Materials Requirements.**
 - (1) Aggregate size cannot exceed one-half of the thickness of the individual asphalt course.
 - (2) All materials shall meet SCDOT specifications for quality and gradation.
 - (3) Triple surface treatment is not allowed.
 - (4) Sand clay is not approved for use as a roadway base course unless approved on a case by case basis based on analysis.
 - (5) Surface course shall consist of asphaltic concrete (Type I)

§ 91.27 BRIDGES.

All bridges shall be approved in advance by the County Administrator. Bridges of primary benefit to the applicant, as determined by the Joint Planning Commission, shall be constructed at the full expense of the applicant and shall comply with the specifications of the South Carolina Department of Transportation. A registered professional engineer approved by the County Administrator shall confirm that bridges meet SCDOT specifications prior to acceptance by County Council.

§ 91.28 ROAD DEDICATIONS AND RESERVATIONS.

- (A) Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Joint Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.
- (B) Where a subdivision borders an existing narrow road or when the Master Plan or Official Map indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his own expense the areas for widening or realignment of the roads. The frontage roads and streets shall be improved and dedicated by the applicant at his own expense to the full width as required by these subdivision regulations.
- (C) When a subdivision contains a part or all of the proposed location of a new street shown in the County's major thoroughfare plan, the necessary right-of-way shall be reserved for this new street and the design of the subdivision shall reflect the future existence of this street.
- (D) Dedication of this right-of-way is not required. However, this reserved right-of-way shall not count in satisfying the setback and lot size requirements of this Chapter.
- (E) When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each block.

§ 91.29 POLICY STATEMENTS.

- (A) The final acceptance of a road by the County does not imply the road will be widened or stabilized at any time. The only type of road construction accepted by the County shall be asphalt.
- (B) No paving will be allowed on wet surfaces or when the temperature is below 45 degrees Fahrenheit, or shade temperature is 40 degrees Fahrenheit. Paving will only be permitted with approval from the Director of Public Works.
- (C) Roads in existing subdivisions that have already been paved to county standards, but that have less than the required width of right-of-way, may be accepted into the County System upon a further determination by County Council that special circumstances exist that justify the acceptance of the road right-of-way, and that the customary right-of-way width is not readily available for acquisition.
- (D) The developer of a subdivision may be required to sell 50% of the parcels of a subdivided tract before the county will accept the roads therein, but this requirement may be waived by County Council for good cause shown. The purpose of this provision is to keep the County from accepting financial responsibility for new roads that may be damaged by heavy truck traffic generally associated with the development of property and construction of new homes or businesses, and during or after which roads may need extensive, costly repairs after being exposed to such traffic.

- (E) In the event that there is any material difference between the requirements of this Chapter and the chapter providing standards for road acceptance and construction in subdivisions, the provisions of the subdivision regulations shall govern. The provisions of this Chapter shall govern in all other situations.

§ 91.30 NAMING OF ROADS.

In order to provide for the safety and security of all county residents, and to minimize confusion for citizens, law enforcement and emergency personnel in times of natural disaster, civil unrest, or other emergency, all roads in Newberry County, public or private, shall be named in accordance with the provisions of Chapter 94 of the Newberry County Code of Ordinances, as amended from time to time.

§ 91.31 ROAD CLOSING.

The County shall only abandon or close roads or portions of roads within the County System under the method prescribed in S.C. Code §§ 57-9-10 et seq., as amended. Members of the public desiring the closure of roads, or portions of roads, shall initiate such requests by this same method and at their own expense, except in cases where County Council determines it is in the interest of the County to effect such closings. The County Administrator, acting on behalf of and in consultation with County Council, shall make known to the court the County's position with respect to such closure requests.

§ 91.32 CUTTING OF TREES, BRANCHES, LIMBS, AND OTHER OBSTRUCTIONS.

- (A) Dead trees, low limbs, or branches in the right-of-way will be cut by county maintenance personnel and equipment, as well as weeds, grass, or brush that limit sight distance on county-maintained roads.
- (B) All limbs, branches, and other obstructions that hang over or into a county-maintained road will be abated to ensure safety and sight. The county will only cut or trim what is necessary to ensure the safety of the traveling public.
- (C) Every owner or tenant of lands lying within the unincorporated areas of Newberry County adjoining a roadway, whether the lands are within the road right-of-way or not, shall:
 - (1) Keep all brush, hedges and other plant life growing within ten feet of any roadway, and within 25 feet of the intersection of two roadways, cut to a height of not more than two and one-half (2.5) feet above the crown of the roadway where it shall be necessary and expedient for the preservation of the public safety; and
 - (2) Keep all tree limbs within ten feet of any roadway, and within 25 feet of the intersection of two roadways, cut and trimmed to a height of not lower than ten feet from the crown of the roadway so as not to obstruct the safe movement of vehicles or vision of the drivers on and around the roadways and intersections where it shall be necessary and expedient for the preservation of the public safety.

Article VI – Paving of Unpaved County Roads

§ 91.33 COUNTY ROADS ONLY

The road for which paving is requested must be a road already included in the county's road maintenance system, as determined by Director of Public Works.

§ 91.34 NECESSARY RIGHT-OF-WAY FOR PAVING REQUESTS.

- (A) The property owner initiating a paving request is responsible for securing rights-of-way/easements from all affected property owners. The County's role in the right-of-way/easement acquisition process is limited to the following items:
- (1) Providing petitioners with official petition documents;
 - (2) Generating property owner name and address information (as available through the County Tax Assessor's property records);
 - (3) Staking approximate rights-of-way for initial review by affected property owners;
 - (4) Commissioning property surveys to finalize right-of-way dimensions and location; and
 - (5) Assisting in the preparation/execution of required right-of-way/easement documents.
- (B) The granting of right-of-way by property owners for the paving of existing roads within the County System is voluntary and requires unanimous agreement among the affected property owners (a mere majority will not suffice).
- (1) The County will condemn easements/rights-of-way to address safety issues identified by the Director of Public Works if necessary and approved by County Council.
 - (2) In such cases, the County will condemn only the minimum property necessary to address the safety issues, not enough to accommodate a wholesale improvement of the roadway.

§ 91.35 APPLICATION PROCESS.

- (A) **Submission of request by property owner to county staff.**
- (1) Any affected property owner (i.e., anyone who owns property adjoining an unpaved county road) may obtain from the County Administrator a Request for Road Paving Consideration form ("request form").
 - (2) Once completed by the petitioning property owner, the form is forwarded to the Director of Public Works, who verifies that the road is a county road and determines if the requested road improvements require a right-of-way of 50 feet (for through roads) or a 50-foot radius (for cul-de-sacs), or more, based on topography, sight lines, road layout, safety conditions, and other criteria.
 - (3) Outfall ditches and drainage easements may also be required.
 - (4) The Director of Public Works will amend the request form with this information and arrange for the staking of the approximate right-of-way dimensions for initial review by affected property owners.
- (B) **Return of request form by county staff to property owner.**
- (1) Staff returns the request form, as amended under section 91.34(A)(4), to the petitioning property owner.
 - (2) Staff supplies the petitioning property owner with a list of all affected property owners and their contact information, consisting only of mailing addresses, as shown in public records of the County Tax Assessor, and an official petition form (Petition of Intent to Grant Right of Way form) to be used for indicating the intent of affected property owners to grant the necessary rights-of-way/easements for the project.

(C) Securing required signatures.

- (1) The petitioning property owner is responsible for establishing the unanimous intent of all affected property owners to grant the required right-of-way (as staked by the Director of Public Works for initial review) by having them properly sign the Petition of Intent to Grant Right-of-Way form.
- (2) No county road will be paved or otherwise significantly improved (other than regular scraping and the amending of an existing gravel base, where needed) unless the Petition of Intent to Grant Right-of-Way is signed by all affected property owners and the subsequent rights-of-way/easements are obtained and recorded.
- (3) There must be only one original petition circulated for signatures, which must be bound or stapled.
- (4) In order to guard against the making of copies, each page attached shall show "Page ___ of ___" (where the first blank represents the number of the current page; the second, the total number of pages in the petition).
- (5) Required signatures may only be from affected property owners and must include all owners of each affected parcel, no matter how slight the owner's interest, as shown on the deed recorded at the office of the Clerk of Court for Newberry County.

(D) Legal right-of-way/easement documentation.

- (1) The County Attorney prepares the easement forms to be properly executed by affected property owners granting the necessary rights-of-way/easements.
- (2) The petitioning property owner is responsible for coordinating/scheduling this work with the County Attorney.
- (3) Once unanimous consent granting all necessary rights-of-way/easements is executed and recorded, the easement/right-of-way documents and the county-commissioned survey/plat of the road are filed in the office of the Clerk of Court for Newberry County.
- (4) The Director of Public Works, County Attorney, and County Administrator then certify to the County Transportation Committee (CTC) and to County Council that the appropriate right-of-way is established.
- (5) If the petition omits any signature of any affected property owner, it is returned to the petitioning property owner for completion.

§ 91.36 NO GUARANTEE OF PAVING.

Neither the CTC nor County Council guarantees the paving of a road for which the required rights-of-way/easements have been successfully obtained and recorded. The funding appropriated for the paving of county roads is limited and is expended based on objectively determined priorities and criteria of the CTC. Commonly, there are more proposed projects than there are resources to fund them. However, it is certain that no county road will be paved unless the required rights-of-way/easements are properly obtained and recorded.

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

ORDINANCE NO. 12-01-2024

AN ORDINANCE AMENDING THE NEWBERRY COUNTY CODE OF ORDINANCES, CHAPTER 152, FLOOD DAMAGE PREVENTION, ADOPTING UPDATED STANDARDS FOR THE REDUCTION OF FLOOD HAZARDS, AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith TO THE EXTENT NECESSARY TO GIVE THIS CHAPTER FULL FORCE AND EFFECT.

WHEREAS, the South Carolina General Assembly enacted S.C. Code of Laws, Title 4, Chapters 9 (Article 1) and 25 as well as Title 6, Chapter 29, and amendments thereto, which delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the special flood hazard areas of Newberry County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare; and

WHEREAS, these flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages; and

WHEREAS, Newberry County Council desires to protect human life and health, minimize property damage, and encourage appropriate construction practices to minimize public and private losses due to flood conditions by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; and

WHEREAS, Newberry County Council desires to restrict or prohibit uses of the flood plain which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion; and

WHEREAS, Newberry County Council desires to control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters, and control filling, grading, dredging, and other development which may increase flood damage or erosion; and

WHEREAS, Newberry County Council desires to prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands; and

WHEREAS, Newberry County Council desires to protect human life and health, to help maintain a stable tax base by providing for the sound use and development of flood-prone areas in a manner as to minimize flood blight areas, and to ensure that potential home buyers are notified that property is in a flood area; and

WHEREAS, Newberry County Council desires to minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; streets and bridges located in the flood plain; and prolonged business interruptions; and

WHEREAS, Newberry County Council desires to minimize expenditure of public funds for costly flood control projects and rescue and relief efforts associated with flooding.

NOW, THEREFORE BE IT ORDAINED by the County Council of the County of Newberry, in Council duly assembled this 15th day of January 2025, that the provisions of *Newberry County Code of Ordinances Chapter 152 – Flood Damage Prevention* are hereby adopted.

NEWBERRY COUNTY COUNCIL

(SEAL)

BY: _____
Todd Johnson, Chairman

ATTEST:

Andrew Wigger, Clerk to Council

Approved as to form:

Joanie Winters, Interim County Attorney

Jeff Shacker, County Administrator

1st Reading: December 4, 2024
2nd Reading: January 8, 2025
Public Hearing: January 8, 2025
3rd Reading: January 15, 2025

CHAPTER 152: FLOOD DAMAGE PREVENTION

General Provisions

- 152.01 Statutory authorization
- 152.02 Findings of fact
- 152.03 Statement of purpose and objectives
- 152.04 Lands to which the chapter applies
- 152.05 Establishment of development permit
- 152.06 Compliance
- 152.07 Interpretation
- 152.08 Partial invalidity and severability
- 152.09 Warning and disclaimer of liability
- 152.10 Definitions

Administration

- 152.20 Designation of local administrator
- 152.21 Adoption of letter of map revisions (LOMR)
- 152.22 Development permit and certification requirements
- 152.23 Duties and responsibilities of the local administrator
- 152.24 Administrative procedures

Provisions for Flood Hazard Reduction

- 152.35 General standards
- 152.36 Specific standards
- 152.37 Standards for streams without established base flood elevations and floodways
- 152.38 Standards for streams with established base flood elevations but without floodways
- 152.39 Standards for areas of shallow flooding (AO Zones)

Variance Procedures

- 152.50 Establishment of appeal board
- 152.51 Right to appeal
- 152.52 Historic structures

152.53 Functionally dependent uses

152.54 Agricultural structures

152.55 Considerations

152.56 Findings

152.57 Floodways

152.58 Conditions

Legal Status Provisions

152.70 Effect on rights and liabilities under the existing flood damage prevention ordinance

152.71 Effect upon outstanding building permits

152.99 Penalty

GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORIZATION.

The Legislature of the State of South Carolina has in S.C. Code of Laws, Title 4, Chapters 9 (Article 1) and 25 as well as Title 6, Chapter 29, and amendments thereto, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Council of Newberry County, South Carolina does ordain as follows in this chapter.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.02 FINDINGS OF FACT.

(A) The special flood hazard areas of Newberry County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) Furthermore, these flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.03 STATEMENT OF PURPOSE AND OBJECTIVES.

(A) It is the purpose of this chapter to protect human life and health, minimize property damage, and encourage appropriate construction practices to minimize public and private losses due to flood conditions by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction. Uses of the flood plain which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion are restricted or prohibited. These provisions attempt to control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters, and control filling, grading, dredging, and other development which may increase flood damage or erosion. Additionally, this chapter prevents or regulates the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

(B) The objectives of this chapter are to protect human life and health, to help maintain a stable tax base by providing for the sound use and development of flood-prone areas in a manner as to minimize flood blight areas, and to ensure that potential home buyers are notified that property is in a flood area. The provisions of this chapter are intended to minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; streets and bridges located in the flood plain; and prolonged business interruptions. Also, an important flood plain management objective of this chapter is to minimize expenditure of public money for costly flood control projects and rescue and relief efforts associated with flooding.

(C) (1) Flood plains are an important asset to the community.

(2) They perform vital natural functions such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality.

(3) These functions are best served if flood plains are kept in their natural state.

(4) Wherever possible, the natural characteristics of flood plains and their associated wetlands and water bodies should be preserved and enhanced. Decisions to alter flood plains, especially floodways and stream channels, should be the result of careful planning processes which evaluate resource conditions and human needs.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.04 LANDS TO WHICH THE CHAPTER APPLIES.

(A) This chapter shall apply to all areas of special flood hazard within the jurisdiction of Newberry County as identified by the Federal Emergency Management Agency in its Flood Insurance Study, with accompanying maps and other supporting data that are hereby adopted by reference and declared to be a part of this chapter.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 10-41-04, passed 10-6-2004; Am. Ord. 01-02-08, passed 2-20-2008; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019)

§ 152.05 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011) Penalty, see § 152.99

§ 152.06 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011) Penalty, see § 152.99

§ 152.07 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state law. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.08 PARTIAL INVALIDITY AND SEVERABILITY.

If any part of this chapter is declared invalid, the remainder of the chapter shall not be affected and shall remain in force.

(Ord. 07-15-11, passed 9-7-2011)

§ 152.09 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within the areas will be free from flooding or flood damage. This chapter shall not create liability on the part of Newberry County or by any officer or employee thereof for any flood damages that result from reliance on this chapter, or any administrative decision lawfully made hereunder.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.10 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. ACCESSORY STRUCTURES should constitute a minimal investment (minimal investment is no more than \$5,000.00), may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure. ADDITIONS TO EXISTING BUILDINGS shall comply with the requirements for new construction regardless as to whether the addition is a substantial improvement or not. Where a fire wall or load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

AGRICULTURAL STRUCTURE. A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. AGRICULTURAL STRUCTURES are not exempt from the provisions of this chapter.

APPEAL. A request for a review of the local administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a 1% or greater chance of being equaled or exceeded in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. Any enclosed area of a building which is below grade on all sides.

BUILDING. See STRUCTURE.

CRITICAL DEVELOPMENT. Development that is critical to the community's public health and safety, is essential to the orderly functioning of a community, stores or produces highly volatile, toxic or water-reactive materials, houses occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical developments include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDING. A nonbasement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, columns, piers, or shear walls parallel to the flow of water.

EXECUTIVE ORDER 11988 (FLOODPLAIN MANAGEMENT). Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM, or before 12-15-1990, for FIRMs effective before that date.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before 12-11-1990.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of run-off of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency which contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

FLOOD-RESISTANT MATERIAL. Any building material capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumber are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials which are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant.

Please refer to Technical Bulletin 2, Flood Damage- Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

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 1 foot.

FREEBOARD. A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. FREEBOARD tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair or seafood processing facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

HISTORIC STRUCTURE.

(1) Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior (DOI)) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places; and/or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified:

1. By an approved state program as determined by the Secretary of Interior, or
2. Directly by the Secretary of Interior in states without approved programs.

(2) Some structures or districts listed on the state or local inventories may not be “historic” as cited above, but have been included on the inventories because it was believed that the structures or districts have the potential for meeting the historic structure criteria of the DOI.

(3) In order for these structures to meet NFIP historic structure criteria, it must be demonstrated and evidenced that the South Carolina Department of Archives and History has individually determined that the structure or district meets DOI historic structure criteria.

INCREASED COST OF COMPLIANCE (ICC). Applies to all new and renewed flood insurance policies effective on and after June 1, 1997. The NFIP shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under Section 1361 of the National Flood Insurance Act of 1968. It provides coverage for the payment of a claim to help pay for the cost to comply with state or community floodplain management laws or ordinances after a flood event in which a building had been declared substantially or repetitively damaged.

LIMITED STORAGE. An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood-resistant or breakaway material, void of utilities except for essential lighting and cannot be

temperature controlled. If the area is located below the base flood elevation in an A, AE, and A1-A30 Zone, it must meet the requirements of § 152.35(E).

LOWEST ADJACENT GRADE (LAG). An elevation of the lowest ground surface that touches any deck support, exterior walls of a building or proposed building walls.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's LOWEST FLOOR, provided that the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term MANUFACTURED HOME does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. Means, for the purpose of this chapter, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which the base flood elevations shown on a community's Flood Insurance Rate Maps (FIRM) are shown.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929. As corrected in 1929, elevation reference points set by National Geodetic Survey based on mean sea level.

NEW CONSTRUCTION. A structure for which the start of construction commenced on or after December 11, 1990. The term also includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after 12-11-1990.

NORTH AMERICAN VERTICAL DATUM (NAVD) OF 1988. Vertical control, as corrected in 1988, used as the reference datum on Flood Insurance Rate Maps.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

REPETITIVE LOSS. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each such flood event.

SECTION 1316 OF THE NATIONAL FLOOD INSURANCE ACT OF 1968. The act provides that no new flood insurance shall be provided for any property found by the Federal Emergency Management Agency to have been declared by a state or local authority to be in violation of state or local ordinances.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. No. 97-348), being 16 U.S.C. §§ 3501 et seq., includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other manmade facility or infrastructure that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. Such repairs may be undertaken successively and their costs counted cumulatively. Please refer to the definition of "substantial improvement."

SUBSTANTIAL IMPROVEMENT.

(1) Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed.

(2) The term does not, however, include either:

(a) Any project of improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(3) Permits shall be cumulative for a period of 5 years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether substantial improvement will occur.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. Where the repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equals or exceeds 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

VARIANCE. The grant of relief from a term or terms of this chapter.

VIOLATION. The failure of a structure or other development to be fully compliant with these regulations.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 01-02-08, passed 2-20-2008; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019)

ADMINISTRATION

§ 152.20 DESIGNATION OF LOCAL ADMINISTRATOR.

The County Administrator and/or designee(s) is hereby appointed to administer and implement the provisions of this chapter.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 04-12-04, passed 4-7-2004; Am. Ord. 01-02-08, passed 2-20-2008; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.21 ADOPTION OF LETTER OF MAP REVISIONS (LOMR).

All LOMRs that are issued in the areas identified in § 152.04 of this chapter are hereby adopted.

(Ord. 07-15-11, passed 9-7-2011)

§ 152.22 DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) Development permit. Application for a development permit shall be made to the local administrator on forms furnished by him or her prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required.

(1) A plot plan that shows the 100-year flood plain contour or a statement that the entire lot is within the flood plain must be provided by the development permit applicant when the lot is within or appears to be within the flood plain as mapped by the Federal Emergency Management Agency or the flood plain identified pursuant to either the duties and responsibilities of the local administrators of § 152.23(K) or the standards for subdivision proposals of § 152.36 and the standards for streams without estimated base flood elevations and floodways of § 152.37. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency, or the floodway identified pursuant to either the duties or responsibilities of the local administrators of § 152.23(K) or the standards for subdivision proposals of § 152.36(M) and the standards for streams without estimated base flood elevations and floodways of § 152.37.

(2) Where base flood elevation data is provided as set forth in § 152.04 or the duties and responsibilities of the local administrators of § 152.23(K) the application for a development permit within the flood hazard area shall show:

(a) The elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures; and

(b) If the structure will be floodproofed in accordance with the non- residential construction requirements of § 152.36(B), the elevation (in relation to mean sea level) to which the structure will be floodproofed.

(3) Where base flood elevation data is not provided as set forth in § 152.04 or the duties and responsibilities of the local administrators of § 152.23(K), then the provisions in the standards for streams without estimated base flood elevations and floodways of § 152.37 must be met.

(4) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; an engineering study to demonstrate that the flood-carrying capacity of the altered or relocated watercourse is maintained and a map showing the location of the proposed watercourse alteration or relocation.

(B) Certifications.

(1) Floodproofing certification. When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the non- residential, floodproofed structure meets the floodproofing criteria in the non-residential construction requirements of § 152.36(B) and § 152.39(B)(2).

(2) Certification during construction. A lowest floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. Any work done prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey and/or failure to make said correction required hereby shall cause to issue a stop-work order for the project.

(3) As-built certification. Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with S.C. law, shall certify according to the requirements of § 152.22(B)(1), (B)(2) and (B)(3) that the development is built in accordance with the submitted plans and previous pre-development certifications.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 01-02-08, passed 2-20-2008; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019)

§ 152.23 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

Duties and responsibilities of the local administrator shall include, but not be limited to:

(A) Permit review. Review all development permits to assure that the requirements of this chapter have been satisfied;

(B) Requirement of federal and/or state permits. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334;

(C) Watercourse alterations.

(1) Notify adjacent communities and the South Carolina Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of the notification to the Federal Emergency Management Agency;

(2) In addition to the notifications required for watercourse alterations per division (C)(1) above, written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is maintained. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection;

(3) If the proposed project will modify the configuration of the watercourse, floodway, or base flood elevation for which a detailed Flood Insurance Study has been developed, the applicant shall apply for and must receive approval for a Conditional Letter of Map Revision with the Federal Emergency Management Agency prior to the start of construction.

Within 60 days of completion of an alteration of a watercourse, referenced in the certification requirements of § 152.22(B)(3), the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.

(D) Floodway encroachments. Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of § 152.36(E) are met.

(E) Adjoining floodplains. Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

(F) Notifying adjacent communities. Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.

(G) Certification requirements.

(1) Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in § 152.23(B)(2).

(2) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in § 152.23(B)(1).

(3) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in § 152.36(B).

(H) Map interpretation. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(I) Prevailing authority. Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in § 152.36(G)(2).

(J) Use of best available data. When base flood elevation data and floodway data has not been provided in accordance with § 152.04, obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to the standards for subdivision proposals outlined in § 152.37(D), in order to administer the provisions of this chapter. Data from preliminary, draft, and final flood insurance studies constitutes best available data from a federal, state, or other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.

(K) Special flood hazard area/topographic boundaries conflict. When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site; the site information takes precedence when the lowest adjacent grade is at or above the BFE, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. The local administrator in the permit file will maintain a copy of the Letter of Map Amendment issued from FEMA.

(L) On-site inspections. Make on-site inspections of projects in accordance with the administrative procedures outlined in § 152.24(D).

(M) Administrative notices. Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in § 152.24.

(N) Records maintenance. Maintain all records pertaining to the administration of this chapter and make these records available for public inspection.

(O) Annexations and detachments. Notify the South Carolina Department of Natural Resources Land, Water and Conservation Division, State Coordinator for the National Flood Insurance Program within 6 months, of any annexations or detachments that include special flood hazard areas.

(P) Federally funded development. The President issued Executive Order 11988, Floodplain Management May 1977. E.O. 11988 directs federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go

through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.

(Q) Substantial damage determination. Perform an assessment of damage from any origin to the structure using FEMA's Residential Substantial Damage Estimator (RSDE) software to determine if the damage equals or exceeds 50% of the market value of the structure before the damage occurred.

(R) Substantial improvement determinations. Perform an assessment of permit applications for improvements or repairs to be made to a building or structure that equals or exceeds 50% of the market value of the structure before the start of construction. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of 5 years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur. The market values shall be determined by one of the following methods:

(1) The current assessed building value as determined by the county's assessor's office or the value of an appraisal performed by a licensed appraiser at the expense of the owner within the past 6 months.

(2) One or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, less the cost of site improvements and depreciation for functionality and obsolescence.

(3) Real estate purchase contract within 6 months prior to the date of the application for a permit.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 01-02-08, passed 2-20-2008; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 004-06-19, passed 5-15-2019)

§ 152.24 ADMINISTRATIVE PROCEDURES.

(A) Inspections of work in progress. As the work pursuant to a permit progresses, the local administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(B) Stop-work orders. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(C) Revocation of permits. The local administrator may revoke and require the return of the development permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or

specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(D) Periodic inspections. The local administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(E) Violations to be corrected. When the local administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property he or she owns.

(F) Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the administrator shall give him or her written notice, by certified or registered mail to his or her last known address or by personal service, that:

(1) The building or property is in violation of this chapter;

(2) A hearing will be held before the local administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) Following the hearing, the local administrator may issue the order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(G) Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of this chapter, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, no more than 180 days, the administrator may prescribe; provided that where the administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in the lesser period as may be feasible.

(H) Appeal. Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the administrator and the Clerk to Council within 10 days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(I) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

(J) Denial of flood insurance under the NFIP. If a structure is declared in violation of the ordinance and after all other penalties are exhausted to achieve compliance with the ordinance, then the local administrator shall notify the Federal Emergency Management Agency to initiate a Section 1316 of the National Flood Insurance Act of 1968 action against the structure upon the finding that the violator refused to bring the violation into compliance with the ordinance. Once a violation has been

remedied the local administrator shall notify FEMA of the remedy and ask that Section 1316 be rescinded.

(K) The following documents are incorporated by reference and may be used by the local administrator to provide further guidance and interpretation of this chapter as found on FEMA's website at www.fema.gov:

- (1) All FEMA Technical Bulletins;
- (2) All FEMA Floodplain Management Bulletins;
- (3) FEMA 348 Protecting Building Utilities from Flood Damage.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 01-02-08, passed 2-20-2008; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019) Penalty, see § 152.99

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 152.35 GENERAL STANDARDS.

Development may not occur in the Special Flood Hazard Area (SFHA) where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the SFHA and that encroachments onto the SFHA are minimized. In all areas of special flood hazard, the following provisions are required:

(A) Reasonably safe from flooding. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.

(B) Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(C) Flood resistant materials and equipment. All new construction and substantial improvements shall be constructed with flood-resistant materials and utility equipment resistant to flood damage in accordance with Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency.

(D) Minimize flood damage. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(E) Critical development. Critical development shall be elevated to the 500-year flood elevation (0.2% annual chance flood event) or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500-year flood elevation (0.2% annual chance flood event) or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates 500-year flood elevation (0.2% annual chance flood event) data.

(F) Utilities. Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of base flood plus 3 feet. These requirements do not preclude the installation of outdoor faucets for shower heads, sinks, hoses, and the

like, as long as cut-off devices and back flow devices are installed to prevent contamination to the service components and thereby minimize any flood damages to the building.

(Am. Ord. 04-12-04, passed 4-7-2004)

(G) Water supply systems. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(H) Sanitary sewage systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) Gas or liquid storage tanks. All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads. All vent piping for above ground or buried storage tanks shall extend above the 500-year flood elevation (0.2% annual chance flood event).

(J) Alteration, repair, reconstruction, or improvements. Any alteration, repair, reconstruction, or improvement to a structure which is in compliance with the provisions of this chapter shall meet the requirements of new construction as contained in this chapter. This includes post-FIRM development and structures.

(K) Nonconforming buildings or uses. Provided, however, nothing in this chapter shall prevent the repair, reconstruction, or replacement of an existing building or structure located totally or partially within the floodway, provided that the bulk of the building or structure below base flood elevation in the floodway is not increased, and provided that the repair, reconstruction, or replacement meets all the other requirements of this chapter.

(L) Americans with Disabilities Act (ADA). A building must meet the specific standards for flood plain construction outlined in § 152.36, as well as any applicable ADA requirements. The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the costs of the improvements for calculating substantial improvement.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 01-02-08, passed 2-20-2008; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019) Penalty, see § 152.99

§ 152.36 SPECIFIC STANDARDS.

In all areas of special flood hazard (Zones A, AE, AH, AO, A1-30, V, and VE) where base flood elevation data has been provided, as set forth in § 152.04 or outlined in the duties and responsibilities of the local administrator § 152. 23, the following provisions are required.

(A) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than 3 feet above the base flood elevation. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in division (D).

(B) Nonresidential construction.

(1) New construction and substantial improvement of any commercial, industrial, or nonresidential structure (including manufactured homes) shall have the lowest floor elevated no lower than 3 feet above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in division (D). No basements are permitted. Structures located in A-Zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

(2) A registered, professional engineer or architect shall certify that the standards of this division (B)(2) are satisfied. The certifications shall be provided to the official as set forth in the floodproofing certification requirements in § 152.22(B)(1). A variance may be considered for wet-floodproofing agricultural structures in accordance with the criteria outlined in § 152.53. Agricultural structures not meeting the criteria of § 152.53 must meet the nonresidential construction standards and all other applicable provisions of this chapter. Structures which are floodproofed are required to have an approved maintenance plan with an annual exercise. The local administrator must approve the maintenance plan and notification of the annual exercise shall also be provided.

(C) Manufactured homes.

(1) Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than 3 feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement.

(2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions for residential construction in of division (A) above must be elevated so that the lowest floor of the manufactured home is elevated no lower than 3 feet above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, or lateral movement.

(3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with Section 40-29 of the South Carolina Manufactured Housing Board Regulations, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis at least 36 inches or less above the grade at the sight, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood-prone areas. This plan shall be filed with and approved by the local administrator and the local Emergency Preparedness Coordinator.

(D) Elevated buildings. New construction and substantial improvements of elevated buildings that include fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(1) Designs. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed all of the following minimum criteria:

(a) Provide a minimum of 2 openings on different walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding.

(b) The bottom of each opening must be no more than 1 foot above the higher of the interior or exterior grade immediately under the opening.

(c) Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area. If the Lowest Adjacent Grade (LAG) is between the BFE and the freeboard, openings are still required until a Letter of Map Amendment (LOMA) has been approved.

(d) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

(e) Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one side of the building.

(2) Hazardous velocities. - Hydrodynamic pressure must be considered in the design of any foundation system where velocity waters or the potential for debris flow exists. If flood velocities are excessive (greater than 5 feet per second), foundation systems other than solid foundations walls should be considered so that obstructions to damaging flood flows are minimized.

(3) Enclosures below lowest floor.

(a) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(b) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, must be void of utilities except for essential lighting as required for safety, and cannot be temperature controlled.

(c) One wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in the specific standards outlined in § 152.36(A), (B) and (C).

(d) All construction materials below the required lowest floor elevation specified in the specific standards outlined in § 152.36(A), (B), (C) and (D) should be of flood resistant materials.

(E) Floodways. Located within areas of special flood hazard established in § 152.04, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of

floodwaters that carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

(1) No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless:

(a) It has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local administrator.

(b) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision must be obtained upon completion of the proposed development.

(2) If Division (E)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 152.35 through 152.39.

(3) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of § 152.36(C) and the encroachment standards of § 152.36(E)(1) are met.

(4) Permissible uses within floodways may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also, lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a permissible use may require a no-impact certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations or changes to the floodway configuration.

(F) Recreational vehicles.

(1) A recreational vehicle is ready for highway use if it is:

(a) On wheels or jacking system;

(b) Attached to the site only by quick-disconnect type utilities and security devices; and

(c) Has no permanently attached additions.

(2) Recreational vehicles placed on sites shall either be:

(a) On site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use, or meet the development permit and certification requirements of § 152.22, general standards outlined in § 152.35, and manufactured homes standards in § 152.36(C) and (D).

(G) Map maintenance activities. The National Flood Insurance Program (NFIP) requires flood data to be reviewed and approved by FEMA. This ensures that flood maps, studies and other data

identified in § 152.04 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data. The following map maintenance activities are identified:

(1) Requirement to submit new technical data.

(a) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical or scientific data reflecting such changes be submitted to FEMA as soon as practicable, but no later than 6 months of the date such information becomes available. These development proposals include, but not limited to:

1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with § 152.36(M).

(b) It is the responsibility of the applicant to have technical data, required in accordance with § 152.36(G), prepared in a format required for a conditional letter of map revision or letter of map revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall also be the responsibility of the applicant.

(c) The Local Administrator shall require a conditional letter of map revision prior to the issuance of a floodplain development permit for:

1. Proposed floodway encroachments that increase the base flood elevation; and
2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

(d) Floodplain development permits issued by the Local Administrator shall be conditioned upon the applicant obtaining a letter of map revision from FEMA for any development proposal subject to § 152.36(G).

(2) Right to submit new technical data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the local jurisdiction and may be submitted at any time.

(H) Accessory structures.

(1) A detached accessory structure or garage, the cost of which is greater than \$3,000, must comply with the requirements as outlined in FEMA's Technical Bulletin 7-93 Wet Floodproofing Requirements or be elevated in accordance with divisions (A) and (D) above or dry floodproofed in accordance with division (B) above.

(2) If accessory structures of \$3,000 or less are to be placed in the flood plain, the following criteria shall be met:

- (a) Accessory structures shall not be used for any uses other than the parking of vehicles and storage;
- (b) Accessory structures shall be designed to have low flood damage potential;
- (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (d) Accessory structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure;
- (e) Service facilities such as electrical and heating equipment shall be installed in accordance with § 152.35(F); and
- (f) Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with division (D)(1) above.
- (g) Accessory structures shall be built with flood resistance materials in accordance with Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

(I) Swimming pool utility equipment rooms. If the building cannot be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:

- (1) Meet the requirements for accessory structures in division (H) above.
- (2) The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.

(J) Elevators.

(1) Install a float switch system or another system that provides the same level of safety necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas.

(2) All equipment that may have to be installed below the BFE such as counter weight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood-resistant materials where possible per FEMA's Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas.

(K) Fill. An applicant shall demonstrate that fill is the only alternative to raising the building to meet the residential and non-residential construction requirements of division (A) or (B) above, and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. The following provisions shall apply to all fill placed in the special flood hazard area.

(1) Fill may not be placed in the floodway unless it is in accordance with division (E)(1) above.

(2) Fill may not be placed in tidal or nontidal wetlands without the required state and federal permits.

(3) Fill must consist of soil and rock materials only. A registered professional geotechnical engineer may use dredged material as fill only upon certification of suitability. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the flood plain.

(4) Fill used to support structures must comply with ASTM Standard D-698, and its suitability to support structures certified by a registered, professional engineer.

(5) Fill slopes shall be no greater than 2 horizontal to 1 vertical. Flatter slopes may be required where velocities may result in erosion.

(6) The use of fill shall not increase flooding or cause drainage problems on neighboring properties.

(7) Will meet the requirements of FEMA Technical Bulletin 10-01, Ensuring That Structures Built On Fill in or Near Special Flood Hazard Areas Are Reasonable Safe from Flooding.

(L) Standards for subdivision proposals and other development.

(1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.

(2) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage. An access road at or above the base flood elevation shall be provided to allow emergency access during flood conditions to public utilities and facilities such as sewer, gas electrical, and water systems.

(3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage.

(4) The applicant shall meet the requirement to submit technical data to FEMA in division.

(Ord. 10-41-04, passed 10-6-2004; Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019) Penalty, see § 152.99

§ 152.37 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND FLOODWAYS.

Located within the areas of special flood hazard (Zones A and V) established in § 152.04 are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

(A) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood

elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.

(B) No encroachments, including fill, new construction, substantial improvements and new development shall be permitted within 100 feet of the stream bank unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(C) If division (A) above is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of §§ 152.35 through 152.39 and shall be elevated or floodproofed in accordance with elevations established in accordance with § 152.23(K).

(D) Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data. Refer to FEMA Floodplain Management Technical Bulletin 1 -98 Use of Flood Insurance Study (FIS) Data as Available Data. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.

(E) When base flood elevation (BFE) data is not available from a federal, state, or other source one of the following methods may be used to determine a BFE. For further information regarding the methods for determining BFEs listed below, refer to FEMA's manual Managing Floodplain Development in Approximate Zone A Areas:

(1) Contour interpolation.

(a) Superimpose approximate Zone A boundaries onto a topographic map and estimate a BFE.

(b) Add one-half of the contour interval of the topographic map that is used to the BFE.

(2) Data extrapolation. A BFE can be determined if a site within 500 feet upstream of a reach of a stream reach for which a 100-year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches. No hydraulic structures shall be present.

(3) Hydrologic and hydraulic calculations. Perform hydrologic and hydraulic calculations to determine BFEs using FEMA approved methods and software.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019) Penalty, see § 152.99

§ 152.38 STANDARDS FOR STREAMS WITH ESTABLISHED BASE FLOOD ELEVATIONS BUT WITHOUT FLOODWAYS.

Along rivers and streams where Base Flood Elevation (BFE) data is provided but no floodway is identified for a Special Flood Hazard Area on the FIRM or in the FIS. No encroachments including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated

development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the community.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011) Penalty, see § 152.99

§ 152.39 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

Located within the areas of special flood hazard established in § 152.04 are areas designated as shallow flooding. The following provisions shall apply within such areas:

(A) All new construction and substantial improvements of residential structures shall have the lowest floor elevated to at least as high as the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least 3 feet above the highest adjacent grade.

(B) All new construction and substantial improvements of nonresidential structures shall:

(1) Have the lowest floor elevated to at least as high as the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least 3 feet above the highest adjacent grade; or

(2) Be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in § 152.22.

(C) All structures on slopes must have drainage paths around them to guide water away from the structures.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 01-02-08, passed 2-20-2008; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019) Penalty, see § 152.99

VARIANCE PROCEDURES

§ 152.50 ESTABLISHMENT OF APPEAL BOARD.

The Board of Zoning Appeals as established by Newberry County shall hear and decide requests for variances from the requirements of this chapter.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.51 RIGHT TO APPEAL.

Any person aggrieved by the decision of the appeal board or any taxpayer may appeal the decision to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting

forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the board is mailed.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.52 HISTORIC STRUCTURES.

Variations may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.53 FUNCTIONALLY DEPENDENT USES.

Variations may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this chapter are met, no reasonable alternative exist, and the development is protected by methods that minimize flood damage and create no additional threat to public safety.

(Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019)

§ 152.54 AGRICULTURAL STRUCTURES.

Variations may be issued to wet floodproof an agricultural structure if it is used solely for agricultural purposes. In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of § 152.57, this section, and the following standards.

(A) Use of the structure must be limited to agricultural purposes as listed below:

(1) Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;

(2) Steel grain bins and steel frame corn cribs;

(3) General purpose barns for the temporary feeding of livestock which are open on at least 1 side;

(4) For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variations may not be issued for structures that were substantially damaged. New construction or substantial improvement of the structures must meet the elevation requirements of § 152.36(B); and

(5) Detached garages and storage sheds solely used for parking and limited storage in connection with agricultural uses only, which are no greater than 400 square feet in area.

(B) The agricultural structure must be built or rebuilt, in the case of an existing building that is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation.

(C) The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood velocities exceed 5 feet per second, fast-flowing floodwaters can exert considerable pressure on the building's enclosure walls or foundation walls.

(D) The agricultural structure must meet the venting requirement of § 152.36(D).

(E) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation (BFE) so that they are contained within a watertight, floodproofed enclosure which is capable of resisting damage during flood conditions in accordance with § 152.35(F).

(F) The agricultural structure must comply with the floodway encroachment provisions of § 152.36(E).

(G) Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risk to lives and that the contents will be located to a specified site out of the flood plain.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019) Penalty, see § 152.99

§ 152.55 CONSIDERATIONS.

In passing upon the applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(A) The danger that materials may be swept onto other lands to the injury of others;

(B) The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;

(C) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;

(D) The importance of the services provided by the proposed facility to the community;

(E) The necessity to the facility of a waterfront location, where applicable;

(F) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(G) The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(H) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(I) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and

(J) Agricultural structures must be located in wide, expansive flood plain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.56 FINDINGS.

Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.57 FLOODWAYS.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to ensure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100% of the cost to perform the development.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.58 CONDITIONS.

Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. The following conditions shall apply to all variances:

(A) Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(B) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(C) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety,

extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(D) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk. Such notification shall be maintained with a record of all variance actions.

(E) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(F) Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this chapter. Violations must be corrected in accordance with § 152.24(E).

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011; Am. Ord. 04-06-19, passed 5-15-2019) Penalty, see § 152.99

LEGAL STATUS PROVISIONS

§ 152.70 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This chapter, in part, comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted 12-11-1990 and 4-3-2002, 6-11-2003, 4-7-2004, 10-6-2004, 2-20-2008, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of the existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Newberry County enacted 12-11-1990, as amended, which are not reenacted herein, are repealed.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.71 EFFECT UPON OUTSTANDING BUILDING PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any building, structure, or part thereof for which a building permit has been granted by the Chief Building Inspector or his or her authorized agents before the time of passage of this chapter; provided, however, that when start of construction has not occurred under the outstanding permit within a period of 60 days subsequent to passage of this chapter, construction or use shall be in conformity with the provisions of this chapter.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

§ 152.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than 30 days, or both. Each day a violation continues shall be considered a separate offense. Nothing herein contained shall prevent Newberry County from taking any other lawful action as is necessary to prevent or remedy any violation.

(Ord. 06-33-03, passed 6-11-2003; Am. Ord. 07-15-11, passed 9-7-2011)

2025
NEWBERRY COUNTY COUNCIL
COMMITTEE MEETINGS
Courthouse Annex – Council Chambers
1309 College Street
Newberry, SC 29108

First Quarter

January 27	Public Safety
February 24	Executive
March 10	Economic Development
March 24	Finance

Second Quarter

April 28	Public Safety
May 12	Executive
June 9	Economic Development
June 23	Finance

Third Quarter

July 21	Public Safety
July 28	Executive
August 11	Economic Development
September 22	Finance

Fourth Quarter

October 20	Public Safety
October 27	Executive
December 1	Economic Development
December 8	Finance

All Committee meetings will be held at 5 p.m. in County Council Chambers.

FY 2025 - 2026 BUDGET CALENDAR

<u>TASK</u>	<u>DATE</u>
DISTRIBUTE BUDGET MEMORANDUM AND FORMS TO DEPARTMENTS	January 6, 2025
PREPARE REVENUE PROJECTIONS - FINANCE & TREASURER	January 6 - March 7, 2025
DEPARTMENTAL BUDGET REQUESTS DUE TO ADMINISTRATION	February 4, 2025
REVIEW DEPARTMENT BUDGET REQUESTS - ADMINISTRATION	February 5 - February 28, 2025
BUDGET MEETINGS - DEPT HEADS / ELECTED OFFICIALS AND ADMINISTRATION	February 10 - February 28, 2025
CONSOLIDATE PROJECTED REVENUES AND PROPOSED EXPENDITURES	March 3 - March 17, 2025
DISTRIBUTE DRAFT BUDGET IN 3-RING BINDERS TO COUNCIL FOR REVIEW	March 19, 2025
<i>COUNCIL REVIEW OF DRAFT BUDGET (5PM BUDGET WORK SESSIONS)</i>	<i>March 25 and 26, 2025</i>
<i>COUNCIL REVIEW OF DRAFT BUDGET (5PM WORK SESSION PRIOR TO REGULAR COUNCIL MEETING)</i>	April 2, 2025
<i>FIRST READING OF BUDGET (COUNCIL REVIEW OF BUDGET AT 5PM WORK SESSION PRIOR TO REGULAR COUNCIL MEETING)</i>	April 16, 2025
FIRST READING VERSION OF DRAFT BUDGET POSTED TO COUNTY WEBSITE	April 17, 2025
PUBLIC HEARING NOTICE PUBLISHED IN NEWSPAPER (REQUIRES 15-DAY NOTICE PRIOR TO PUBLIC HEARING)	April 23, 2025
<i>COUNCIL REVIEW OF DRAFT BUDGET (5PM WORK SESSION PRIOR TO REGULAR COUNCIL MEETING)</i>	<i>May 7, 2025</i>
<i>COUNCIL REVIEW OF DRAFT BUDGET (AT WORK SESSION, IF NECESSARY)</i>	<i>May 14, 2025</i>
<i>PUBLIC HEARING & SECOND READING OF BUDGET (AT COUNCIL MEETING)</i>	<i>May 21, 2025</i>
<i>COUNCIL REVIEW OF DRAFT BUDGET (AT WORK SESSION, IF NECESSARY)</i>	<i>May 28, 2025</i>
FINAL DRAFT OF BUDGET DISTRIBUTED TO COUNTY COUNCIL	May 30, 2025
<i>THIRD READING AND ADOPTION OF BUDGET ORDINANCE</i>	<i>June 4, 2025</i>
APPROVED BUDGET SENT TO PRINTER	June 30, 2025
<i>* COUNTY COUNCIL MEETINGS AND REVIEW SESSIONS IN BOLD ITALIC PRINT</i>	