

STATE OF SOUTH CAROLINA)
NEWBERRY COUNTY)

FILED
NEWBERRY COUNTY
ORDINANCE NO 03-01-2025
2025 APR -3 AM 9:15
ELIZABETH P FOLK
CLERK OF COURT

AN ORDINANCE TO PROVIDE FOR A LIMITED AND TEMPORARY MORATORIUM ON THE SUBDIVISION OF A TRACT OF LAND INTO FIVE (5) LOTS OR MORE THAT WOULD CONTAIN PARCELS OF TWO (2) ACRES OR LESS IN NEWBERRY COUNTY, SOUTH CAROLINA, INVOKING APPLICATION OF THE PENDING ORDINANCE DOCTRINE, AND PROTECTING EXISTING VESTED RIGHTS AS REQUIRED BY APPLICABLE LAW.

WHEREAS, Newberry County Council is aware that over the past several years there has been marked growth in the State of South Carolina, and that there is increasing interest in the expansion of residential development in Newberry County, and

WHEREAS, Newberry County provides services to its citizens, including regulation of land development, zoning, and permitting, and Newberry County Council finds that appropriate land development regulation, zoning, and permitting of properties is vital to the public's best interests, health, safety and welfare, and

WHEREAS, Newberry County has established by ordinance a Comprehensive Plan, a Zoning Ordinance, and Land Development Regulations designed to guide development in accordance with existing and future needs; for the purposes of providing for adequate light, air and open space; preventing the overcrowding of land to avoid undue concentration of population and to lessen traffic congestion; facilitating the creation of a convenient, attractive and harmonious county; protecting and preserving scenic, historic, and ecologically sensitive areas; regulating the density and distribution of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airport and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes; facilitating the adequate provision or availability of transportation, law enforcement and fire protection, water, sewer, schools, parks and other recreation facilities, safe and affordable housing, disaster evacuation, and other public services and requirements, securing safety from fire, flood and other dangers; and furthering the public welfare in any other regard; and

WHEREAS, the subdivision of tracts of land into five (5) or more parcels at lot sizes of two (2) acres or less for the purpose of constructing new dwelling abodes places burden on the ability of Newberry County to meet the goals of the Comprehensive Plan, Zoning Ordinance and Land Development Regulations of Newberry County as outlined above; and

WHEREAS, Newberry County has been unable to determine any alternative less burdensome on the property rights of its citizens; and

WHEREAS, the current Zoning Ordinance and Land Development Regulations of Newberry County are insufficient to address the needs of its growing county; and

WHEREAS, Newberry County is currently studying modifications to the current Zoning Ordinance and current Land Development Regulations of Newberry County to address the needs of its growing county; and

WHEREAS, Newberry County Council, in consultation with its Joint Planning Commission and staff, will need time to determine how to best revise its Zoning Ordinance and Land Development Regulations; and

WHEREAS, Newberry County Council is concerned that major subdivisions that may be approved or permitted during the period in which these amendments are prepared and under consideration may be incompatible with such provisions and with Newberry County Council's vision for the development of the county; and

WHEREAS, Newberry County has determined that it is necessary to protect the public health, safety and welfare by passing an ordinance declaring a limited and temporary moratorium as provided below on the subdivision of any tract of land into five (5) or more parcels that would contain parcels of two (2) acres or less; and

WHEREAS, pursuant to prior appellate case precedents, a moratorium may be upheld where there is a demonstrated need for the moratorium, and the moratorium is enacted in good faith, is nondiscriminatory, is set for a clearly defined limited duration, and has a clearly defined scope; and

NOW, THEREFORE BE IT ORDAINED in Council duly assembled as follows:

1. Temporary Moratorium. A limited and temporary moratorium is hereby enacted to prevent the subdivision of any tract of land into five (5) or more parcels that would contain parcels of two (2) acres or less. During the time this moratorium is in effect and subject to the terms of this ordinance, Newberry County will accept no applications or act on any pending applications for the approval of the subdivision of any tract of land into five (5) or more parcels that would contain parcels of two (2) acres or less.
2. Jurisdiction. This moratorium shall apply throughout the unincorporated area of Newberry County.
3. Time. This moratorium shall be effective for two hundred and seventy (270) days from the date of 3rd Reading.
4. Pending Ordinance Doctrine. The South Carolina Pending Ordinance Doctrine shall apply to this ordinance, and the preceding provision regarding final adoption shall in no way adversely affect the enforceability, applicability and legality of the pending


ordinance status of this ordinance, which shall be fully effective upon first reading approval.

5. Extension. Newberry County Council may extend the moratorium established in this ordinance one (1) time for a period not to exceed ninety (90) days upon a finding by the County Council that the problems giving rise to the need for the moratorium established herein continue to exist and that reasonable progress is being made in carrying out a specific and prompt plan of action addressing concerns over the need for revisions to the current Zoning Ordinance and Land Development Regulations of Newberry County, but that additional time is reasonably needed to adequately address the issues facing Newberry County.
6. Effect on Vested Rights. South Carolina may have valid vested rights laws which would prohibit the enforcement of this moratorium by Newberry County for certain properties or owners. It is not the intent of this ordinance to violate state law. Therefore, any properties or property owners legally protected with such vested rights shall be exempt from the provisions of this moratorium to the extent such properties or property owners are lawfully protected by such statutory vested rights.
7. Recommendations Regarding New Development Regulations. During the moratorium enacted herein, Newberry County staff and the Joint Planning Commission shall proceed expeditiously to study, prepare, and make recommendations concerning amendments to the Zoning Ordinance and Land Development Regulations of Newberry County consistent with the findings of this ordinance.
8. Severability. If any section or portion of a section of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this ordinance.
9. Effect on Existing Ordinances. Any ordinances, rules, regulations or policies of Newberry County that are inconsistent or conflict with this ordinance are hereby suspended as to such inconsistency or conflict while this ordinance is in effect.
10. Public Hearing. Prior to third reading, Newberry County Council shall hold a public hearing to receive public comment on the matters set forth in this ordinance.
11. Third Reading. This Ordinance shall be and become finally binding after the same shall have received first, second and third readings by Newberry County Council.

AND IT IS SO ORDAINED by the County Council of the County of Newberry, South Carolina in Council duly assembled this 2nd day of April 2025.

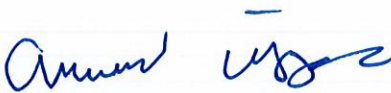
NEWBERRY COUNTY COUNCIL

BY:

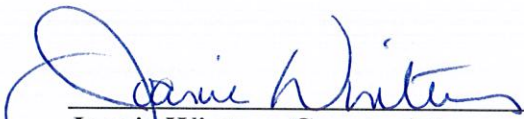

Robert N. Shealy, Chairman


(SEAL)

ATTEST:


Andrew Wigger, Clerk to Council

Approved as to form:


Joanie Winters, County Attorney


Jeff Shacker, County Administrator

1 st Reading:	March 5, 2025
2 nd Reading:	March 19, 2025
Public Hearing:	April 2, 2025
3 rd Reading:	April 2, 2025