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Director

ZONING/PLANNING DEPARTMENT

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Public Services Building  
4045 Bridge View Drive  
North Charleston, SC 29405-7464

## MEMORANDUM

**TO:** File

**DATE:** February 27, 2015

**SUBJECT:** PD-78A

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Accessory Dwelling Units are permitted in PD-78A only if they comply with all Accessory Dwelling Unit requirements of ZLDR Sec. 6.5.9. PD Sec. II on page 2 states accessory dwelling units are allowed as defined in Section 6.5.3 of the ZLDR and that section of the ZLDR is attached to, and included as part of, the PD document. ZLDR Sec. 6.5.3.J states that Accessory Dwelling Units are allowed, subject to the requirements of ZLDR Sec. 6.5.9; therefore, Accessory Dwelling Units in this PD must comply with the requirements of ZLDR Sec. 6.5.9.

Teddie E. Pryor, Sr. - Chairman  
J. Elliott Summey - Vice Chairman  
Colleen T. Condon  
Henry E. Darby  
Anna B. Johnson  
Joseph K. Qualey  
A. Victor Rawl  
Henry D. Schweers  
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CHARLESTON COUNTY COUNCIL  
LONNIE HAMILTON, III PUBLIC SERVICES BUILDING  
4045 BRIDGE VIEW DRIVE  
CHARLESTON, SOUTH CAROLINA  
29405-7464

August 28, 2014

FILE COPY

Melinda A. Luca, Esq.  
Finkel Law Firm  
P. O. Box 41489  
Charleston, SC 29423

Dear Ms. Luca:

County Council has granted approval of your request for a change in land classification. The Zoning Ordinance was legislatively amended to incorporate this zoning change, effective, August 26, 2014:

Case: ZPDA-4-14-18192

Request to amend the Gift Plantation Planned Development Zoning District (PD-78) to clarify primary and accessory uses for the properties in the Planned development on the west side of Chisolm Road and incorporate the Gift Plantation wetlands within the Planned Development:

For property located at: 3900-3999 Willow Pointe Ln; 4131-4230 Cobble Trot Way; 3801-3939 Thorn Chase Ln; and 4500-4540 Stable Trot Cir.

Parcel Identification: 249-00-00-026; 249-00-00-057 thru 249-00-00-071; 249-02-00-066 thru 249-00-00-070; 249-02-00-072 thru 249-02-00-077; and 249-02-00-079

Acres: 105.7

This letter will serve as final notification. Please contact the Charleston County Planning Department and the Charleston County Department of Building Inspections for the necessary permits before executing your plans.

Sincerely,

A handwritten signature in cursive script, appearing to read "Beverly T. Craven", is written over a horizontal line.

Beverly T. Craven  
Clerk of Council

BTC: wes

c: Fred Hahn

Allen Hall

**DEVELOPMENT GUIDELINES**  
**for**  
**GIFT PLANTATION**  
**PLANNED DEVELOPMENT DISTRICT**  
**(PD-78A)**

105.70 Acres - Chisolm Road

Johns Island

Charleston County, South Carolina

# DEVELOPMENT GUIDELINES for GIFT PLANTATION

## 105.70 ACRE TRACT, CHISOLM ROAD CHARLESTON COUNTY, SOUTH CAROLINA

I. The intent of this Planned Development is to create a unique, equestrian - oriented neighborhood, while maintaining the rural character of the surrounding area. The property shall be developed in accordance with the criteria provided within these guidelines.

### II. LAND USES:

#### A. Single Family Residential

- Site Acreage: 92.95 acres East of Chisolm Road  
12.75 acres West of Chisolm Road  
105.70 Total acres
- Dwelling Units: 18 units East of Chisolm Road  
13 units West of Chisolm Road  
31 Total units
- Density: 1 Dwelling unit per 5.16 acres East of Chisolm Road  
1.02 Dwelling units per acre West of Chisolm Road  
Overall density - 1 Dwelling unit per 3.40 acres
- Type: Single Family Detached Homes (no mobile homes)
- Accessory uses: As defined by §6.5.3 “Residential Accessory Uses,” Charleston County Zoning and Land Development Regulations, (attached) and subject to the Gift Plantation Restrictive Covenants for properties in Gift Plantation on both sides of Chisolm Road.

#### B. Recreational

- Open Space - 36.57 acres of open space East of Chisolm Road  
6.57 acres of open space West of Chisolm Road  
42.14 Total acres open space

- Buffer areas- 1) East of Chisolm Road, a minimum 40' open space corridor has been provided along all interior property lines for vegetative buffering of adjacent properties.

- 2) West of Chisolm Road, a minimum 50' open space corridor has been provided along the Chisolm Road right-of-way for vegetative buffering of roadway.
- 3) The private drive providing access to lots #1-17 will have continuous buffers on either side of road. (27.5' min.)
- 4) West of Chisolm Road – Freshwater Wetlands and pond areas located in Tax Lot Number 249-02-00-059, and containing 5.71 acres, as shown on a plat recorded April 18, 1992 in Plat Book EB, page 753. These wetlands, which may vary in size due to the natural changes that may occur from time to time, are owned by the Gift Plantation Homeowners Association. In the event that these wetlands are reduced or increased due to natural changes, the resulting highlands or wetland areas will be added to or subtracted from the adjoining lots so effected, and any revisions of plats that may be submitted for individual lots will be reviewed pursuant to the “exempt plat” requirements of the Charleston County Zoning and Land Development Regulations, § 8.1.3 (attached)

Ÿ Allowed Uses - 1) Per Charleston County Zoning and Land Development Regulations

2) Community Recreation

3) Equestrian Stable-East of Chisolm Road only

4) Home offices, subject to Gift Plantation definition of home offices below:

"No trade, business or commercial activity of any kind or character shall be permitted upon any lot. A private in home office shall be allowed, however, no one shall be allowed any type of business out of the home that would require customer, clients, patients and/or public to visit said home office as a part of its regular business functions."

### **III. SETBACK CRITERIA:**

#### **A. Single Family Residential - East of Chisolm Road**

Front / Street Side - 50'  
Interior Side - 15'  
Rear - 30'  
Maximum Building Cover - 30%  
Maximum Building Height - 35'

#### **B. Single family Residential - West of Chisolm Road**

##### **Principal Uses:**

Front / Street Side - 25'  
Interior Side - 5'  
Rear- 15'  
Maximum Building Cover : 35%  
[Maximum building coverage shall be calculated to include the combined area of all principal and accessory structures as defined by the Charleston County Zoning and Land Development Regulations].  
Maximum Building Height - 35' (also applies to accessory structures)

##### **Accessory Structure Setbacks:**

Front / Street Side – pursuant to §6.5.8 of the Charleston County Zoning and Land Development Regulations, (attached), and subject to the Restrictive Covenants for Gift Plantation for both sides of Chisolm Road, if more restrictive than the requirements set forth in §6.5.8 of the ZLDR. Home Occupations as defined by the Charleston County Zoning and Land Regulations are subject to and limited By the “ Home Offices” section of the Gift Plantation Restrictive Covenants for both sides of Chisolm Road, as defined in Section II B 4) above.

Side – 5'  
Rear – 10'

Fences may be allowed on lot lines with proof of approval from the Gift Plantation Architectural Review Board and the written approval of the adjoining lot owners abutting the fences(s).

#### **IV. LOT SIZE CRITERIA**

##### **A. Minimum Lot Size**

- East of Chisolm Road - 5 acres
- West of Chisolm Road - 12,500 square feet

##### **B. Number of Lots**

- East of Chisolm Road - Not to exceed 18 lots
- West of Chisolm Road - Not to exceed 13 lots
- Total - Not to exceed 31 lots

#### **V. STREETS**

- A. The street providing access to lots #1-17, East of Chisolm Road, is a **private** street with gated entrance.
- B. The street providing access to lots #19-31, West of Chisolm Road, is a **public** street with a right-of-way width of 50'.

#### **VI. SIGNAGE**

- A. Development signage shall be in compliance with the Charleston County Zoning and Land Development Ordinance, (attached), and subject to the Gift Plantation Restrictive Covenants for both sides of Chisolm Road, which prohibits Home Office signs.

#### **VII. GENERAL PROVISIONS**

- A. Provisions for development regulations not otherwise included in these Guidelines shall be consistent with the Charleston County Zoning and Land Development Regulations, or of the Restrictive Covenants for Gift Plantation for properties on both sides of Chisolm Road, that are in place at the time of the requested activity, whichever is more restrictive.
- B. The most current Restrictive Covenants for Gift Plantation properties on both sides of Chisolm Road shall apply. Any amendments of record thereto shall be recognized as the controlling document governing development in Gift Plantation along both sides of Chisolm road, in conjunction with the within guidelines for the Planned Development. Should any ambiguities arise, the more restrictive requirements shall control.

- C. Severability: In the event that one or more of the within requirements are abolished or repealed, the remaining portions of the document shall continue in full force and effect.
- D. Prior to issuance of Charleston County Zoning, Building, and Business License permits for properties on the west side of Chisolm Road, all permit applicants must submit written proof of consistency with the Gift Plantation Homeowners Association covenants and restrictions from the Gift Plantation Architectural Review Board and/or Gift Plantation Homeowners Association.
- E. Non-conforming uses and/or structures shall be allowed to remain, subject to Chapter 10 “Non-Conformities,” Charleston County Zoning and Land Development Regulations. (attached)
- F. Violations of these Guidelines are enforceable by Charleston County. Violations of Restrictive Covenants for both sides of Chisolm Road are enforceable by the Gift Plantation property owners.
- G. The following sections of the Charleston County Zoning and Land Development Regulations, (attached), and the South Carolina Code shall be controlling for this Planned Development Zoning District:

Chapters 1-“Introductory Provisions”; 2-“Review and Decision Making Bodies”; 4.23-“Planned Developments”; 6.5.3-“Residential Accessory Uses”; 6.5.8-“Accessory Structures in Residential Districts”; 8.1.3; 9.11-“Signs”; 10-“Non-Conformities”; 11-“Violations, Penalties and Enforcement”; and Title 6-29-740, South Carolina Code, as amended.
- H. Minor modifications may be made to these Guidelines without a legislative amendment to the PD Zoning District, pursuant to Title 6-29-740, South Carolina Code. Minor modifications shall not include changes to density, use, setbacks, lot size, or bulk, but may include modifications to the text of the Guidelines for clarification purposes, such as changes in reference to the Charleston County Zoning and Land Development Regulations Ordinance sections or the Gift Plantation Restrictive Covenants for properties on both sides of Chisolm Road. The Planning Director shall determine whether or not a proposed modification can be considered a minor modification that does not require a legislative amendment to the PD Zoning District.

**CHAPTER 1: INTRODUCTORY PROVISIONS**

**CHARLESTON COUNTY LAND DEVELOPMENT  
REGULATIONS**

**GIFT PLANTATION  
WILLOW POINTE LANE PORTION OF GIFT PLANTATION  
(WEST OF CHISOLM ROAD)**

**PD 78A**

## **CHAPTER 1 | INTRODUCTORY PROVISIONS**

### **Table of Contents**

|           |                                               |     |
|-----------|-----------------------------------------------|-----|
| ART. 1.1  | TITLE.....                                    | 1-1 |
| ART. 1.2  | AUTHORITY .....                               | 1-1 |
| ART. 1.3  | EFFECTIVE DATE .....                          | 1-1 |
| ART. 1.4  | APPLICABILITY AND JURISDICTION.....           | 1-1 |
| ART. 1.5  | PURPOSE AND INTENT.....                       | 1-2 |
| ART. 1.6  | COMMENTARY.....                               | 1-3 |
| ART. 1.7  | WORD USAGE AND CONSTRUCTION OF LANGUAGE ..... | 1-3 |
| ART. 1.8  | MINIMUM REQUIREMENTS.....                     | 1-4 |
| ART. 1.9  | CONFLICTING PROVISIONS .....                  | 1-4 |
| ART. 1.10 | ZONING MAP .....                              | 1-5 |
| ART. 1.11 | TRANSITIONAL PROVISIONS .....                 | 1-7 |
| ART. 1.12 | SEVERABILITY .....                            | 1-8 |

## **CHAPTER 1 | INTRODUCTORY PROVISIONS**

### **ARTICLE 1.1 TITLE**

This Ordinance shall be officially known and cited as the Zoning and Land Development Regulations of Charleston County, South Carolina. It may be referred to in this document simply as "this Ordinance."

### **ARTICLE 1.2 AUTHORITY**

This Ordinance is adopted pursuant to the statutory authority conferred by Title 4, Chapter 9 and Title 6, Chapter 29 of the Code of Laws of South Carolina, as amended.

### **ARTICLE 1.3 EFFECTIVE DATE**

This Ordinance shall take effect on April 21, 1999 as amended.

### **ARTICLE 1.4 APPLICABILITY AND JURISDICTION**

#### **§1.4.1 GENERALLY**

This Ordinance shall apply to all development, public and private, within the unincorporated areas of Charleston County. All structures and land uses constructed or commenced hereafter, and all enlargements of, additions to, changes in and relocations of existing structures and uses occurring hereafter shall be subject to this Ordinance and all other authorities pursuant to Title 6, Chapter 29 of the Code of Laws of South Carolina, as amended.

[Commentary—These Zoning and Land Development Regulations contain zoning, subdivision and other land development regulations (LDRs) that help implement Charleston County's *Comprehensive Plan*.]

#### **§1.4.2 NEW OR MOVED STRUCTURES**

All structures built hereafter shall comply with all of the regulations of this Ordinance. Any structure moved from one site to another site, including movement within a zoning lot, shall be considered to be a structure built hereafter.

#### **§1.4.3 REMODELING**

If any structure is hereafter remodeled:

- A. The entire structure as remodeled shall comply with the use regulations of this Ordinance.
- B. Any alterations, enlargements, or additions to the structure shall comply with all applicable density/intensity and dimensional standards of the underlying zoning district.
- C. Off-street parking facilities shall not be reduced below (or if already less than, shall not be further reduced below) the requirements of this Ordinance applicable to a similar new structure or use.

#### **§1.4.4 CHANGE IN LAND USE OR LAND CLASSIFICATION**

If a use of any structure is hereafter changed to another use, then the new use must comply with the use regulations in Chapter 6 of this Ordinance, but the mere establishment of the new use does not require the existing structure to comply with the density, intensity and dimensional standards of the underlying zoning district.

**ARTICLE 1.5 PURPOSE AND INTENT**

This Ordinance is intended to protect the health, safety, and general welfare of existing and future residents of Charleston County by:

- A. Implementing the goals, objectives and policies of the *Comprehensive Plan*;
- B. Providing for adequate light, air, and open space;
- C. Preventing overcrowding of land, to avoid undue concentration of population, and to lessen congestion in the streets;
- D. Protecting and preserving scenic, historic, or ecologically sensitive areas;
- E. Regulating the density and distributions of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes;
- F. Facilitating the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements;
- G. Securing from fire, flood, and other dangers;
- H. Furthering the public welfare in any other regard specified by a local governing body;
- I. Facilitating the creation of a convenient, attractive and harmonious community;
- J. Encouraging the development of economically sound and stable municipalities and counties;
- K. Assuring the timely provision of required streets, utilities, and other facilities and services to new land developments;
- L. Assuring the provision of needed public open spaces, building sites and new land developments through the dedication or reservation of land for recreational, educational, transportation, and other public purposes; and
- M. Assuring, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the *Comprehensive Plan*; and
- N. Fostering growth and development, and preserving our natural and cultural resources, always respecting the rights of the individual, including private property rights.

**ARTICLE 1.6 COMMENTARY**

Commentaries may be included in this Ordinance whenever a provision requires additional explanation to clarify its intent. Commentaries have no regulatory effect, but rather are intended solely as a guide for administrative officials and the public to use in understanding and interpreting provisions of the Zoning and Land Development Regulations.

[Commentary—"Commentaries" are used as a guide for administrative officials and the public to use in interpreting and understanding the rationale behind this Ordinance's regulations.]

**ARTICLE 1.7 WORD USAGE AND CONSTRUCTION OF LANGUAGE****§1.7.1 MEANINGS AND INTENT**

All provisions, terms, phrases and expressions contained in this Ordinance shall be construed according to the Purpose and Intent set out in Article 1.5.

**§1.7.2 HEADINGS, ILLUSTRATIONS AND TEXT**

In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, figure, or illustration, the text shall control.

**§1.7.3 LISTS AND EXAMPLES**

Unless otherwise specifically indicated, lists of items or examples that use terms such as "including," "such as," or similar language are intended to provide examples; not to be exhaustive lists of all possibilities.

**§1.7.4 COMPUTATION OF TIME**

All references to "days" are to Charleston County Government work days unless otherwise expressly stated. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by Charleston County Government, that day shall be excluded.

**§1.7.5 REFERENCES TO OTHER REGULATIONS, PUBLICATIONS AND DOCUMENTS**

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent editions of such regulation (as amended), resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.

**§1.7.6 DELEGATION OF AUTHORITY**

Authority to enforce the provisions of this Ordinance falls to the Director of the Planning Department or the designee of the Director, or to the head of the department (or that department head's designee) to which the responsibility of executing the provision falls. Any reference to the "Planning Department" shall mean the Director of the Charleston County Planning Department or their designee.

**§1.7.7 TECHNICAL AND NONTECHNICAL TERMS**

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning. Certain words and phrases are defined in Chapter 12 of this Ordinance; those words and phrases shall be construed in accordance with their definitions in Chapter 12.

**§1.7.8 PUBLIC OFFICIALS AND AGENCIES**

All public officials, bodies, and agencies to which references are made are those of Charleston County, unless otherwise expressly provided. Whenever reference is made to a public official's title or name of a public agency, that reference shall be construed as referring to the most up-to-date title or agency name, or to the relevant successor official or agency.

**§1.7.9 MANDATORY AND DISCRETIONARY TERMS**

The words "shall," "will," and "must" are mandatory. The words "may" and "should" are advisory and discretionary terms.

**§1.7.10 CONJUNCTIONS**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

"And" indicates that all connected items, conditions, provisions, or events apply; and

"Or" indicates that one or more of the connected items, conditions, provisions, or events may apply.

**§1.7.11 TENSES AND PLURALS**

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

**ARTICLE 1.8 MINIMUM REQUIREMENTS**

The standards of this Ordinance are minimum requirements. The issuance of any permit, certificate or approval in accordance with the standards and requirements of this Ordinance shall not relieve the recipient of responsibility for complying with all other applicable requirements of any other county, state or federal agency.

**ARTICLE 1.9 CONFLICTING PROVISIONS****§1.9.1 CONFLICT WITH STATE OR FEDERAL REGULATIONS**

If the provisions of this Ordinance are inconsistent with those of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

**§1.9.2 CONFLICT WITH OTHER COUNTY REGULATIONS**

If the provisions of this Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the County, the more restrictive provision will control. No text amendment, zoning variance or condition of approval attached to any form of development approval under this Ordinance shall have the effect of nullifying, abrogating or diminishing the provisions of any other County ordinance.

**§1.9.3 CONFLICT WITH PRIVATE EASEMENTS, AGREEMENTS OR COVENANTS**

This Ordinance is not intended to abrogate, annul, or otherwise interfere with any private easement, agreement, covenant, restriction or other private legal relationship. The County is responsible for enforcing this Ordinance; it does not enforce private agreements, easements, covenants or restrictions to which the County is not a party. Restrictive covenants affidavit(s) shall be signed by the applicant or current property owner(s) for all permit applications including but not limited to zoning variance applications, applications for rezoning, special exception

applications, site plan review applications, subdivision applications and home occupation permits in compliance with State law, "Section 6-29-1145 that states:

- A. In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.
- B. If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:
  - 1. In the application for the permit;
  - 2. From materials or information submitted by the person or persons requesting the permit; or
  - 3. From any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.
- C. As used in this section:
  - 1. 'actual notice' is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;
  - 2. 'permit' does not mean an authorization to build or place a structure on a tract or parcel of land; and
  - 3. 'restrictive covenant' does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land."

## **ARTICLE 1.10 ZONING MAP**

### **§1.10.1 ADOPTION**

Charleston County is hereby divided into zoning districts as shown on the Charleston County Official Zoning Map (also known as the Digital Zoning Database or Zoning Map) which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

### **§1.10.2 FORMAT**

The Official Zoning Map is maintained in the form of a machine-readable representation of a geographic phenomenon stored for display or analysis by a digital computer. The digital zoning database stored in the Geographical Information System (GIS) is hereby designated, established, and incorporated as a part of these regulations and the originals thereof, which are on file at the offices of the Planning Department, shall be as much a part of these regulations as if they were fully described in these regulations. Upon adoption of this Ordinance and any amendment thereto, the Planning Department may produce a paper version of the Official Zoning Map.

**§1.10.3 AMENDMENTS**

If amendments are made in zoning district boundaries in accordance with the procedures of Article 3.4, such amendments shall be effective upon final approval of the Ordinance by County Council and shall be updated by the Planning Department on the Zoning Database promptly after the amendment has been approved by County Council.

**§1.10.4 LOCATION**

The original paper version of the Official Zoning Map shall be stored in the office of the Planning Department. The official Zoning Map shall be updated at least annually. In case of any dispute regarding the zoning classification of property subject to this Ordinance, the Official Zoning Map maintained by the Planning Department shall control.

**§1.10.5 CORRECTIONS AND REPLACEMENT**

In the event that the Official Zoning Map becomes damaged, destroyed, or lost, the County Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting and other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map, as amended. The new Official Zoning Map shall be marked, "This Official Zoning Map, adopted by resolution of The County Council of The County of Charleston, S.C., on (date) supersedes the Official Zoning Map adopted (date) of the Charleston County," which statement shall be signed by the Chairman of County Council, attested by The County Clerk, and bear the seal of Charleston County, S.C. Unless the prior Official Zoning Map is lost or has been totally destroyed, the map or any significant parts thereof remaining after partial destruction shall be preserved, together with all records of Charleston County regarding its adoption and amendment.

**§1.10.6 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundary of any zoning district shown on the zoning map the following rules shall apply:

- A. Unless otherwise indicated, district boundaries follow lot lines; center lines of streets, highways, alleys or railroads; center lines of water courses or impoundments of streams, reservoirs, or other bodies of water.
- B. Where so indicated, district boundaries are parallel to the center lines of streets, highways, or railroads, or rights-of-way of same, or the center lines of streams, reservoirs, or other bodies of water, or said lines extended as such distances therefrom as indicated on the zoning map. If no distance is given, distance shall be determined by the use of the scale on the zoning map.
- C. Where any district boundary is indicated on the zoning map as approximately following the Charleston County boundary line or the corporate limits line of any incorporated place within Charleston County, then such County boundary line or corporate limits line shall be construed to be the actual district boundary.

**§1.10.7 MARSH BOUNDARIES**

With the exception of lands within the ownership of national forests, swampland, wildlife refuges, and any other publicly designated areas, the Office of Coastal Resource Management shall determine the boundaries and have jurisdiction over critical areas. Fresh water wetlands shall have boundaries set by the Army Corps of Engineers.

**§1.10.8 ZONING OF ADDITIONAL LAND AREAS**

It is the intent of this Ordinance that every part of the land area of unincorporated Charleston County be included in one of the zoning districts established by this Ordinance. Any land area that comes under the jurisdiction of this Ordinance or does not appear to be included in a zoning district shall be classified in the RM district unless an alternative classification is approved by the Charleston County Council in accordance with the Zoning Map Amendment procedures of Chapter 3.

**ARTICLE 1.11 TRANSITIONAL PROVISIONS****§1.11.1 VIOLATIONS CONTINUE**

Any violation of the previous Zoning Ordinance or Subdivision Ordinance will continue to be a violation under this Ordinance and be subject to penalties and enforcement under Chapter 11, unless the use, development, construction, or other activity complies with the provisions of this Ordinance, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before April 21, 1999.

**§1.11.2 LEGAL NONCONFORMITIES UNDER PRIOR ORDINANCE**

Any legal nonconformity under the previous Zoning Ordinance will also be a legal nonconformity under this Ordinance, as long as the situation that resulted in the nonconforming status under the previous Zoning Ordinance continues to exist. If a nonconformity under the previous Zoning Ordinance becomes conforming because of the adoption of this Ordinance, then the situation will no longer be considered a nonconformity.

**§1.11.3 APPROVED PROJECTS**

- A. Variances and preliminary subdivision plats that have received approval by April 20, 1999, shall remain valid until their expiration date. Construction pursuant to such approval may be carried out in accordance with the development standards in effect at the time that approval was granted, provided that the permit or approval remains valid and has not lapsed. Construction pursuant to conditional use permits, variances, preliminary subdivision plats, and planned developments that were approved without an expiration date may be carried out in accordance with the development standards in effect at the time that approval was granted, provided that permits for such construction are issued prior to April 20, 2001. As of April 20, 2001, all construction shall be subject to strict compliance with the regulations of this Ordinance.
- B. No provision of this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a zoning permit or building permit has been issued prior to April 21, 1999, provided that permit does not lapse and remains valid.
- C. No previously approved lot shall be deemed an unusable lot under the provisions of this Ordinance.

**§1.11.4 SPECIAL EXCEPTION USES**

- A. Any use that was legally established before April 21, 1999, without Special Exception approval and which after April 21, 1999, is located in a zoning district that requires Special Exception approval for the subject use and which presently continues as an allowable use, shall not be considered a nonconforming use and shall not require a Special Exception. Such uses shall be deemed Uses Permitted by Right, as defined in Chapter 12 of this Ordinance.
- B. Any use that was legally established before April 21, 1999, with a Conditional Use Permit and which after April 21, 1999, is located in a zoning district that requires Special Exception approval for the subject use and which presently continues as an allowable use, shall not be considered a nonconforming use and shall not require a Special Exception. Such uses shall be deemed Uses Permitted by Right, as defined in Chapter 12 of this Ordinance.

**ARTICLE 1.12 SEVERABILITY**

If any Court of competent jurisdiction rules any provision of this Ordinance invalid, that ruling shall not affect any not specifically included in the judgment. If any Court of competent jurisdiction rules invalid the application of any provision of this Ordinance to a particular property, building, or other structure, or use, that ruling shall not affect the application of the Ordinance provisions to any property, building, other structure, or use not specifically included in the judgment.

The provisions of this Ordinance are hereby declared to be valid and enforceable, notwithstanding inadvertent and/or clerical error(s); such error(s) as may exist shall not affect the validity or intent of the associated provisions, nor that of the remainder of the Ordinance provisions hereunder.

**CHAPTER 2: REVIEW AND DECISION MAKING BODIES**

**CHARLESTON COUNTY LAND DEVELOPMENT  
REGULATIONS**

**GIFT PLANTATION  
WILLOW POINTE LANE PORTION OF GIFT PLANTATION  
(WEST OF CHISOLM ROAD)  
PD 78A**

**CHAPTER 2 | REVIEW AND DECISION-MAKING BODIES**

**Table of Contents**

|          |                              |     |
|----------|------------------------------|-----|
| ART. 2.1 | COUNTY COUNCIL .....         | 2-1 |
| ART. 2.2 | PLANNING COMMISSION.....     | 2-1 |
| ART. 2.3 | BOARD OF ZONING APPEALS..... | 2-2 |
| ART. 2.4 | PLANNING DIRECTOR.....       | 2-3 |

**CHAPTER 2 | REVIEW AND DECISION-MAKING BODIES****ARTICLE 2.1 COUNTY COUNCIL****§2.1.1 REVIEW AUTHORITY**

The County Council does not act in a review or recommending capacity.

**§2.1.2 DECISION-MAKING AUTHORITY**

The County Council shall have final (local) decision-making authority on the following matters:

- A. *Comprehensive Plan* Amendments;
- B. Zoning and Land Development Regulations Text Amendments;
- C. Zoning Map Amendments (Rezoning);
- D. Planned Development (PD) Development Plans and PD Zoning Map Amendments; and
- E. Acceptance of public dedications (offered as part of Subdivision Plat process).

**ARTICLE 2.2 PLANNING COMMISSION****§2.2.1 REVIEW AUTHORITY**

The Planning Commission acts in a review and recommending capacity on the following matters:

- A. *Comprehensive Plan* Amendments;
- B. Zoning and Land Development Regulations Text Amendments;
- C. Zoning Map Amendments (Rezoning); and
- D. Planned Development (PD) Development Plans and PD Zoning Map Amendments.

**§2.2.2 DECISION-MAKING AUTHORITY**

The Planning Commission shall have final (local) decision-making authority on the following matters:

- A. Preliminary Subdivision Plats;
- B. Public Project Review;
- C. Appeals of Administrative Decisions on Final Subdivision Plats;
- D. Appeals of Administrative Decisions on Subdivision Matters;
- E. Names of New Streets and Roads;

- F. Requests for Street Name Changes; and
- G. Any other matters pursuant to Chapter 29, Title 6, Section 6-29-340 of the Code of Laws of South Carolina, as amended.

### **§2.2.3 OFFICERS, RULES, MEETINGS, AND MINUTES**

Pursuant to Chapter 29, Title 6 of the Code of Laws of South Carolina § 6-29-350 and § 6-29-360, the Planning Commission shall elect one of its members as chairperson and one as vice-chairperson whose terms must be for one year. It shall appoint a secretary who may be an officer or an employee of the governing authority or of the Planning Commission. The Planning Commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The Planning Commission shall meet at the call of the chairperson and at such times as the chairperson or commission may determine. The Planning Commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated.

### **§2.2.4 COMPOSITION**

The Planning Commission shall consist of nine members appointed by the County Council for terms of four years each, provided, however, that of the initial members of the Planning Commission, five members shall be appointed for four year terms and four members shall be appointed for two year terms. Members shall serve until their successors are appointed and qualified. The members of the Planning Commission shall serve without compensation from the County. Any vacancy which may occur on the Planning Commission shall be filled by County Council appointing a successor to serve out the unexpired term of the vacancy. In appointing members to the Planning Commission the County Council shall consider their professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens. The membership of the Planning Commission should represent a broad cross-section of the interests and concerns within Charleston County. No member of the Planning Commission may hold an elected public office in Charleston County.

## **ARTICLE 2.3 BOARD OF ZONING APPEALS**

### **§2.3.1 REVIEW AUTHORITY**

The Board of Zoning Appeals does not act in a review or recommending capacity.

### **§2.3.2 DECISION-MAKING AUTHORITY**

The Board of Zoning Appeals shall have final decision-making authority on the following matters:

- A. Special Exceptions;
- B. Variances; and
- C. Appeals of Administrative Decisions on Zoning Related Matters.

### **§2.3.3 OFFICERS, RULES, MEETINGS, AND MINUTES**

Pursuant to Chapter 29, Title 6 of the Code of Laws of South Carolina § 6-29-790, the Board of Zoning Appeals shall elect one of its members as Chair who shall serve for one year or until re-election or a successor is elected and qualified. The Board of Zoning Appeals shall adopt rules

and procedures in accordance with the provisions of this Ordinance not inconsistent with the provisions of Chapter 29 Title 6 of the Code of Laws of South Carolina, as amended. The Board of Zoning Appeals shall appoint a Secretary. The Secretary may be an employee of the County. Meetings of the Board shall be at the call of the Chair and at such other times as the Board of Zoning Appeals may determine. Public notice of all meetings of the Board of Zoning Appeals shall be provided by publication in a newspaper of general circulation in Charleston County. The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote. The Board of Zoning Appeals shall maintain records of its examinations and official actions, all of which, upon approval, shall be filed immediately in the office of the Planning Director. Such records shall be available for public review and inspection during normal business hours.

#### **§2.3.4 COMPOSITION**

The Board of Zoning Appeals shall consist of nine members appointed by the County Council for terms of four years each, provided, however, that of the initial members of the Board of Zoning Appeals, five members shall be appointed for four year terms and four members shall be appointed for two year terms. Members shall serve until their successors are appointed and qualified. The members of the Board of Zoning Appeals shall serve without compensation from the County. Any vacancy which may occur on the Board of Zoning Appeals shall be filled by County Council appointing a successor to serve out the unexpired term of the vacancy. No member of the Board of Zoning Appeals may hold an elected public office in Charleston County.

### **ARTICLE 2.4 PLANNING DIRECTOR**

#### **§2.4.1 REVIEW AUTHORITY**

The Planning Director shall act in a review capacity on the following matters:

- A. *Comprehensive Plan* Amendments;
- B. Zoning and Land Development Regulations Text Amendments;
- C. Zoning Map Amendments (Rezoning);
- D. Planned Development (PD) Development Plans and PD Zoning Map Amendments;
- E. Preliminary Subdivision Plats;
- F. Final Subdivision Plats;
- G. Special Exceptions; and
- H. Public Project Review.

#### **§2.4.2 DECISION-MAKING AUTHORITY**

The Director of the Planning Department shall have final (local) decision-making authority on the following matters:

- A. Written Interpretations;

- B. Zoning Permits; and
- C. Preliminary Subdivision Plats; and
- D. Final Subdivision Plats.

#### **§2.4.3 OTHER POWERS AND DUTIES**

The Planning Director shall have the following powers and duties in addition to those otherwise set out under this Ordinance:

- A. Maintaining permanent and current records of this Ordinance including, but not limited to, all zoning maps, amendments, special exceptions, variances, appeals, and applications thereof and records of hearings thereon. Such records shall be open to public inspection during business hours;
- B. Providing such clerical, technical, and consultative assistance as may be required by the Board of Zoning Appeals, Planning Commission, County Council, and other boards, commissions and officials in the exercise of their duties relating to this Ordinance;
- C. Enforcing all provisions of this Ordinance;
- D. Maintaining a record of all applications for zoning permits, including all plats and plans submitted therewith, which record shall be open to public inspection during business hours;
- E. Conducting inspections of structures, land and the uses thereof to determine compliance with this Ordinance;
- F. Receiving, filing, and forwarding to the Board of Zoning Appeals the records of all appeals and variances;
- G. Receiving, filing, and forwarding to the Board of Zoning Appeals all applications for Special Exceptions; and
- H. Reviewing, approving, and issuing Administrative Permits as authorized by this Ordinance and maintain records of these permits.

**CHAPTER 4 ARTICLE 4.23 :**

**PD, PLANNED DEVELOPMENT ZONING DISTRICT**

**CHARLESTON COUNTY LAND DEVELOPMENT  
REGULATIONS**

**GIFT PLANTATION**

**WILLOW POINTE LANE PORTION OF GIFT PLANTATION  
(WEST OF CHISOLM ROAD)**

**PD 78A**

## ARTICLE 4.23 PD, PLANNED DEVELOPMENT ZONING DISTRICT

### §4.23.1 AUTHORITY

The South Carolina Local Government Comprehensive Planning Enabling Act of 1994, as amended (Planning Act) authorizes local governments to utilize zoning and planning techniques (not limited to those found in the Planning Act) for implementation of the goals specified in S.C. Code Ann. Section 6-29-720 (2007). Charleston County Council hereby establishes a zoning and planning technique called a "Planned Development" zoning district. The "Planned Development" zoning district incorporates provisions of the planning technique called "planned development district" referred to in the Planning Act and identified in this ordinance and the additional provisions found in this Article that expands, varies and/or differs from the provisions found in the references to planned development districts in the Planning Act. A "Planned Development," as applied herein, is a type of zoning district (PD) and a type of development plan. PD zoning districts are inextricably linked to Planned Development plans, in that no rights of development apply to a PD zoning designation other than those of the approved Planned Development plan.

Planned development provisions are intended to encourage innovative site planning for residential, commercial, institutional, and/or industrial developments within planned developments. Planned developments may provide for variations from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot size, density, bulk, and other requirements to accommodate flexibility in the arrangement of uses for the general purpose of promoting and protecting the public health, safety, and general welfare. A Planned Development as used in this ordinance is intended to apply the flexibility and variation provisions of the Planning Act provided in the planned development zoning district provision, along with the additional regulatory and procedural provisions of this Article.

### §4.23.2 PURPOSE AND INTENT

The County finds and determines that this Article is consistent with the following objectives of the *Comprehensive Plan*:

- A. Implement a farm and forest land and open space protection program (Objective FFL1);
- B. Provide families and youth with access to parks, recreation areas and facilities (Objective CD5);
- C. Encourage site design that will maintain as much of the development site as possible in natural open space where new development is proposed in rural and agricultural areas outside of existing settlements (Objective WR3, Policy 1);
- D. Implement a system of incentives that will encourage environmentally sensitive site planning that is responsive to the natural characteristics of the land. New development should be encouraged that will retain buffers along rural and urban waterways, retain natural open space, and reduce impervious surfaces (Objective WR4, Policy 1);
- E. Promote a sufficient supply of a variety of housing units with access to facilities and services (Objective H1);
- F. Increase ownership of affordable housing through new construction, acquisition, and/or rehabilitation (Objective H5);

- G. Increase the housing alternatives for low and moderate income households (Objective H6); and
- H. Increase and preserve affordable housing development and reduce the number of households below the poverty level (Objective CD10).

#### **§4.23.3 DEFINITIONS**

In this Chapter, the following term shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

- A. Studio Unit: A dwelling unit that:
  - 1. Has only one combined living and sleeping room; or
  - 2. A living and sleeping room, along with a separate room that contains only kitchen facilities and also a separate room that contains only sanitary facilities.

#### **§4.23.4 INTENT AND RESULTS**

The PD, Planned Development, zoning district regulations of this Article are intended to encourage achievement of the goals of the Charleston County *Comprehensive Plan* and to allow flexibility in development of property that proposes a single or multiple use(s) that will result in improved design, character, and quality of new or redesigned developments and preserve natural and scenic features of open spaces. The following objectives may be attained through the use of the planned development process:

- A. A maximum choice in the types of environment available to the public by allowing a development that would not be possible under the strict application of the standards of this Ordinance that were designated primarily for development on individual lots;
- B. A greater freedom in selecting the means to provide access, light, open space and design amenities;
- C. Quality design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land use arrangements;
- D. A development pattern in harmony with the applicable goals and strategies of the *Comprehensive Plan*;
- E. The permanent preservation of common open space, recreation areas and facilities;
- F. An efficient use of the land resulting in more economical networks of utilities, streets, schools, public grounds and buildings, and other facilities;
- G. A creative approach to the use of land and related physical facilities that results in better development and design and the construction of amenities; and
- H. A development pattern that incorporates adequate public safety and

transportation-related measures in its design and compliments the developed properties in the vicinity and the natural features of the site.

#### **§4.23.5 APPLICABILITY**

There shall be no minimum site area requirement for a Planned Development as long as the Planned Development meets all requirements of Article 4.23 of this Ordinance.

#### **§4.23.6 DEVELOPMENT STANDARDS**

Development standards of the underlying zoning district pertaining to density, lot size, location, and arrangement of buildings and structures, lot dimensions, and landscaping may be altered in Planned Developments. The underlying standards of the zoning district may be altered only if the development will serve an overriding public interest and/or public safety concern. If the proposed development is zoned R-4, does not comply with the provisions of Section 4.23.6(A)(2) through 4.23.6(A)(5) below, and would exceed the maximum density of the Residential Low Density Future Land Use Designation in the *Comprehensive Plan*, a *Comprehensive Plan* Amendment must be approved concurrently with a Planned Development application (see Article 3.2, *Comprehensive Plan* Amendment). The development standards listed below, those in the approved Planned Development Stipulations and any in the approved Planned Development Sketch Plan(s) shall apply.

##### **A. Maximum Density**

The maximum allowed density increase in a planned development may not exceed the maximum density as stated in Table 3.1.1 of the Charleston County *Comprehensive Plan*, except as provided for in Chapter 3.1.7(C) of the *Comprehensive Plan*, as amended, and this Article. Density and lot area calculations shall comply with the requirements contained in Article 4.2, Measurements, Computations and Exceptions. In order to achieve the maximum density, the following minimum amounts of common open space, as defined in this Ordinance, shall apply where applicable:

1. Provide 0.2 acres of common open space per dwelling unit plus ten percent (10%) of the land area designated for office, commercial, and/or industrial uses is required for parcels located in the Rural and Agricultural Areas. The maximum density permitted in the Agricultural Preservation Future Land Use Designation on Edisto Island, as identified in the *Comprehensive Plan*, shall not exceed one dwelling unit per ten acres;
2. If the parcel is located in the Suburban Area, the following standards shall apply:
  - a. Where the underlying zoning district is Single Family Residential (R-4) and all requirements of this Ordinance are met, a maximum density of not more than two times the maximum allowable density in the underlying zoning district may be permitted when 0.05 acres of common open space per dwelling unit plus ten percent (10%) of the land area designated for office, commercial, and/or industrial uses is provided; and
  - b. Where the underlying zoning district is Mixed Style Residential (M-8 or M-12) and all requirements of this Ordinance are met, a maximum density of not more than two times the maximum allowable density in the underlying zoning district may be permitted when 0.05 acres of

common open space per dwelling unit plus ten percent (10%) of the land area designated for office, commercial, and/or industrial uses is provided.

3. The maximum densities listed in sub-sections "a" and "b" below may be permitted in planned developments that include at least fifty percent (50%) permanently protected Common Open Space and comply with all other requirements of this Ordinance. These density bonuses shall not be applicable to areas in (1) the Conservation Management and Resource Management Future Land Use designations, as identified in the *Comprehensive Plan*; and (2) the Agricultural Preservation Future Land Use designation on Edisto Island, as identified in the *Comprehensive Plan*.
  - a. An increase of up to 20% more than the number of dwelling units permitted under the maximum density identified in the *Comprehensive Plan* for the Rural Residential and Agricultural Residential Future Land Use designations (example calculation: number of dwelling units permitted under the maximum density times 1.2). The following table illustrates a detailed example of this calculation.

|                                                                                                                                                        |                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| <b>Parcel Size</b>                                                                                                                                     | 10 acres                                                             |
| <b>Future Land Use Designation</b>                                                                                                                     | Agricultural Residential                                             |
| <b>Maximum Density of the Future Land Use Designation</b>                                                                                              | 1 dwelling unit / acre                                               |
| <b># of Dwelling Units Permitted (Maximum Density)</b>                                                                                                 | 10 dwelling units                                                    |
| <b># of Dwelling Units Permitted with 50% Permanently Protected Common Open Space:<br/>[# of Dwelling Units Permitted Under Maximum Density x 20%]</b> | $[10 \text{ dwelling units} \times 1.2] = 12 \text{ dwelling units}$ |

- b. An increase of up to 220% more than the number of dwelling units permitted under the base density of the Future Land Use designation identified in the *Comprehensive Plan* for all other applicable *Comprehensive Plan* Future Land Use designations (excludes (1) "a" above; (2) the Conservation Management and Resource Management Future Land Use designations; and (3) the Agricultural Preservation Future Land Use designation on Edisto Island) (example calculation: number of dwelling units permitted under the base density times 2.2). The following table illustrates a detailed example of this calculation:

|                                                                                                                                                      |                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| <b>Parcel Size</b>                                                                                                                                   | 80 acres                                                             |
| <b>Future Land Use Designation</b>                                                                                                                   | Rural Agriculture                                                    |
| <b>Base Density of the Future Land Use Designation</b>                                                                                               | 1 dwelling unit / 8 acres                                            |
| <b># of Dwelling Units Permitted (Base Density)</b>                                                                                                  | $[80 \text{ acres} / 8] = 10 \text{ dwelling units}$                 |
| <b># of Dwelling Units Permitted (PD Maximum Density)</b>                                                                                            | $[80 \text{ acres} / 4] = 20 \text{ dwelling units}$                 |
| <b># of Dwelling Units Permitted with 50% Permanently Protected Common Open Space:<br/>[# of Dwelling Units Permitted Under Base Density x 220%]</b> | $[10 \text{ dwelling units} \times 2.2] = 22 \text{ dwelling units}$ |

4. Density bonuses beyond the maximum density of the *Comprehensive Plan* County of Charleston Zoning and Land Development Regulations

Future Land Use designation may be approved when affordable dwelling units are included, provided that the planned development complies with all other requirements of this ordinance and all affordable dwelling units comply with Section 4.23.8, Affordable Dwelling Units, and Chapter 12, Definitions. The maximum density permitted in the Agricultural Preservation Future Land Use Designation on Edisto Island, as identified in the *Comprehensive Plan*, shall not exceed one dwelling unit per ten acres;

5. Planned developments that include a parcel or parcels of land that have varying future land use designations and/or varying zoning classifications may be deemed consistent with the *Comprehensive Plan* if the total density proposed does not exceed the maximum combined density permitted in the future land use designations and/or zoning districts.

**B. Dimensional Standards**

1. The Waterfront Development Standards of the base zoning district, as set forth in Article 4.22 of this Ordinance, shall be applied to all waterfront lots within the planned development.
2. Each lot located on the perimeter of the planned development shall maintain the rear yard setback requirements and any buffer requirements of the adjacent zoning district.

**C. Architectural Standards**

The Architectural Design Guidelines of Article 9.6 shall apply to all proposed planned developments. Modifications to the Architectural Design Guidelines may be proposed in a planned development request where the Planning Director determines that the architectural design of the proposed development is compatible with the architectural design of development on adjacent properties.

**D. Lots to Abut Upon Common Open Space**

Residential parcels shall maximize orientation towards common open space or similar areas.

**E. Access**

1. Streets within planned developments should connect to adjoining neighborhoods/developments. Cul-de-sacs, T-turnarounds, and dead-end streets are discouraged.
2. Areas between structures shall be covered by easements where necessary for access and to provide for maintenance and utility service.
3. Primary vehicular access to office, commercial, or industrial development shall be through limited access roads.

**F. Commercial Areas**

1. Commercial areas and adjacent residential, office, and industrial areas shall be directly connected through paved sidewalks, trails, or other

pedestrian infrastructure.

2. Commercial areas shall be planned as groups having common parking areas and common ingress and egress points.

**G. Industrial Areas**

1. A minimum vegetated buffer of forty (40) feet shall be required where industrial uses abut residential uses.
2. All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas and improved areas shall be landscaped with trees and plantings and properly maintained at all times.

**H. Areas Designated for Future Use**

All areas designated for future expansion or not intended for immediate improvement or development shall remain in a natural state until such time as development permits are approved.

**I. Signs**

Specifications of size, type, height, setback, location, design, illumination, and number of signs shall be included in the planned development guidelines. Specifications shall be as restrictive or more restrictive than the standards set forth in this Ordinance.

**J. Parking**

Parking shall be provided in accordance with the standards set forth in Article 9.3 of this Ordinance. Modifications to the parking standards of Article 9.3 may be proposed in a planned development request where the Planning Director determines that the amount of parking requested and its location is sufficient for the use proposed.

**K. Resource Areas**

1. Planned developments shall protect any resources determined significant by the Planning Director including, but not limited to: agricultural soils and active farmland, buffer areas between active farmland and existing/planned future non-farm development, wetlands, mature trees, land adjacent to preserved farmland on neighboring properties, scenic views, water access and shoreline buffers, and habitat of species designated as of federal, state and local concern.
2. Planned developments shall comply with all provisions of Article 9.4, Tree Protection and Preservation, of this Ordinance.

**§4.23.7 COMMON OPEN SPACE**

- A. Common open space area shall be located to preserve any significant resources. Where common open space is designated, the following standards shall apply:

1. The common open space area shall be detailed on each Sketch Plan and recorded with the Final Plat (as approved under Article 8.5 of this Ordinance) or separate instrument.
2. The proposed common open space shall be usable and appropriate to the size of the development and to the new residents of the planned development. The purpose of common open space is to permit areas, which could otherwise be developed into buildable lots or otherwise sold individually, to provide a significant amenity to the residents who will interact with the open space on a daily basis. It is not the purpose of common open space to permit open space for land that is otherwise unusable on a daily basis by residents. Common open space may include unimproved land, landscaped areas, improved recreation areas, recreational buildings, and structures that are totally accessory to recreational uses, as well as freshwater wetland areas and water surfaces, all located within the development. Natural landscapes, such as wetlands, may also be considered as open space if preserved and meet the requirements of subsection C below. "Usable" means that the open space includes uses or facilities that are adaptable to recreational or leisure use and are accessible to the residents of the proposed development or the general public, such as seating areas, picnic shelter, community garden, pedestrian and bicycle trail access to a designated greenway, public square, swimming pools, playing fields, or a new playground. The use or facility must be approved by County Council in accordance with the approval and conveyance procedures below.
3. The total combined acreage of freshwater wetlands, detention ponds, and buffers to be used as open space shall not comprise more than forty percent (40%) of the open space requirement as stated in this Section.
4. Land designated as common open space shall not be occupied by streets, drives, parking areas, or structures, other than recreational structures.
5. All property owners in the planned development shall have access to the open space by means of a public or private street or walkway in an easement a minimum of 20 feet in width.
6. Common open space shall be provided within each phase of the planned development in sufficient amounts to serve the expected population of that phase.
7. The common open space shall be conveyed prior to recording the final plat, in accordance with one of the methods listed below. The applicant must have proof of commitment from the entity that will be responsible for the common open space prior to the Planning Commission Meeting for which the case is scheduled.
  - a. By dedication to the County as publicly-owned open space. Parks, open space, and recreation facilities proposed for dedication to the County must be acceptable to the Parks and Recreation Commission, Planning Commission, County Council, and other governmental entities with regard to the size, shape, location,

improvement, environmental condition (i.e., the applicant may be required to provide an environmental assessment), and budgetary and maintenance terms; or

- b. By leasing, conveying, or retaining title (including beneficial ownership) to a corporation, homeowner's association or other legal entity. The terms of such lease or other instrument of conveyance must restrict the use of the area to open space/recreational uses.

#### §4.23.8

#### AFFORDABLE DWELLING UNITS

- A. Pursuant to Chapter 3.1.7(C) of the Charleston County *Comprehensive Plan*, as amended, County Council may approve a density bonus above the maximum allowable density provided for in Section 4.23.6(A) of this Ordinance and Table 3.1.1, Future Land Use Residential Densities, of the Charleston County *Comprehensive Plan*, as amended, as an incentive to provide affordable dwelling units in planned developments. This density bonus is only applicable to planned developments that include affordable dwelling units that meet the definition of "Affordable Housing", as contained in Chapter 12 of this Ordinance.
- B. Zoning permit fees for affordable dwelling units shall be reimbursed upon the request of the developer and certification that the dwelling units are affordable, as required by this Section.
- C. Development Requirements:
  - 1. The planned development must contain residential uses, of which at least thirty percent (30%) of the total number of dwelling units shall qualify as affordable dwelling units pursuant to this Ordinance. A mixture of housing types as well as uses is encouraged, though not required.
  - 2. Affordable dwelling units must be of the same type as the market-rate units in the development. In the case of a development with two or more housing types, the type of affordable dwelling units must be in the same proportion as the market-rate units.
  - 3. Affordable dwelling units shall be provided within each phase of the planned development in sufficient amounts to serve the expected population of that phase;
  - 4. Affordable dwelling units shall be integrated throughout the development and not located in a single area of the development;
  - 5. Any studio dwelling unit provided under this Section must be a minimum of 500 square feet in floor area; and
  - 6. In no instance shall more than fifty percent (50%) of the affordable dwelling units be provided in the form of studio units.
  - 7. The permitted uses and development standards must be specifically enumerated in the planned development application.

8. The planned development application shall include the following information:
  - a. A general description of the development, including whether the development will contain owner-occupied or rental units, or both.
  - b. The total number and type of market-rate units and affordable dwelling units in the development.
9. Prior to the issuance of building permits for any portion of the development, an affordable dwelling unit plan must be submitted to the County that contains, at a minimum, the following information:
  - a. The number of bedrooms in each market-rate unit and each affordable dwelling unit.
  - b. The square footage of each market-rate unit and each affordable dwelling unit.
  - c. The location of each affordable dwelling unit within any multi-family residential structure and any single-family (attached and/or detached) residential development. The location of each affordable and market-rate dwelling unit above any non-residential use shall also be identified.
10. The Planned Development must comply with the Common Open Space requirements set forth in Section 4.23.6(A) and 4.23.7 of this Ordinance, provided however, that not less than five percent (5%) of the total land area of the Planned Development must be reserved for Common Open Space.
11. To the extent not specifically modified by the Planned Development ordinance, all other provisions of this Ordinance shall apply to the development and use of the property.

D. Design Requirements

1. In terms of exterior appearance, affordable dwelling units shall be indistinguishable from market-rate units. External building materials and finishes for affordable dwelling units shall be the same in type and quality as the market-rate units.
2. Interior features of affordable dwelling units shall be functionally equivalent to the market-rate units, though the finishes and materials need not be identical.
3. Affordable dwelling units shall be comparable to the market-rate units in terms of improvements related to energy efficiency, which include but are not limited to mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.

E. Owner-Occupied Affordable Dwelling Units

1. Eligibility Determination Process

Prospective buyers of new affordable dwelling units shall be screened and determined eligible by the developer, or his/her designee, prior to occupancy. Prior to closing on a new affordable dwelling unit, the developer shall submit the following to the County:

- a. An affidavit that sets forth the sale price and verifies the unit will be occupied by persons qualified pursuant to the requirements of this Ordinance; and
- b. A copy of the current owner's Form 4506 (or other acceptable documentation of income) for the current tax year.

This affidavit and copies of the current owner's Form 4506 (or other acceptable documentation of income) shall also be submitted to the County on an annual basis and upon resale of the affordable dwelling unit.

2. Term of Affordability

Resale of affordable dwelling units shall be limited by deed restriction to the original sales price, adjusted for inflation, and to a purchaser eligible, as described in this Article, for a period of not less than ten (10) years after issuance of the certificate of occupancy. Funding sources and other factors may require a longer term of affordability. The increase permitted for inflation shall be based upon the increase in the Consumer Price Index (CPI).

- a. A copy of such executed deed restrictions shall be submitted to the County for approval prior to issuance of a certificate of occupancy for any portion of the development.
  - b. The deed restrictions shall require notice to the County of any conveyance of the affordable dwelling unit, and verification that the purchaser is qualified pursuant to the requirements of this Ordinance.
3. If, while occupying an affordable dwelling unit, a household's income increases to an amount beyond that permitted in the definition of "Affordable Housing" as contained in this Ordinance, the household shall not be required to vacate the unit. Upon vacating the premises, the unit shall be sold to a qualifying household pursuant to the requirements of this Ordinance for the period the unit is deed restricted as an affordable dwelling unit.

F. Renter-Occupied Affordable Dwelling Units

1. Eligibility Determination Process

Prospective renters of affordable dwelling units shall be screened and determined eligible by the developer, or his/her designee, prior to occupancy. All of the following requirements are applicable and subject to final approval by the County:

- a. Upon initial occupancy, the owner shall submit to the County a copy of the current tenant's Form (or other acceptable documentation of

income) for the current tax year and an affidavit stating that the current tenant meets the necessary qualifications. This affidavit and copies of the current tenant's Form (or other acceptable documentation of income) shall also be submitted to the County on an annual basis and anytime the lease is renewed or a new tenant occupies an affordable dwelling unit.

- b. Any time a new tenant occupies an affordable dwelling unit, the owner must provide an affidavit to the County assuring compliance with Fair Market Rents, as described below.
- c. The owner shall annually provide affidavits to the County assuring compliance with Fair Market Rents, as described below.

2. Rent Levels/Fair Market Rents

- a. The maximum rent level for affordable dwelling units shall be based on the schedule of Fair Market Rents for the Charleston-North Charleston MSA, as published annually by the U.S. Department of Housing and Urban Development. Fair Market Rents include a utility allowance for electricity, gas, water, and sewer, based on a schedule published by the Charleston County Housing and Redevelopment Authority.

3. Lease Terms

A minimum lease term of six (6) months is required for all affordable dwelling units so as to avoid short-term (i.e., weekly) rentals.

4. Term of Affordability

Rental affordable dwelling units shall be limited by deed restriction to remain affordable, as defined in this Article, for a period of not less than ten (10) years after the issuance of the certificate of occupancy. Funding sources and other factors may require a longer term of affordability.

- a. A copy of such executed deed restrictions shall be submitted to the County for approval prior to issuance of a certificate of occupancy for any portion of the development.
  - b. The deed restrictions shall require notice to the County of any lease renewal or new rental contract for the affordable dwelling unit, and verification in the form of an affidavit that the tenant is qualified pursuant to the requirements of this Ordinance.
5. If, while occupying an affordable dwelling unit, a household's income increases to an amount beyond that permitted in the definition of "Affordable Housing" as contained in this Ordinance, the household shall not be required to vacate the unit. Upon vacating the premises, the unit shall be rented to a qualifying household pursuant to the requirements of this Ordinance for the period the unit is deed restricted as an affordable dwelling unit.

G. Deed Restrictions Required

1. Standard deed restrictions for all affordable dwelling units produced pursuant to the requirements of this Ordinance are required and subject to approval by the County.
2. Such restrictions shall include, at a minimum, the following elements:
  - a. Duration;
  - b. Occupancy requirements and restrictions against leasing/sub-leasing;
  - c. Restriction on resale;
  - d. Requirement to notify the County in the case of conveyance (for owner-occupied units), lease renewal (for rental units), or establishment of a new rental contract (for rental units);
  - e. Right of first refusal, if applicable;
  - f. Distribution of gross sales proceeds, if applicable; and
  - g. Procedure in the case of foreclosure (for owner-occupied units only).

H. Violations

Any sale or rental of affordable dwelling units during the term of affordability to persons that do not meet the eligibility requirements described in this Ordinance shall constitute a violation and the provisions of Chapter 11, Violations, Penalties, and Enforcement shall apply.

**§4.23.9 PLANNED DEVELOPMENT PROCEDURE**

The procedure and criteria for Planned Development applications is outlined below. Planned Development applications are comprised of Planned Development Stipulations and Sketch Plans, referred to herein as the PD Development Plan. All Sketch Plan(s) shall be drawn to scale.

**A. Pre-Application Conference**

Before submitting a PD Development Plan for a Planned Development, the applicant shall confer with the Planning Director and any other officials designated by the Planning Director. The purpose of this pre-application conference is to discuss the proposal and the applicable development review and approval procedures.

**B. Conceptual PD Development Plan Presentation**

1. At least one time prior to submitting a formal application, Planned Development applicants shall present their Conceptual PD Development Plan to the Charleston County Planning Commission at a Planning Commission workshop. This presentation shall be for discussion and feedback purposes only and no action shall be taken on the Conceptual PD Development Plan at the workshop.

2. This requirement applies to Planned Developments that contain 50 or more dwelling units or 5 or more acres of nonresidential development.
3. The Planning Commission or Planning Director may require applicants for Planned Developments that do not meet sub-section 2, above, to present the proposed development at a Planning Commission workshop prior to submitting a formal application.

**C. Community Workshop**

After the pre-application conference, it is recommended that the applicant hold one (1) or more community workshops. The purpose of a community workshop is to ensure early citizen participation in an informal forum, in conjunction with the development applications and to provide an applicant the opportunity to understand and try to mitigate any impacts an application may have on an affected community. A community workshop is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors.

**D. Draft PD Development Plan Submittal**

After the required pre-application conference and prior to submitting a formal application, the applicant shall submit at least five (5) copies of a draft of the requested PD Development Plan for staff review. The draft PD Development Plan must comply with all requirements of this Ordinance and all other applicable regulations. Additionally, the Article 4.23 PD Checklist, available in the Planning Department, must be filled out and turned in with the draft PD Development Plan.

**E. PD Development Plan Application**

Complete applications for Planned Developments (PD Development Plans) may be submitted on forms available in the Planning Department once the Planning Director has determined that the requested PD Development Plan complies with the requirements of this Ordinance and all other applicable regulations.

1. No application for a PD Development Plan shall be accepted as complete unless it includes the twenty (20) required paper copies of the PD Development Plan, the required fee, and the following information:
  - a. One completed Zoning Map Amendment application signed by the current property owner(s);
  - b. One copy of a legible approved and recorded plat showing the current property lines of the property/properties to be included in the planned development;
  - c. One copy of the current, recorded deed;
  - d. One Restrictive Covenants Affidavit(s) signed by the applicant or current property owner(s) in compliance with state law;
  - e. One copy of the completed Article 4.23 PD Checklist;

- f. Documentation of any community workshops held regarding the proposed PD Development Plan application;
  - g. A digital version of all text, charts, tables, exhibits and graphics used in the PD;
  - h. A current aerial overlaid with the proposed Sketch Plan; and
  - i. Any other information that the Planning Commission determines is reasonably necessary to make an informed decision as to whether the application complies with the standards of this Article.
- 2. Applications for PD Development Plans shall comply with Section 3.1.4, Application Completeness and Submission Deadlines, of this Ordinance.
- 3. County Council may waive the fees at their discretion.
- 4. The following shall be included in the requested Planned Development Stipulations:
  - a. The following shall be included in the requested Planned Development Stipulations:
    - i. The name of the planned development, not duplicating the name of any other planned development or subdivision, the final plat of which has been recorded in Charleston County, South Carolina;
    - ii. A statement of objectives of the proposed development;
    - iii. A description of how the proposed development meets the objectives contained in Section 4.23.4, Intent and Results, addressing each objective separately;
    - iv. The total acreage of the planned development, broken down into total acreage, total highland acreage, total freshwater wetland acreage, and total Critical Line wetland, or marsh, acreage;
    - v. A table of proposed land uses including:
      - a. A table of proposed maximum and average residential densities for each residential use (The applicant may refer to the density ranges listed in the Charleston County *Comprehensive Plan* for residential densities);
      - b. The maximum total acreage of each residential use, including affordable dwelling units, if applicable;
      - c. The maximum allowable number of each type of residential unit requested, including affordable dwelling units, if applicable;

- d. The maximum proposed floor area ratios (% of lot in relation to building floor area), and the maximum building/lot coverage for each non-residential use; and
- e. All dimensional and lot standards requested, for each land use type designated.
- vi. All information required for Planned Developments that include affordable dwelling units, as contained in Section 4.23.8 of this Ordinance.
- vii. An analysis of the impact of the proposed development on existing public facilities and services (e.g. roads and streets, water, sewer, etc.). Any proposed future improvements to these facilities and services to be made as part of the planned development shall also be included;
- viii. A traffic study that meets the requirements of Article 9.9 of this Ordinance for planned developments that contain (1) 50 or more dwelling units or (2) 5 or more acres of nonresidential development;
- ix. A development schedule with a generalized phasing schedule, if appropriate. The phasing schedule shall include the number of dwelling units, total acreage of each residential use, total gross floor area of each non-residential use, percentage and acreage of common open space to be included in each phase, and percentage, number and acreage of affordable dwelling units to be included in each phase (if applicable);
- x. A statement indicating how any common open space/recreation areas will be owned or managed;
- xi. A statement indicating how all roads and alleys will be owned and maintained;
- xii. A statement of inclusion and compliance with processes included in the Charleston County Zoning and Land Development Regulations that are not mentioned in the planned development stipulations;
- xiii. A statement of agreement to proceed with proposed development in accordance with the provisions of these zoning regulations, applicable provisions of the Charleston County *Comprehensive Plan*, and with such conditions as may be attached to any rezoning to the applicable PD district;
- xiv. A statement that the provisions of Article 3.10, Variances, of this Ordinance shall not apply to the planned development and that all major changes to the planned development must be approved by County Council. Tree variances may be granted

**CHAPTER 6 ARTICLE 6.5 §6.5.3:**

**RESIDENTIAL ACCESSORY USES**

**CHARLESTON COUNTY LAND DEVELOPMENT  
REGULATIONS**

**GIFT PLANTATION**

**WILLOW POINTE LANE PORTION OF GIFT PLANTATION  
(WEST OF CHISOLM ROAD)**

**PD 78A**

current zoning and/or building code violations on the property.

### ✓ §6.5.3 RESIDENTIAL ACCESSORY USES

The following uses and structures shall be allowed as accessory uses and structures to allowed Residential uses:

- A. Fences and walls;
- B. Garages, carports and off-street parking areas;
- C. Gate houses and guard houses;
- D. Home occupations, subject to Section 6.5.11;
- E. Playhouses, patios, cabanas, porches, gazebos and incidental household storage buildings
- F. Radio and television receiving antennas or dishes;
- G. Recreational and play facilities for the use of residents;
- H. Solar collectors, subject to Section 6.5.18;
- I. Tennis courts, swimming pools, hot tubs, and related mechanical equipment;
- J. Accessory Dwelling Units, subject to Section 6.5.9;
- K. Barns and farming-related structures even if the subject parcel does not contain a primary structures or use, provided that no agricultural or farm-related structure on a parcel of one acre or less in an R-4, M-8, or M-12 district shall exceed 250 square feet in area;
- L. The selling of sweetgrass baskets is allowed as an accessory use in a II Agricultural Zoning Districts and in RR-3, S-3, and R-4 Zoning Districts; and
- M. Other necessary and customary uses determined by the Planning director to be appropriate, incidental and subordinate to the principal use of the property, subject to compliance with any standards contained within this Ordinance.

### ✗ §6.5.4 AGRICULTURAL ACCESSORY USES

Accessory Agricultural uses shall include all residential accessory uses and those accessory uses and activities customarily associated with agricultural operations, as determined by the Planning Director. Barns and farm-related structures, including roadside stands selling sweetgrass baskets or indigenous produce grown or produced on the farm where the roadside stand is located, shall be allowed on all parcels in Agricultural zoning districts, even if the subject parcel does not contain a primary structure. Manufactured homes, modular building units, and pre-manufactured container units may be used for non-residential purposes only in all agricultural zoning districts subject to the following requirements as well as those in the Charleston County building Code, as amended.

**CHAPTER 6 ARTICLE 6.5 §6.5.8:**

**ACCESSORY STRUCTURES IN RESIDENTIAL  
AND RESIDENTIAL OFFICE (OR) ZONING DISTRICTS**

**CHARLESTON COUNTY LAND DEVELOPMENT  
REGULATIONS**

**GIFT PLANTATION  
WILLOW POINTE LANE PORTION OF GIFT PLANTATION  
(WEST OF CHISOLM ROAD)  
PD 78A**

- C. Gift shops, newsstands and similar commercial activities operated primarily for the convenience of employees, residents, clients, patients or visitors to the principal use;
- D. Recreation areas and facilities for the use of employees;
- E. Solar Collectors, subject to Section 6.5.18 of this Chapter; and
- F. Other necessary and customary uses determined by the Planning Director to be appropriate, incidental and subordinate to the principal use on the lot, subject to compliance with any standards contained within this Ordinance.

✓ **§6.5.8 ACCESSORY STRUCTURES IN RESIDENTIAL AND RESIDENTIAL OFFICE (OR) ZONING DISTRICTS**

Unless otherwise expressly stated and in addition to any other applicable provisions of this Ordinance, accessory structures in Residential and Residential Office (OR) zoning districts shall be subject to the following standards:

- A. An accessory structure erected as an integral part of the principal structure shall be made structurally a part thereof, shall have a common wall therewith, and shall comply in all respects with the requirements of these and other regulations applicable to principal structures.
- B. A detached accessory structure shall be located:
  - 1. On the rear of the lot, behind the principal structure. This limitation shall not apply to carports or garages;
  - 2. At least six feet from any existing dwelling or dwelling under construction;
  - 3. At least three feet from any interior lot line in a residential district; if in an OR district that abuts a residential district, the accessory structure in the OR district shall be located at least ten feet from the abutting interior lot line; when an OR district abuts another O, C or I district, setbacks for accessory structures are not required; and
  - 4. If on a corner lot, the accessory structure shall not project in front of the front building line required or existing on the adjacent lot.
- C. A detached accessory structure may be constructed on an adjacent vacant lot if both lots are in the same ownership.
- D. Accessory structures shall be included in building coverage;
- E. See also the Accessory Dwelling Unit provisions of Section 6.5.9 contained within this Chapter.

**§6.5.9 ACCESSORY DWELLING UNITS**

In Agricultural and Residential zoning districts, one accessory dwelling unit may be established on an existing zoning lot if reviewed and approved, subject to the following standards:

**CHAPTER 8 ARTICLE 8.1 §8.1.3:**

**SUBDIVISION PLAT**

**EXEMPTIONS**

**CHARLESTON COUNTY LAND DEVELOPMENT  
REGULATIONS**

**GIFT PLANTATION**

**WILLOW POINTE LANE PORTION OF GIFT PLANTATION  
(WEST OF CHISOLM ROAD)**

**PD 78A**

applicable standards of this Ordinance and has been approved in accordance with the procedures of this Ordinance.

- A. All lots shown on plats whether subdivided or not, shall have the Planning Commission Stamp of either approval or exemption on said plat; the Register of Mesne Conveyance shall not record any plat without such stamp. The plat for an individual lot exempted by virtue of pre-existence must be accompanied by a surveyor's statement on the plat that the lot is a single, individual lot, and not newly created.
- B. Parcels that were recorded by deed or plat prior to the adoption of the County's original Subdivision Regulations on January 1, 1955, will receive automatic approval under a Grandfather Clause, provided the parcel involved is still in the same size and shape as when recorded prior to 1955 and is properly platted in accordance with present standards. The recorded information must be provided and attested to by the surveyor or attorney involved.
- C. Preliminary Plats submitted for approval shall expire two years from the date of preliminary approval if all conditions for preliminary plat approval have not been met. The Planning Director shall be authorized to grant a one-time extension of this time frame if a written request is submitted by the applicant prior to the expiration date. The time period of the extension shall not exceed one year.
- D. Upon submission of a Subdivision application, no additional Subdivision applications shall be accepted for the subject property until the original application has been withdrawn or the Decision-Making Body has rendered its final decision and all applicable time limits on refilling have expired.

### **§8.1.3 EXEMPTIONS**

#### **A. Procedures**

The following shall be exempt from the Subdivision Plat Procedures, if the Planning Director determines that all engineering and survey standards of this Ordinance have been met:

1. The combination or re-combination of portions of previously platted lots where the total number of lots is not increased. When the plat is finalized, it shall be submitted to the Planning Director for recording. Deeds and plats shall be recorded simultaneously.
2. The public acquisition of land for right-of-way or drainage easements or any lot or parcel created therefrom.
3. Contiguous properties that are to be divided for the purpose of exchanging or trading parcels of land. When the plat is finalized, it shall be submitted to the Planning Director for recording. Deeds and plats shall be recorded simultaneously.

4. A parcel of land that is proposed to be used as the site for a utility substation, power line easements or right-of-way, pumping station, pressure regulating station, electricity regulating substation, gas pressure control station, or similar facilities.
5. The combination or recombination of entire lots of record where no new street or change in existing streets is involved.
6. The division of land into parcels of five acres or more, where no new street or easement is involved. Plats of these exceptions must be received as information by the Planning Director, which fact shall be indicated on the plats.

**B. Standards**

Lots created and recorded prior to August 15, 1971, shall be exempt from compliance with the standards of this Chapter, provided that the subject property:

1. Was or is surveyed and platted in accordance with prescribed standards;
2. Has the approval of the South Carolina Department of Health and Environmental control (DHEC); and
3. Contains no drainage ways or easements needed to drain surrounding properties, as determined by the Public Works Director.

**§8.1.4 CHARLESTON COUNTY ROAD CONSTRUCTION STANDARDS**

The regulations and standards of this Chapter are intended to supplement the Charleston County Road Construction Standards, as amended, in Appendix A of this Ordinance, which shall be considered the minimum design standards for roads and drainage systems in Charleston County. (Note: Road and drainage systems not meeting the Standard Specifications for Local Governments' Road and Street Construction will not be eligible for maintenance from the State "C" or donor County funds.)

**§8.1.5 RELATIONSHIP TO DEVELOPMENT REVIEW PROCEDURES OF ARTICLE 3.1**

The "General" procedural requirements and standards of Article 3.1 of this Ordinance shall apply to the subdivision plat procedures of this Chapter.

**§8.1.6 SURVEY COMPLIANCE**

All Land Surveys in the County shall be in accord with the land use designated for the proposed subdivision of property and the criteria specified in Urban Land Surveys as promulgated by the South Carolina Code of Regulations, 1991, Chapter 49, Article 3, R.400-490, as amended, and described as the "Minimum Standards Manual for the Practice of Land Surveying in South Carolina."

**CHAPTER 9 ARTICLE 9.11:**

**SIGNS**

**CHARLESTON COUNTY LAND DEVELOPMENT  
REGULATIONS**

**GIFT PLANTATION  
WILLOW POINTE LANE PORTION OF GIFT PLANTATION  
(WEST OF CHISOLM ROAD)  
PD 78A**

1. The Public Works Director shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
2. The applicant shall provide an amount equal to the estimate to the Public Works Director, who will deposit the amount in an escrow or special account set up for this purpose. Any funds not used for the independent consultant shall be returned to the applicant in a timely manner without interest.
3. The Public Works Director may require additional fees for the independent review if: the Decision-Making Body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultants are requested by the applicant; the consultant's appearance is requested at Planning Commission or County Council meetings beyond what was initially anticipated; or the consultant's attendance is required at meetings with regional, state, or federal agencies or boards which were not anticipated in the earlier scope of services.

#### **ARTICLE 9.10 VISION CLEARANCE**

##### **§9.10.1 MAJOR ROADWAYS**

Corner lots on major roadways shall have no structure or obstruction that obscures travel vision from 30 inches to ten feet above ground level in a triangular area formed by measuring from the point of intersection of the front and side lot lines a distance of 40 feet along the lot lines and connecting the points to form a triangle.

##### **§9.10.2 COLLECTOR STREETS**

On Collector Streets, the triangular area formed by measuring from the point of intersection of the front and side lot lines is 30 feet.

##### **§9.10.3 SUB-COLLECTOR STREETS**

On Sub-Collector Streets, the triangular area formed by measuring from the point of intersection of the front and side lot lines is 20 feet.

##### **§9.10.4 PRIVATE DRIVES AND PRIVATE LANES**

On private driveways of commercial or industrial activities, the triangular area formed by measuring from the point of intersection of the drive edge is 15 feet.

#### **ARTICLE 9.11 SIGNS**

##### **§9.11.1 GENERAL PROVISIONS**

###### **A. Purpose and Intent**

This Article provides comprehensive regulations for signage in Charleston County designed to promote public safety and welfare by reducing visual clutter along highways, facilitating the efficient transfer of information, and thus enhancing traffic flow and the ability to locate needed goods and services.

**B. Administration and Enforcement****1. Building and Electrical Code Standards**

All permanent signs must meet the structural and installation standards of the Standard Building Code and electrical standards of the National Electrical Code as enforced by the Charleston County Building Inspection Services.

**2. Permit Required**

No signs, shall be erected unless a zoning permit has been issued by the Planning Director in accordance with the procedures of this Ordinance, except real estate signs, political signs, and campaign signs 32 square feet or less in size.

**3. Fees**

An applicant for a zoning permit shall pay such fees as determined necessary for application processing. These fees are due upon submission of an application and shall be determined by County Council.

**4. Documentation of Signs**

Upon request, the owner of any existing sign shall provide the Charleston County Planning Director with evidence that documents the size, location and date of construction of all existing signs on the premises.

**C. Prohibited Signs**

Except as otherwise permitted by this Ordinance, the following sign types shall be prohibited:

1. Flashing Sign;
2. Animated Sign;
3. Sign Imitating Traffic Devices (Signal);
4. Sign Imitating Traffic Sign;
5. Sign in Marshes;
6. Sign in Right-of-Way;
7. Snipe Sign;
8. Vehicle Sign;
9. Roof Sign;
10. Off-Premises Sign (except Billboards, Shared Signs and Bona Fide Agricultural Use Signs as defined by this Ordinance).

**D. Address Numbers**

All permanent, free-standing, on-premises signs shall contain address numbers of at least four inches in height. The area devoted to required address numbers shall not be included in the calculation of maximum sign area.

**E. Illumination**

All lighted On-Premises signs shall comply with all dimensional standards set forth in this Ordinance. Additionally, all non-LED internally illuminated signs on property not adjacent to commercial or industrial uses shall have an opaque background on the sign face with a maximum of 80 watts per bulb and no more than one bulb per foot in height of the sign face. See section 9.11.2.I for

illumination requirements for LED message board signs.

**F. Signs in Disrepair**

Signs in disrepair shall be repaired, renovated, or removed from the premises within 60 days following notice by Planning Director.

**G. Abandoned Signs**

Signs advertising a person, business, service, event or other activity that is no longer available or other signs that contain inaccurate or outdated information shall be considered abandoned. Remedial action shall be taken within 30 days after a sign becomes abandoned. If no remedial action is taken, the Planning Director shall give notice to the owner of record who shall have 30 days to remove the sign prior to any further enforcement action being pursued. This provision shall apply to all abandoned signs, including those abandoned before April 21, 1999.

**H. Signs Interfering with Vehicular Vision**

1. In the area near the entrance of a driveway, no sign shall obscure the travel vision from 30 inches to ten feet above ground level in triangular areas formed by measuring from the point of intersection of any front lot line and driveway, a distance of 15 feet along the front lot line and driveway and connecting the points to form a triangle.
2. No sign or structure shall be erected so as to interfere with the vision of vehicles operated along any highway, street, road or driveway, or at any intersection of any street, highway or road with a railroad track. Signs determined by the Planning Director to be in violation shall be removed or relocated immediately upon notice.
3. Signs shall also comply with the site triangle standards, as illustrated in Chapter 9.

## §9.11.2 FREE-STANDING SIGNS

TABLE 9.11.2 FREE-STANDING ON-PREMISES SIGNS

| ZONING DISTRICT                             |                                        |                      |                                                                                                                                                                                                                                           |
|---------------------------------------------|----------------------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirement<br>[1] [2]                      | Agricultural                           | Residential          | Non-Residential                                                                                                                                                                                                                           |
| Maximum Area                                | 10 (32 with Special Exception) sq. ft. | 10 sq. ft.           | Bldg. Size (sq. ft.)      Sign Size<br>0 sq. ft. to 2,500 sq. ft.      = 50 sq. ft.<br>2,500 sq. ft. to 25,000 sq. ft.      = 100 sq. ft.<br>25,000 sq. ft. to 100,000 sq. ft.      = 150 sq. ft.<br>100,000 sq. ft. +      = 200 sq. ft. |
| Maximum Height                              | 12 ft.                                 | 6 ft.                | 20 ft.<br>OR Districts: 6 ft.                                                                                                                                                                                                             |
| Minimum Height                              | None                                   | None                 | None                                                                                                                                                                                                                                      |
| Maximum Width<br>(height of sign with face) | N/A                                    | 5 ft.                | Ratio—Longest side: Shortest side 5:1 (ft.)                                                                                                                                                                                               |
| Maximum Length                              | N/A                                    | 5 ft.                | Ratio—Longest side: Shortest side 5:1(ft.)                                                                                                                                                                                                |
| Setbacks (Front/Int)                        | 5/5 (ft.)                              | 5/5 (ft.)            | 5/5 (ft.)                                                                                                                                                                                                                                 |
| Max. No. Sign Faces                         | 2 per sign                             | 2 per sign           | 2 per sign                                                                                                                                                                                                                                |
| Max. No. Signs                              | 2 per major frontage                   | 1 per major frontage | 1 per major road frontage                                                                                                                                                                                                                 |

[1] Sign regulations for the CT Zoning District can be found in Section 4.18.4.

[2] Sign regulations for properties located in overlay districts can be found in Chapter 5.

- A. Maximum size, height, width, length, number of sign faces, number of signs per establishment and required minimum height and setbacks are based upon establishment size and shall conform with Table 9.11.2.
- B. A maximum of one reader board shall be allowed per zoning lot for single or multi-tenant structures containing office, commercial, or industrial uses if attached to permanent free-standing signs. The area of the reader board shall be included in the site's total sign area allowance.
- C. All new free-standing signs are to be designed as monument signs, pedestal style signs, or pole mounted signs.
- D. All pedestal style signs shall have a pole skirt.
- E. The predominate exterior sign materials used for free-standing signs shall complement those found on the principal structure as reviewed and approved through the site plan review process. Materials, design and color of the sign do

not need to be the same as those found on the principle structure to be considered complementary.

- F. Signs that are located in parking lots (such as directional signs) may be internally lit when constructed with routed letters or an opaque background.
- G. The hanging or attachment of objects is not permitted unless they are shown on the drawings approved for sign construction and meet all the requirements of this Ordinance.
- H. When calculating the sign area of a "monument sign", "pedestal sign", or "pole sign", the internal structural framework supporting the sign or other solid structural features (not containing copy or any graphic, word, symbol, insignia, text sample, model, device, or combination thereof which is primarily intended to advertise, identify or notify, exclusive of a frame or border) shall not be used in the calculation of the maximum area of the sign. Signs may be mounted on a base or foundation that will not be included in the square footage; however, the base for monument signs must be as wide as the sign.
- I. **Light Emitting Diode (LED) Message Board Signs**

An LED Message Board may be permitted as part of a free standing sign provided that documentation has been submitted demonstrating that it complies with all applicable sections of this ordinance and the following standards:

1. The sign is within the Urban/Suburban Area of the County as defined by the Urban Growth Boundary (UGB) and located on and adjacent to (share side property boundaries) parcels with the Community Commercial (CC) or Industrial (I) zoning district classification.
2. The sign is not located within any of the Overlay or Special Purpose Districts as described in Chapter Five of this Ordinance.
3. The sign is monument style, maximum ten (10) feet in height and the electronic message board constitutes no more than twenty-five percent (25%) of the overall allowable sign area as defined by Table 9.11.2.
4. The electronic message board will exhibit low intensity, night dimming red or amber text (no graphics) on a black background associated only with the business of the subject parcel and the text will not scroll, fade, or move except on and off.
5. The copy will not change at intervals less than eight (8) seconds on LED signs that front on roads with a speed limit of forty-five (45) mph or greater and fifteen (15) seconds on roads with a speed limit less than forty-five (45) mph. On corner or double frontage lots, the required time interval will be based upon the speed limit of the road which the parcel is addressed.

**§9.11.3 SPECIAL SIGNS****TABLE 9.11.3.A SPECIAL SIGNS**

| Type                                | Maximum Size                                                  | Maximum Number                                   | Maximum Height                                                                                                 | Minimum Setback |
|-------------------------------------|---------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-----------------|
| Subdivision/Multi-Family I.D. Signs | 32 sq. ft.                                                    | 2 per entrance                                   | 12 ft.                                                                                                         | 5 ft.           |
| Directional                         | 3 sq. ft.                                                     | Unlimited                                        | 4 ft.                                                                                                          | N/A             |
| Flags                               | 60 sq. ft.                                                    | 3 per zoning lot                                 | 35 ft. or 15 ft. above highest point of roof                                                                   | N/A             |
| Civic/Institutional                 | 100 sq. ft.<br>32 sq. ft. in Residential or Agricultural uses | 1 per zoning lot                                 | 12 ft.<br>Sign must have opaque background except the marquee.<br>Marquee cannot exceed 25% of total sign size | 5 ft.           |
| Home Occupations                    | 3 sq. ft.                                                     | 1 per zoning lot (free standing or wall mounted) | 3 ft.                                                                                                          | 5 ft.           |

Maximum size, number, location and height of special signs shall conform with Table 9.11.3.A and the following standards:

**A. Flags Used As Signs**

1. A permit shall be required for the installation of all flag poles or flag display devices erected on lots zoned for multi-family, office, commercial, or industrial use or occupied by a multi-family, office, commercial, or industrial use.
2. Applicants must submit with the permit application a scaled site plan giving the location of all flag poles and complete dimensional and installation engineering data.
3. Applicants must provide documentation of minimum clearance from electric, telephone or cable TV lines as certified by the proper utility prior to issuance of permit, or installation.
4. Maximum size and number of flags used as signs, and height of flag poles shall conform with Table 9.11.3.A of this Chapter.
5. The American flag and the flag of the State of South Carolina are exempt from the provisions for maximum size of flags and maximum size of flagpoles in Table 9.11.3.A of this Chapter.

**B. Sandwich Board/Sidewalk Sign**

A permit may be issued for a maximum of two sandwich board signs per lot or business provided the signs comply with the following criteria:

1. The sign is located within the Commercial zoning districts on the subject parcel or in front of the business being advertised.
2. It is a maximum of three (3) feet in height with a maximum of nine (9) square feet per sign face.
3. The sign is erected only during the hours of operation of the subject business and must be removed daily after close of business.
4. The sign is not located within any right of ways or within any pedestrian ways which would impede or interfere with vehicular or pedestrian use of roads, sidewalks or seating areas.

**C. Shared Free Standing Signs**

1. Off-premises shared free standing signs are allowed in the Commercial and Industrial zoning districts for the advertisement and identification of two or more businesses or residential developments located on separate parcels.
2. One shared sign is allowed at the location of a jointly shared curb cut/entry drive.
3. Multiple businesses may participate on multiple shared signs; however, a business that participates on a shared free standing sign shall not be allowed to erect a single tenant on-premise free-standing sign.
4. Participating businesses must either share a property boundary on at least one (1) side or be part of an approved multi parcel development.
5. The size of a shared sign face may be one and one half (1.5) times the size allowed by the accumulated building square footages of the subject businesses advertised as defined in Table 9.11.2. Shared free standing signs must meet all other setback and dimensional standards for Non-Residential Free Standing Signs including all architectural standards and overlay district requirements of this Ordinance.

**D. Off-Premises Bona Fide Agricultural Use Signs**

Off-premises signs advertising products from Bona Fide Agricultural uses, related activities and farm identification may be permitted on properties located in Agricultural or Commercial zoning districts, subject to the following requirements:

1. A maximum of one (1) off-premises sign is permitted per Bona Fide Agricultural use;
2. The applicant shall submit a plan drawn to scale showing the proposed location of the sign on the property on which the sign is to be placed;

3. The sign shall comply with the setback and dimensional requirements of Table 9.11.2. Free-Standing On-Premises Signs, of this Ordinance. The applicable requirements of Table 9.11.2. shall be determined based on the Zoning District of the property where the sign is to be located;
4. The sign shall be located outside of any right-of-ways and easements, shall comply with the requirements of Article 9.10, Vision Clearance, of this Ordinance, and shall not be internally or externally illuminated;
5. The applicant shall submit a signed letter of intent and supporting documentation indicating that the primary use of the property being advertised is a Bona Fide Agricultural use as defined in this Ordinance and that the products and events advertised are grown, produced, and/or will occur on the Bona Fide Agricultural use property; and
6. The applicant shall submit a signed letter of agreement from the property owner of the parcel on which the sign is to be located stating that the property owner will allow the sign to be erected at the location indicated on the site plan;
7. The sign shall comply with all other applicable sections of this Ordinance; and
8. Off-Premises Bona Fide Agricultural use sign permits shall be assigned to the property on which the sign is to be located.

**E. Home Occupation Signs**

One (1) sign per property on which a legally established Home Occupation use exists may be permitted provided that the sign complies with the requirements contained in Section 6.5.11.J, Home Occupations.

**F. TEMPORARY SIGNS****TABLE 9.11.3.B TEMPORARY SIGNS**

| Type                                        | Maximum Size                                                                                      | Maximum Number                                                                                | Maximum Height                                         | Minimum Setback |
|---------------------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|--------------------------------------------------------|-----------------|
| Real Estate Signs                           | 48 sq. ft.                                                                                        | 1 per 1500 ft. frontage Maximum: 3 per lot                                                    | 12 ft.<br>6 ft. height in residential zoning districts | 5 ft.           |
| Grand Opening and Special Sales Event Signs | 50 sq. ft.                                                                                        | 2 per zoning lot including banners, balloons (max. 2 square ft.), pennants, streamers allowed | 20 ft.                                                 | 5 ft.           |
| Permitted Temporary Special Event Signs     | 100 sq. ft.,<br>50 sq. ft. in Residential and Agricultural districts and no internal illumination | 1 per zoning lot                                                                              | 12 ft.<br>6 ft. height in residential zoning districts | 5 ft.           |

All Temporary signs, unless expressly exempt, require a Zoning Permit and shall comply with all other regulations of this Ordinance. Maximum size, number, duration, location and height of temporary signs shall conform with Table 9.11.3.B and the following standards:

1. Portable signs are permitted in accordance with standards of the National Electrical Code and anchoring provisions of the International Building Code where applicable.
2. A site plan and letter of intent indicating the type, amount and location of balloons, pennants, streamers, banners and portable signs must be submitted for review. The application will be reviewed to insure that all proposed signage will not pose any pedestrian or vehicular danger as determined by the Planning Director.

**a. Special Sales Event Signs**

- i. A legally established business may submit an application for temporary signs for the advertisement of one Grand Opening and five Special Sales Events per calendar year.
- ii. Permitted Signs for Grand Openings or Special Sales Events shall be removed no later than ten consecutive days after being installed.

**b. Permitted Temporary Special Events**

- i. A permitted Special Event is allowed one Special Event sign per event.
- ii. Signs for permitted Special Events shall be removed no later than ten consecutive days after being installed.

**c. Real Estate Signs**

- i. Signs 32 square feet or less do not require a Zoning Permit.
- ii. All signs shall be removed no later than 15 days after the property is sold.
- iii. Signs shall face a maximum of two directions, and may be mounted back-to-back or V'ed.
- iv. Where signs are V'ed, the space between panels shall not exceed 3 feet at the point at which panels are closest, and the interior angle formed by signs shall not exceed 60 degrees. For purposes of these requirements, V'ed signs shall be counted as one sign.
- v. Where signs face two directions, whether back-to-back or V'ed, both signs must be the same standard size.

**d. Political Signs**

- i. A Zoning Permit shall be required for temporary political signs greater than 32 square feet in size. Signs greater than 32 square feet shall be treated as permanent free standing signs, subject to §9.11.2, along with applicable County Building Code regulations to ensure that the signs are adequately designed to be safe and meet current wind load standards to mitigate potential danger to the public.
- ii. All signs shall: comply with the §9.11.1.H (Signs Interfering with Vehicular Vision); not interfere with the effectiveness of an official traffic sign, signal, or device; not obstruct or interfere with drivers' views of approaching, merging, or intersecting traffic; and not create any other public safety hazards.
- iii. Political signs that are not in compliance with this Section will be subject to enforcement measures, as stated in Chapter 11 of this Ordinance and as allowed by Section 7-25-210 of the S.C. Code of Laws. Additionally, the land owner, along with the candidate, political party, and/or political organization explicitly listed on a sign, will be designated as the sign owners or the responsible parties for the purpose of enforcement action.

**e. Campaign Signs**

- i. A Zoning Permit shall not be required for campaign signs 32 square feet or less in size. Signs greater than 32 square feet shall be treated as permanent free standing signs, subject to §9.11.2, along with applicable County Building Code regulations to ensure that the signs are adequately designed to be safe and meet current wind load standards to mitigate potential danger to the public.
- ii. Campaign signs shall only be posted during the period of 45 calendar days prior to a legally scheduled election and shall be removed within 15 calendar days after a legally scheduled election.
- iii. All signs shall: comply with the §9.11.1.H (Signs Interfering with Vehicular Vision); not interfere with the effectiveness of an official traffic sign, signal, or device; not obstruct or interfere with drivers' views of approaching, merging, or intersecting traffic; and not create any other public safety hazards.
- iv. Campaign signs that are not in compliance with this Section will be subject to enforcement measures, as stated in Chapter 11 of this Ordinance and as allowed by Section 7-25-210 of the S.C. Code of Laws. Additionally, the land owner, along with the candidate, political party, and/or political organization explicitly listed on a sign, will be designated as the sign owners or the responsible parties for the purpose of enforcement action.

**f. Nonconforming Signs**

Refer to Chapter 10, Nonconformities, of this Ordinance.

### §9.11.4 WALL/FACADE SIGNS

**TABLE 9.11.4 WALL/FACADE SIGNS**

| Building Length Facing Street | Setback         | Maximum Size (sq. ft.) |
|-------------------------------|-----------------|------------------------|
| 50 feet or less               | 0—99 ft.        | 50                     |
|                               | 100—399 ft.     | 100                    |
|                               | 400 or more ft. | 150                    |
| More than 50 feet             | 0—99 ft.        | Bldg. Frontage x 1     |
|                               | 100—399 ft.     | Bldg. Frontage x 2     |
|                               | 400 or more ft. | Bldg. Frontage x 3     |

- A. A maximum of two signs shall be allowed per wall/facade, with a maximum of four per building. Total area of all signs shall not exceed square footage of Table 9.11.4.
- B. Maximum size of wall/facade signs is dependent upon building frontage and setback, in accordance with Table 9.11.4.
- C. The hanging or attachment of objects is not permitted unless they are shown on the drawings approved for sign construction and meet all the requirements of this Ordinance.
- D. Awning Signs
  - 1. The use of awnings for the purpose of providing signage will be considered a wall sign. The awning signage must meet all dimensional and intensity standards applicable to wall signs in this Article.
  - 2. For purposes of the subsection, an awning sign is a sign used for the purpose of providing signage and must be located above a display window or entryway.
  - 3. Text or graphic shall be limited to the face of an awning.

### §9.11.5 BILLBOARDS (Outdoor Advertising Structures)

- A. **Outdoor Advertising of America Standards**  
All Billboards shall be constructed in compliance with Outdoor Advertising of America Standards.
- B. **Location and Setbacks**  
Billboards shall be allowed in those zoning districts indicated in Chapter 6.

**TABLE 9.11.6.A BILLBOARDS**

|                |             |
|----------------|-------------|
| Maximum Length | 48 ft.      |
| Maximum Width  | 14 ft.      |
| Maximum Area   | 672 sq. ft. |

|                                                                                                                   |                          |
|-------------------------------------------------------------------------------------------------------------------|--------------------------|
| <b>Maximum Height</b>                                                                                             | 40 ft.                   |
| <b>Minimum Setback (front/side)</b>                                                                               | 25/20 ft.                |
| <b>Location Criteria</b><br>Minimum distance to nearest billboard<br>Minimum distance to nearest on-premises sign | 1,000 ft.<br><br>500 ft. |

**C. Orientation**

1. Signs shall face a maximum of two directions, and may be mounted back to back or V'ed.
2. Where signs are V'ed, the space between panels shall not exceed three feet at the point at which panels are closest, and the interior angle formed by signs shall not exceed 90 degrees.

**D. Compatible Size Signs**

Where signs face two directions, whether back to back or V'ed, both signs must be the same standard size.

**E. Nonconforming Signs**

Refer to Chapter 10, Nonconformities.

**TABLE 9.11.6.B OFF-PREMISES SIGNS**

|                                                                                                                           |                          |
|---------------------------------------------------------------------------------------------------------------------------|--------------------------|
| <b>Maximum Length</b>                                                                                                     | 48 ft.                   |
| <b>Maximum Width</b>                                                                                                      | 14 ft.                   |
| <b>Maximum Area</b>                                                                                                       | 672 sq. ft.              |
| <b>Maximum Height</b>                                                                                                     | 40 ft.                   |
| <b>Minimum Setback (front/side)</b>                                                                                       | 25/20 ft.                |
| <b>Location Criteria</b><br>Minimum distance to nearest off-premises sign<br>Minimum distance to nearest on-premises sign | 1,000 ft.<br><br>500 ft. |

**ARTICLE 9.12 DRAINAGE DESIGN**

Refer to the Charleston County Stormwater Management Ordinance #1518 approved on August 14, 2007 and found in Appendix B of this Ordinance.

**CHAPTER 9 EXHIBITS**

**CHAPTER 10:**  
**NONCONFORMITIES**

**CHARLESTON COUNTY LAND DEVELOPMENT  
REGULATIONS**

**GIFT PLANTATION  
WILLOW POINTE LANE PORTION OF GIFT PLANTATION  
(WEST OF CHISOLM ROAD)  
PD 78A**

**CHAPTER 10 | NONCONFORMITIES**

**Table of Contents**

|           |                               |      |
|-----------|-------------------------------|------|
| ART. 10.1 | GENERAL .....                 | 10-1 |
| ART. 10.2 | NONCONFORMING USES .....      | 10-2 |
| ART. 10.3 | NONCONFORMING STRUCTURES..... | 10-3 |
| ART. 10.4 | NONCONFORMING LOTS .....      | 10-4 |
| ART. 10.5 | NONCONFORMING SIGNS .....     | 10-5 |

## **CHAPTER 10 | NONCONFORMITIES**

### **ARTICLE 10.1 GENERAL**

#### **§10.1.1 PURPOSE**

It is the general policy of the County to allow uses, structures, lots, signs and other situations that came into existence legally—in conformance with then-applicable requirements—to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with existing regulations as is reasonably possible. This Chapter establishes regulations governing uses, structures, lots and signs that were lawfully established but that do not comply with one or more existing requirements of this Ordinance. The regulations of this Chapter are intended to:

- A. Recognize the interests of property owners in continuing to use their property;
- B. Promote reuse and rehabilitation of existing buildings; and
- C. Place reasonable limits on the expansion of nonconformities that have the potential to adversely affect surrounding properties and the county as a whole.

#### **§10.1.2 AUTHORITY TO CONTINUE**

Any nonconformity that legally existed on April 21, 1999, or that becomes nonconforming upon the adoption of any amendment to this Ordinance may be continued in accordance with the provisions of this Chapter.

#### **§10.1.3 DETERMINATION OF NONCONFORMITY STATUS**

The burden of establishing that a nonconformity is a legal nonconformity shall, in all cases, be solely upon the owner of such nonconformity.

#### **§10.1.4 REPAIRS AND MAINTENANCE**

Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs are otherwise expressly prohibited by this Ordinance. Nothing in this Chapter shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of the Director of Building Services or their designee.

#### **§10.1.5 CHANGE OF TENANCY OR OWNERSHIP**

The status of a nonconformity is not affected by changes of tenancy, ownership, or management.

#### **§10.1.6 NONCONFORMITIES CREATED BY PUBLIC ACTION**

When lot area or setbacks are reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 50 percent of the otherwise applicable minimum standard, then that lot shall be deemed to be in compliance with the minimum lot area and setback standards of this Ordinance.

**ARTICLE 10.2 NONCONFORMING USES****§10.2.1 DEFINITION**

A "Nonconforming Use" is a use that was legally established but which is no longer allowed by the use regulations of the zoning district in which it is located.

**§10.2.2 EXPANSION**

A nonconforming commercial or industrial use shall not be enlarged or expanded unless one of the following conditions exists:

- A. Such expansion eliminates or reduces the nonconforming aspects of the situation; or
- B. The expansion is into a part of the building or structure that was lawfully and manifestly designed or arranged for such use, provided that no such expansion shall be allowed if it displaces a conforming use.

**§10.2.3 CHANGE OF USE**

- A. A Nonconforming Use may not be changed to any use other than a use allowed in the zoning district in which it is located, provided that the Board of Zoning Appeals shall be authorized to approve a change to another Nonconforming Use in accordance with the Special Exception procedures of this Ordinance. In acting upon such requests, the Board of Zoning Appeals shall not be guided by the Special Exception approval criteria of this Ordinance, but rather shall approve the change of use only upon a finding that the new use will be less detrimental to adjacent property and general area than the existing Nonconforming Use.
- B. When a conforming use becomes nonconforming as a result of a Zoning Map Amendment initiated by the applicant, the Nonconforming Use shall then be removed prior to the issuance of a Certificate of Occupancy for the conforming use.

**§10.2.4 LOSS OF LEGAL NONCONFORMITY STATUS****A. Abandonment**

If a Nonconforming Use is replaced with another use or is discontinued for any reason for a period of more than 12 consecutive months or 18 months in cumulative total within any three-year period, the use shall be considered abandoned. Once abandoned, the use's legal nonconforming status shall be lost and re-establishment of a Nonconforming Use shall be prohibited. Any subsequent use of the property shall comply with the regulations of the zoning district in which it is located.

**B. Damage or Destruction**

1. No nonconforming Commercial or Industrial Use that is damaged by fire or any other cause shall be restored if the cost of the repair work equals 50 percent or more of the use's total physical replacement cost (which shall consist solely of labor and materials). Determination of physical replacement costs shall be made by the Director of Building Services. When such repairs are allowed to be made, they shall be in full compliance with the regulations of this Ordinance.
2. A nonconforming Residential Use that is damaged by fire or any other cause may be restored. In such cases, the use may be re-established to the extent that existed before the time of damage (within the pre-existing structure boundaries [footprint and height]), provided that the repairs or rebuilding do not increase the degree of nonconformity and provided that such repairs, restoration or reconstruction begin within 12 months of the date of such damage.

**§10.2.5 ACCESSORY USES AND STRUCTURES**

No use or structure that is accessory to a principal Nonconforming Use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it complies with all regulations of this Ordinance.

**ARTICLE 10.3 NONCONFORMING STRUCTURES****§10.3.1 DEFINITION**

A "Nonconforming Structure" is any building or structure that was legally established but which no longer complies with the Density, Intensity and Dimensional Standards of the underlying zoning district.

**§10.3.2 USE**

A Nonconforming Structure may be used for any use allowed in the underlying zoning district.

**§10.3.3 EXPANSION**

A nonconforming residential structure may be enlarged or expanded if such residential expansion follows the outside wall at ground level, other than porches, decks or canopies. The outside wall (other than porches, decks or canopies) of a non-conforming residential structure that does not meet current dimensional standards (setbacks), shall only be allowed to expand vertically from ground level provided that such expansion does not exceed the maximum height requirements for that zoning district or encroach into any setback. All other expansion shall meet all other applicable portions of the Ordinance including density, intensity and dimensional standards.

**§10.3.4 MOVING**

A Nonconforming Structure may be moved in whole or in part to another location if the movement or relocation does not increase the extent of nonconformity.

**§10.3.5 SUBDIVISION**

If a lot is occupied by a Nonconforming Structure, it may be subdivided provided that subdividing does not create a new nonconformity or increase the degree of nonconformance of the structure.

**§10.3.6 LOSS OF LEGAL NONCONFORMING STATUS; DAMAGE OR DESTRUCTION**

- A. No Nonconforming Commercial or Industrial Structure that is damaged by fire or any other cause shall be restored if the cost of the repair work equals 50 percent or more of the structure's total physical replacement cost. Determination of physical replacement costs shall be made by the Director of Building Services. When such repairs are allowed to be made, they shall be in full compliance with the regulations of this Ordinance.
- B. A Nonconforming Residential Structure that is damaged by fire or any other cause may be restored. In such cases, the structure may be re-established to the extent that existed before the time of damage (within the pre-existing structure boundaries [footprint and height]), provided that the repairs or rebuilding do not increase the degree of nonconformity and provided that such repairs, restoration or reconstruction begin within 12 months of the date of such damage.
- C. Nothing in this Section shall conflict with the requirements of the Federal Emergency Management Agency's Flood Plain Management Regulations.

**ARTICLE 10.4 NONCONFORMING LOTS****§10.4.1 DEFINITION**

A "Nonconforming Lot" is a tract of land, designated on a duly recorded subdivision plat, or by a duly recorded deed, or by other lawful means, that complied with the lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width or lot depth requirements of the zoning district in which it is now located.

**§10.4.2 VACANT LOTS**

If a Nonconforming Lot or parcel was vacant on the date on which this Ordinance became applicable to it, then the owner may use the property for uses allowed by the underlying zoning district, provided that the use shall comply with applicable setback to the maximum extent possible. If the underlying zoning district permits a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with setback standards, while others would not, then only the uses or intensities that would comply with the applicable setback standards shall be permitted.

**§10.4.3 LOT WITH BUILDING OR STRUCTURE**

If a Nonconforming Lot or parcel contains a building or structure on the date on which this Ordinance became applicable to it, then the owner may continue the use of that building or structure and may reasonably expand the structure in any way that does not increase the degree of nonconformity; an increase in building size shall not be deemed to increase the degree of nonconformity unless it increases the encroachment on a required setback.

**ARTICLE 10.5 NONCONFORMING SIGNS****§10.5.1 DEFINITION**

A "Nonconforming Sign" is any sign that was legally established but which no longer complies with the Sign Regulations contained in Chapter 9 of this Ordinance.

**§10.5.2 ON-PREMISES SIGNS**

All legal nonconforming permanent On-Premises Signs in place prior to April 21, 1999, shall be removed or replaced by April 20, 2001. All other On-Premises Signs not in conformance with the standards of this Ordinance shall be removed or otherwise brought into compliance with the standards of this Ordinance.

**§10.5.3 OFF-PREMISES SIGNS**

- A. All legally existing nonconforming Off-Premises Signs shall be removed, altered or otherwise made to conform to the provisions of this Ordinance.
- B. All other Off-Premises Signs shall be removed, altered, or brought into compliance with the provisions of this Ordinance.

**CHAPTER 11:**

**VIOLATIONS**

**CHARLESTON COUNTY LAND DEVELOPMENT**

**REGULATIONS**

**GIFT PLANTATION**

**WILLOW POINTE LANE PORTION OF GIFT PLANTATION**

**(WEST OF CHISOLM ROAD)**

**PD 78A**

## **CHAPTER 11 | VIOLATIONS, PENALTIES AND ENFORCEMENT**

### **Table of Contents**

|            |                                                   |      |
|------------|---------------------------------------------------|------|
| ART. 11.1  | ORDINANCE COMPLIANCE REQUIRED .....               | 11-1 |
| ART. 11.2  | VIOLATIONS .....                                  | 11-1 |
| ART. 11.3  | ENFORCEMENT RESPONSIBILITY, COMPLAINTS .....      | 11-2 |
| ART. 11.4  | REMEDIES AND ENFORCEMENT POWERS .....             | 11-2 |
| ART. 11.5  | PRIVATE ENFORCEMENT ACTIONS .....                 | 11-3 |
| ART. 11.6  | TREE PROTECTION AND PRESERVATION VIOLATIONS ..... | 11-3 |
| ART. 11.7  | SIGN VIOLATIONS .....                             | 11-5 |
| ART. 11.8  | VIOLATIONS CONTINUED .....                        | 11-5 |
| ART. 11.9  | OTHER ENFORCEMENT ACTIONS .....                   | 11-5 |
| ART. 11.10 | DERELICT MANUFACTURED HOMES .....                 | 11-6 |

**CHAPTER 11 | VIOLATIONS, PENALTIES AND ENFORCEMENT****ARTICLE 11.1 ORDINANCE COMPLIANCE REQUIRED****§11.1.1 COMPLIANCE REQUIRED**

- A. No activity regulated by this Ordinance shall be undertaken except in full compliance with the express provisions of this Ordinance.
- B. No activity that is the subject of any permit or approval issued pursuant to the provisions of this Ordinance shall be undertaken except in full compliance with the subject permit or approval, including any attached conditions.
- C. The commencement or continuation of any activity regulated by this Ordinance that is not in compliance with the express provisions of this Ordinance, or that is not in compliance with the express provisions of any permit or approval, including any attached conditions, shall be a violation of this Ordinance, and subject to enforcement under the terms of this Chapter and South Carolina law.

**ARTICLE 11.2 VIOLATIONS****§11.2.1 VIOLATIONS**

All of the following constitute violations of this Ordinance:

- A. To use or attempt to use land or a building in any way not consistent with the requirements of this Ordinance;
- B. To erect or attempt to erect a building or other structure in any way not consistent with the requirements of this Ordinance;
- C. To engage or attempt to engage in the development or subdivision of land in any way not consistent with the requirements of this Ordinance;
- D. To transfer title to any lots or parts of a development unless the subdivision has received all approvals required under this Ordinance and an approved plan or plat, if required, has been filed in the appropriate County office;
- E. To submit for recording with a County office any subdivision plat that has not been approved in accordance with the requirements of this Ordinance;
- F. To install or use a sign in any way not consistent with the requirements of this Ordinance;
- G. To engage in the use of a building or land, the use or installation of a sign, the subdivision or development of land or any other activity; requiring one or more approvals or permits under this Ordinance without obtaining all such required approvals or permits;
- H. To engage in the use of a building or land, the use or installation of a sign, the subdivision or development of land or any other activity requiring one or more

approvals or permits under this Ordinance in any way inconsistent with any such approval or permit and any conditions imposed;

- I. To violate the terms of any approval or permit granted under this Ordinance or any condition imposed on such approval or permit;
- J. To obscure or obstruct any notice required to be posted or otherwise given under this Ordinance;
- K. To violate any lawful order issued by any person or entity under this Ordinance; or
- L. To continue any violation as defined above, with each day of continued violation to be considered a separate violation for purposes of computing cumulative civil or criminal penalties.

#### **ARTICLE 11.3 ENFORCEMENT RESPONSIBILITY, COMPLAINTS**

##### **§11.3.1 RESPONSIBILITY**

The responsibility for the enforcement of this Ordinance is delegated to the Planning Director. The Planning Director may utilize other County Department/Agencies as necessary to enforce the provisions of this Ordinance.

##### **§11.3.2 NOTICE**

If the Planning Director finds that any of the provisions of this Ordinance are being or have been violated, the Planning Director may notify in writing the person responsible for such violation, setting forth the nature of the violation and the action necessary to correct it, or issue a Uniform Ordinance Summons for the violation.

##### **§11.3.3 COMPLAINTS**

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file in writing a complaint with the County. Such complaint shall state fully the causes and basis thereof.
- B. The Planning Director shall properly record such complaint, immediately investigate to determine the validity of the charge, and take whatever action is necessary to assure compliance with this Ordinance.

##### **§11.3.4 AUTHORITY**

Any staff member of the Planning Department who is authorized by County Council shall have the authority to enforce the provisions of this Ordinance.

#### **ARTICLE 11.4 REMEDIES AND ENFORCEMENT POWERS**

On behalf of the County, the Planning Director may take any one or more of the following actions as a remedy for any violation of this Ordinance:

- A. Withholding and/or revocation of any approvals or permits required by this Ordinance or direct other officials to withhold such approval or permits;

- B. Issuing stop orders against any work undertaken by an entity not having a proper approval or permit required by this Ordinance;
- C. Issuing stop orders against any actions in violation of this Ordinance;
- D. Bringing an action for an injunction (or, in appropriate cases, for mandamus) to prevent the violation and/or to prevent the occupancy or use of any site or structure involved in the violation;
- E. Bringing an action for injunction or mandamus to abate a violation; or
- F. Issuing the violator a Uniform Ordinance Summons for each separate violation(s).
- G. Deferral or postponement of zoning applications scheduled for public meetings or hearings in accordance with Article 11.9.

A violation of this Ordinance is considered a misdemeanor.

#### **ARTICLE 11.5 PRIVATE ENFORCEMENT ACTIONS**

Any individual who is specifically damaged by any violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure or land. This is in addition to the right of the County to bring an enforcement action.

#### **ARTICLE 11.6 TREE PROTECTION AND PRESERVATION VIOLATIONS**

In addition to the provisions of Article 11.4 of this Chapter, the following shall apply.

##### **§11.6.1 TREES REMOVED WITHOUT PERMITS**

###### **A. Generally**

If commercial sites are cleared of protected trees prior to obtaining a zoning permit (a violation), trees shall be replaced in accordance with a replacement schedule approved by the Planning Director. The Planning Director's replacement schedule shall specify the number, species, caliper and location of replacement trees, according to the following minimum criteria:

1. Combined caliper of which equals or exceeds 80 inches per acre; and
2. One-half of individual replacement trees are four inches or greater caliper.

###### **B. Grand Trees**

1. Where Grand Trees have been removed in violation of this Ordinance or where removal is necessitated at any time due to acts of negligence, trees shall be replaced in accordance with a replacement schedule approved by the Planning Director. The replacement schedule shall

establish the number, species, caliper, and location of replacement trees, and at a minimum shall require:

- a. That the combined caliper of replacement trees is equal to or greater than three times the caliper of the Grand Tree removed; and
  - b. Individual replacements of trees are of the largest transplantable caliper available or equal to the loss of DBH inches.
2. Where Grand Tree removal is necessitated by emergencies as defined in Chapter 9 of this Ordinance, or death and disease of trees due to natural causes, as determined by the Planning Director, replacement will not be required.

#### **§11.6.2**

#### **RECOVERY FROM TREE VIOLATIONS**

- A. Any person, firm, organization, society, association, corporation, or any agent or representative thereof who commits, participates, or assists in a violation of the Tree Protection and Preservation standards of this Ordinance may each be found guilty of a separate offense and suffer the penalties herein provided. Each unauthorized removal, destruction or failure to replace a tree shall constitute a separate offense. Failure to pay all or any part of the Tree Fund mitigation fee within 30 days of the fee's imposition is a violation of the Tree Fund provision of this Ordinance. Failure to pay fees may result in a collection action in the same manner as prescribed by law for the collection of other fees. Failure to pay the mitigation fee may also result in a criminal proceeding. If a matter is brought in criminal court, upon conviction, the maximum penalty is \$500.00 per violation and/or 30 days imprisonment, and restitution of the Tree Fund mitigation fee. Restitution shall be paid to the County Treasurer who will place all funds in the Tree Fund Account.
- B. Should violations be noted during the course of a project or at final inspection, the Planning Director shall take appropriate actions, including, but not limited to the following:
  1. Requiring replacement of illegally removed trees and vegetative buffer;
  2. Requiring replacement of required trees and vegetative buffer that are damaged, diseased, dying, or dead;
  3. Requiring protection of trees and vegetative buffer during construction;
  4. Revoking Zoning Permits; and
  5. Denying Certificates of Occupancy.
- C. Nothing herein shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violations.

**ARTICLE 11.7 SIGN VIOLATIONS****§11.7.1 SIGNS SUBJECT TO IMPOUNDMENT**

In addition to other remedies and enforcement powers of this Chapter, the Planning Director shall have the authority to remove and hold any of the following types of signs or sign structures.

- A. Any prohibited sign, as noted in Section 9.11.1.C, is subject to impoundment without notice to the owner.
- B. Any sign that is installed or used in any way that is not consistent with the requirements of this Ordinance, provided that notice has been given as set forth in Section 11.3.2 and no action has been taken by the owner within the specified time frame.
- C. Additionally, the land owner and/or candidate, party, organization, or business entity explicitly listed on a sign, may be designated as the sign owners or the responsible parties for the purpose of enforcement action.

**§11.7.2 RECOVERY OF IMPOUNDED SIGNS**

The owner of an impounded sign or sign structure may recover same upon the payment of \$50.00 for each sign. In the event it is not claimed within ten days from the date of impoundment, the Planning Director shall have authority to dispose of such sign or sign structure without notification and without compensation to the owner.

**ARTICLE 11.8 VIOLATIONS CONTINUED**

Any violation of the previous Zoning Ordinance or Subdivision Ordinance will continue to be a violation under this Ordinance and be subject to penalties and enforcement under this Chapter, unless the use, development, construction, or other activity complies with all applicable provisions of this Ordinance, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before April 21, 1999. Any prior lack of enforcement shall not constitute any degree of recognition, approval or other entitlement.

**ARTICLE 11.9 OTHER ENFORCEMENT ACTIONS****§11.9.1 ZONING MAP AMENDMENT REQUESTS**

An application (along with related documents and fees) for a zoning map amendment shall not be accepted or processed when the property owner(s) has been notified, pursuant to §11.3.2, that a violation of this Ordinance exists on or in the use of land that is the subject of the requested zoning change. The Zoning & Planning Director, after consideration of the specific case, may waive this requirement and direct staff to process the application if it is found that a zoning map amendment serves to remedy the violation. However, this waiver does not release the property owner, applicant, and/or designated agent from compliance with Chapter 11 of this Ordinance nor does it guarantee approval of the requested zoning map amendment. If the zoning map amendment is disapproved by County Council, the property owner, applicant, and/or designated agent has a maximum of 30 calendar days from the date of disapproval to bring the subject property into compliance.

**§11.9.2 BOARD OF ZONING APPEALS REQUESTS**

An application (along with related documents and fees) to go before the Board of Zoning Appeals (BZA) shall not be accepted or processed when the property owner(s) has been notified that a violation of this Ordinance exists on or in the use of land that is the subject of the request. The Planning Director may, after consideration of the specific case, waive this requirement and direct staff to process the application, if the BZA request serves as a remedy for the violation. However, this waiver does not release the property owner, applicant, and/or designated agent from compliance with Chapter 11 of this Ordinance.

**§11.9.3 CONTEMPT BEFORE THE BOARD OF ZONING APPEALS**

In case of contempt by any party, witness or other person before the Board of Zoning Appeals, such Board may certify such fact to the Circuit Court of the County wherein such contempt occurs and the judge of the court, after hearing, may impose such penalty as the facts authorize or require.

**§11.9.4 OTHER ACTIONS**

Nothing herein shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

**ARTICLE 11.10 DERELICT MANUFACTURED HOMES****§11.10.1 DERELICT MANUFACTURED HOMES**

- A. 'Derelict manufactured home' means a manufactured home:
1. that is:
    - a. not connected to electricity or not connected to a source of safe potable water supply sufficient for normal residential needs, or both;
    - b. not connected to a Department of Health and Environmental Control approved wastewater disposal system; or
    - c. unoccupied for a period of at least thirty days and for which there is clear and convincing evidence that the occupant does not intend to return on a temporary or permanent basis; and
  2. that is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a hazard to the health or safety of the occupants, the persons using the manufactured home, or the public.
- B. 'Landowner' means the owner of real property on which a derelict manufactured home is located.
- C. 'Local governing body' means the governing body of a county.
- D. 'Local official' means the office or agency that is responsible for inspecting or zoning property in a county.
- E. 'Manufactured home' means a structure, not including a modular home, designed

for temporary or permanent habitation and constructed to permit its transport on wheels, temporarily or permanently attached to its frame, from its place of construction or sale to a location where it is intended to be a housing unit or a storage unit.

1. If a landowner seeks to have a manufactured home removed from his property and sold, the landowner may apply to a magistrate and follow the procedures in Section 29-15-10 of State law. The landowner does not have to have the manufactured home determined to be derelict manufactured home in order to have it removed from his property and sold following the procedures of Section 29-15-10 of State law.
2. If a landowner seeks to have a manufactured home determined to be derelict so it may be removed from the landowner's property and destroyed, the landowner must:
  - a. Apply to the local official to have the manufactured home inspected;
  - b. Receive written confirmation from the local official that the manufactured home has been inspected and meets the requirements for removal and disposal and provided in this section;
  - c. File the required pleadings with the magistrate to seek to have the manufactured home removed from the property and destroyed, and follow the procedures in Section 29-15-10 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and that the matter is the subject of a proceeding in the magistrates court; and
  - d. Post a notice on each door of the manufactured home for thirty consecutive days reading substantially as follows:

#### NOTICE

This manufactured home is the subject of a proceeding in the magistrates court to determine if it will be removed from the property. For further information, please contact: (name and telephone number of landowner seeking removal) or (name and telephone number of magistrate's court where action is pending).

(Date of Notice)

3. If, in a court proceeding with the proper notice, the magistrate determines that the manufactured home is derelict, as provided in this section, and orders the derelict manufactured home to be removed and destroyed, the landowner must remove and dispose of the derelict manufactured home and send proof of the removal and disposal to the county auditor as provided in Section 12-49-85(D) of State law.
  - a. If a local official determines that a derelict manufactured home has value for which it may be sold, the local official may apply to a

magistrate and follow the procedures in Section 29-15-10 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and has filed the required pleadings with the magistrate to seek to have the manufactured home removed from the property and sold.

- b. If a local official seeks to remove and destroy a derelict manufactured home, the local official must follow the procedures in Section 29-15-10 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and has filed the required pleadings with the magistrate to seek to have the manufactured home removed from the property and destroyed.
- c. In addition to the notice requirements in the magistrates court, in order to (a) remove and sell, or (b) remove and destroy a derelict a derelict manufactured home, a local official must post a notice on each door of the manufactured home for thirty consecutive days reading substantially as follows:

'NOTICE

This manufactured home is the subject of a proceeding in the magistrates court to determine if it will be removed from this property. For further information, please contact: (name and telephone number of local government office seeking removal) or (name and telephone number of magistrate's court where action is pending).

(Date of Notice)'

- d. In a court proceeding with the proper notice, a magistrate must determine whether a derelict manufactured home may be either (a) removed and sold, or (b) removed and destroyed. In order for the manufactured home to be removed and destroyed, it must meet the requirements of a derelict manufactured home to be removed and destroyed, it must meet the requirements of a derelict manufactured home as defined in this section.
- e. If the magistrate determines that the manufactured home is derelict and is to be removed and sold, the local official must follow the procedures in Section 29-15-10 of State law.
- f. If the magistrate determines that the manufactured home is derelict and is to be removed and destroyed, the local official or the landowner must remove and dispose of the derelict manufactured home and send proof of the removal and disposal to the county auditor as provided in Section 12-49-85(D) of State law.
  - 1. All costs of removal and disposal are the responsibility of the owner of the derelict manufactured home, and may be waived only by order of the magistrates court or if a local governing

body has a program that covers removal disposal costs.

2. A lienholder of the derelict manufactured home is not responsible for the costs of removal and disposal unless the lienholder or his agent effects a recovery of the manufactured home under its lien and subsequently the lienholder or his agent knowingly abandons the manufactured home on the property and allows the manufactured home to become a derelict manufactured home.
  3. If the landowner is the owner of the derelict manufactured home and is unwilling or unable to pay the costs of removal and disposal, a lien for costs of removal and disposal must be placed on the landowner's real property where the derelict manufactured home was located.
- F. To defray the costs of location, identification, and inspection of derelict manufactured homes, a local governing body may impose a registration fee of no more than twenty-five dollars to be paid when a manufactured home is registered with the county. This fee may be in addition to all other fees and charges relating to a manufactured home and may be required to be paid before electrical connection.