

ARTICLE 1. GENERAL PROVISIONS

1.1 TITLE

This document shall be officially known as the “Unified Development Ordinance of Cayce, South Carolina,” and may be referred to as “the UDO” or “this Ordinance.”

1.2 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after on [date of adoption], the date of adoption, [Ordinance No.]

1.3 AUTHORITY, PURPOSE AND JURISDICTION

In accordance with authority conferred by the general statutes of South Carolina, 1976 code of laws, title 6, chapter 29 of the Comprehensive Planning Enabling Act of 1994, as amended, and for the purpose of promoting public health, safety, morals, convenience, order, appearance, prosperity, and general welfare; lessening congestion in the streets; securing safety from fire; providing adequate light, air, and open space; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the creation of a convenient, attractive and harmonious community; protecting and preserving scenic, historic and ecologically sensitive areas; facilitating the provision of public services, affordable housing, and disaster evacuation, in harmony with the adopted comprehensive plan of the City, the following articles and sections, shall be applicable throughout the legally recorded jurisdiction of the City, as now or hereafter established.

1.4 CONFLICT WITH OTHER LAWS _

Whenever the regulations of this ordinance require greater width or size of yards, or require a greater percentage of lot to be left

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unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.

1.5 RELATIONSHIP TO RESTRICTIVE COVENANTS AND DEED RESTRICTIONS

The City of Cayce shall not be responsible for monitoring or enforcing easements, covenants, deed restrictions, or other agreements between private parties. Private easements, covenants, and restrictions notwithstanding, all development, unless expressly exempted by this Ordinance, shall comply with the minimum requirements of this Ordinance.

In accordance with S.C. Code § 6-29-1145 application forms and/or instructions for land development permits or approvals other than those authorizing the building or placement of a structure on a tract or parcel of land shall inquire whether the subject tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the proposed activity. If the City of Cayce has actual notice of such a restrictive covenant, whether from the application or from any other source, the City shall not issue approval of the permit in violation the covenant unless the City receives written confirmation and proof 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. The issuance of a development approval or permit does not affect the applicant's obligations under any recorded covenants.

1.6 VALIDITY

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

1.7 REPEAL OF CONFLICTING ORDINANCES

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

1.8 RELATIONSHIP TO COMPREHENSIVE PLAN

Prior to the adoption of this Zoning Ordinance, the City of Cayce adopted a Comprehensive Plan in 2021, pursuant to the authority of Title 6, Chapter 29, Article 3 of the South Carolina Code of Laws (1976), as amended, which includes, among other things, a land use element, including a future land use map, a natural resources element, a cultural resources element, a housing element, an economic development

element, and a transportation element. This Zoning Ordinance is adopted primarily to implement the goals of the Comprehensive Plan's land use element and its future land use map

1.9 APPLICABILITY

The regulations set forth in this Ordinance affect all land, every building, and every use of land and/or buildings within the incorporated area of the City of Cayce and shall apply as follows:

1.9.1. NEW USES OR CONSTRUCTION.

After the effective date of this Ordinance, any new construction or uses of land shall conform to the use and dimensional requirements for the district in which it is to be located.

1.9.2. OPEN SPACE REQUIREMENTS.

After the effective date of this Ordinance, no part of a yard, court, or other open space, or off-street parking or loading space required for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, open space, or parking and loading space required for any other building unless specified elsewhere in this Ordinance.

1.9.3. LOT AND YARD AREAS ESTABLISHED; REDUCTIONS PROHIBITED.

This Ordinance establishes minimum requirements for lot and yard areas. No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

1.9.4. CONFORMING USES.

After the effective date of this Ordinance, structures or the uses of land or structures which then conform to the regulations for the district in which such structures or uses are located may be continued; provided that any structural alteration or change in use shall conform with the regulations herein specified.

1.9.5. NONCONFORMING USES

After the effective date of this Ordinance, structures or uses of land or structures which would be prohibited under the regulations for the district in which such structures or uses are located shall be considered as nonconforming.

Nonconforming structures or uses may be continued; provided they conform to the provisions contained in Section 1.11 Nonconformities.

1.9.6. NONCONFORMING LOTS

In any district in which single-family dwellings are permitted, if a lot of record at the effective date of adoption of this Ordinance does not contain sufficient land area to permit a building to conform to the dimensional requirements of the Ordinance, such lot may be used as a building site for a single-family residence provided there is a conformance to the minimum front and side yard requirements set forth in this Ordinance for the district in which the residence is located; and further, that any permitted use serviced by a private septic tank system shall meet minimum South Carolina Department of Environmental Services (DES) regulations.

1.10 NONCONFORMITIES

Nonconforming uses, buildings, or structures are declared by this Ordinance to be incompatible with permitted construction in the districts in which they are located.

1.10.1. CONTINUATION

However, to avoid undue hardship, the lawful use of any such use, building, or structure at the time of the enactment, amendment, or revision of this Ordinance may be continued even though such structure does not conform with the provisions of this Ordinance. This section does not apply to parking of vehicles contrary to Section 7.12.

1.10.2. MODIFICATION

A proposed change or modification to a nonconforming use shall be governed by the following:

(A) Change of Nonconforming Use

If a change from one nonconforming use to another is proposed and no structural alterations are involved, the change may be permitted, provided:

- (1) Nonconformity of dimensional restrictions such as height, density, setbacks, or other requirements such as off-street parking shall not be increased; and
- (2) The proposed change will have little discernible impact over the existing nonconforming use.

If a change to a permitted use is proposed which is nonconforming only as to dimensional restrictions such as height, density, setbacks, or other requirements such as off-street parking, the change may be permitted, provided that all applicable requirements that can be reasonably complied with are met.

Compliance with a requirement is not reasonably possible if it cannot be achieved without adding land to the lot of the nonconforming use or moving the use if it is on a permanent foundation.

Whenever a nonconforming use of land or building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted or nonconforming use.

Within certain Design Overlay Districts, more restrictive requirements for a change of nonconforming use may apply.

(B) Enlargement or Expansion of Nonconforming Use

If a building, use or other structure currently has nonconformities, the nonconformity can only be expanded by 10%. Conforming features do not have expansion restrictions, provided such enlargement shall meet all applicable setbacks, buffer area, and off-street parking requirements,

(C) Repair or alteration of Nonconforming Use, Building, or Structure

The repair or alteration of a nonconforming use shall in no way increase the nonconformity of said use, except as otherwise permitted by Subsection B above.

(D) Replacement of Nonconforming Use

A building permit for the replacement of a nonconforming building or structure where damaged or destroyed must be initiated within 6 months of the time of the damage or destruction or forfeit the right of replacement.

Replacement, if initiated within 6 months of the time of damage or destruction shall adhere to all applicable dimensional requirements of the property's zoning district or design overlay district, as described in Article 4.

Replacement of a nonconforming mobile or manufactured home once removed from a lot or parcel shall be accomplished within 30 days of removal or forfeit nonconforming status, and if replaced, it shall meet in full the definition of a Residential designed manufactured dwelling, shall not infringe on established setbacks, and shall meet in full the requirements of Section 6.2.13 of this Ordinance.

1.10.3. DISCONTINUANCE

No building or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of six months, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located.

1.11 VESTED RIGHTS

1.11.1. SCOPE AND TITLE

All applicable ordinances, municipal code sections, and regulations relating to zoning, planning and land development within the municipality are subject to this Section and as set forth in Article 11 Vested Rights Act, Section 6-29-1510, et seq of the South Carolina Code of Laws.

1.11.2. DEFINITIONS

- (A) Except as hereinafter set forth, the words, terms and phrases when used in this ordinance shall have the meaning as set forth in Section 6-29-1520, et seq., of the South Carolina Code of Laws.
- (B) "Site specific development plan", in addition and as a supplement to the definition set forth in Section 6-29-1530 of the South Carolina Code of Laws, is further defined to mean those documents that comprise a complete application for a zoning permit, certificate of zoning compliance, variance, special exception, planned unit development, sketch plat or sketch plan, or other similar approval that authorizes the landowner to proceed with investment in grading, installation of utilities, streets, and other infrastructure, and to undertake other significant expenditures necessary to prepare for application for a building permit.

1.11.3. ESTABLISHMENT AND CONDITIONS OF VESTED RIGHTS

- (A) A vested right to develop property in accord with a site-specific development plan is triggered upon the final approval of the site-specific development plan by the final official or body of the municipality authorized to approve a site specific development plan and the payment to the municipality of all applicable established fees.
- (B) Except as hereinafter set forth, a vested right established by this Ordinance is subject to the conditions and limitations as set out in Sections 6-29-1540 of the Code of Laws of South Carolina.
- (C) A vested right for an approved site-specific development plan expires two years after the date of final approval by the final official or body authorized to approve a site-specific development plan.
- (D) No vested rights are established for phased development plans, including approved or conditionally approved phased development plans and including phased development plans applicable to property proposed for annexation. An approved or conditionally approved site-specific development plan is required prior to approval with respect to each phase of a phased development plan.

- (E) A vested site-specific development plan may be amended if the amendment conforms to, or does not cause greater nonconformity with, the then current provisions of the municipal zoning, planning, and land development ordinances, municipal code sections or regulations. Approval or conditional approval of an amendment does not re-set or re-start the expiration period of a vested right.
- (F) No sooner than three (3) months, and no later than forty-five (45) days prior to the expiration of the two-year vested right period for an approved site specific development plan, the landowner of property with a vested right in a site specific plan may apply to the authorized official body for an annual extension of the vested right. The authorized official or body must approve an application for an annual extension of the vested right unless an amendment to the land development ordinances or regulations have been adopted that prohibits approval. No more than five (5) annual extensions of the vested right may be approved.

1.11.4. SEVERABILITY

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.