

AN ORDINANCE TO AMEND THE DORCHESTER COUNTY ZONING AND LAND DEVELOPMENT STANDARDS ORDINANCE NUMBER 04-13, AS PREVIOUSLY AMENDED, WITH RESPECT TO ARTICLE XVIII, SECTION 18.2.3(d) "FINAL PLAT", SECTION 18.3 "APPEALS", TO ARTICLE XIX, SECTION 19.3 "FINAL PLAT", TO ARTICLE XXIII, SECTION 23.2 "APPLICATION", SECTION 23.3 "FORECLOSURE", AND TO ARTICLE XXIV, SECTION 24.1 "PERFORMANCE AND MAINTENANCE MECHANISMS" (the purpose of this amendment is to revise the Final Plat approval and bonding process)

WHEREAS, the Dorchester County Zoning and Land Development Regulations, Ordinance #04-13, guides the process for the subdivision of land include Preliminary and Final Plats for major subdivisions of land; and

WHEREAS, the land development process can be a multi-year process during which time, the cost of construction continues to increase but the funds provided by financial guarantees remain unchanged; and

WHEREAS, the County has had to use the funds from financial guarantees to fix issues within roadways but the funds were insufficient to cover the cost of the work; and

WHEREAS, the County is also looking to streamline the approval process for major subdivisions by requiring 100% of roadway and stormwater infrastructure to be in place at the time of approval and by allowing staff level approval of Final Plats;

NOW, THEREFORE, BE IT ORDAINED by Dorchester County Council, duly assembled that the Dorchester County Zoning and Land Development Standards Ordinance Number 04-13, as previously amended, is further amended by deleting Sections 18.2.3(d), 18.3, 19.3, 23.2, 23.3, and 24.1 and substituting in lieu thereof the below sections bearing the same numbers:

Section 18.2.3

(d) Final Plat

- (1) An applicant shall submit the following materials, together with the completed application for Final Plat review and approval.
 - a. A Final Plat of the proposed subdivision, prepared in accord with the standards in Section 19.3 of this Ordinance, and seven (7) copies of such.
 - b. A copy of existing and proposed deed restrictions and covenants affecting current owners and future buyers, including joint ownership and maintenance of common areas and infrastructure, where applicable.
 - c. If the event of conditional Preliminary Plan approval, the applicant shall submit a Preliminary Plan revised to meet all of the conditions required by the Planning Commission. Additionally, a revised Preliminary Plan shall be submitted to illustrate all changes on or adjacent to the site occurring between Preliminary Plan approval and Final Plat submission, the effect of which would be to alter the Preliminary Plan and impact the development proposal.

- d. The applicant shall submit copies of all federal, State, and County-approved permits and plans necessary to implement the proposed development as required under this Ordinance and State and federal law, including but not limited to encroachment, private sewage treatment, public water and sewer, stormwater drainage, and sedimentation and erosion control.
- (2) The Final Plat shall conform in all respects to the Preliminary Plan, as previously approved by the Planning Commission, except that it shall incorporate all revisions required by the Planning Commission in its review of the Preliminary Plan. The applicant shall be required to illustrate all changes adjacent to the site occurring between Preliminary Plan approval and Final Plat submission that alter the Final Plat and impact the development proposal (e.g., road and right-of-way widening for turn lanes).
 - (3) The applicant shall be required to illustrate all changes to the proposed development, the effect of which would be to deviate from the Preliminary Plan. If sufficiently minor, a field change may be allowed by the Planning Director, which would be required to be reflected in Final Plat only, with no requirement of resubmitting for Preliminary Plan review and approval.
 - a. A field change is a minor deviation from the approved Preliminary Plan that upholds the intent of the original proposal and the intent of this and all County ordinances. A field change shall be made necessary only by unforeseen conditions inherent to the site that prevent or unduly inhibit development, as reviewed and approved by the Planning Director.
 - b. A field change shall be required to obtain approval by the Planning Director as well as all agencies affected by the change.
 - c. A field change shall be reviewed and approved or disapproved within thirty (30) days of a written request by the developer seeking permission for the change.

The Planning Director may defer review and approval of the field change to the Planning Commission, in which case the developer shall resubmit for Preliminary Plan review and approval, which may in this instance, at the discretion of the Planning Commission, be eligible for approval simultaneously with the Final Plat.
 - (4) The applicant shall be responsible to deliver the required materials for Final Plat review to the Department of Planning and Zoning, which shall then have forty-five (45) days in which to review the proposed development for consistency with the approved Preliminary Plan and the standards of this Ordinance.
 - (5) The Planning Director shall either approve or disapprove the Final Plat.
 - a. If all standards for Final Plat review are satisfied and the Final Plat and all supplementary data comply with all applicable requirements of the County, the Planning Director shall approve said Plat and “Final Plat Approval” shall be stamped, dated, and signed on each copy of the Final Plat.
 - b. If the Final Plat is disapproved, the reasons for such action shall be cited in writing and signed by the Planning Director, or his/her designee.

- (6) One (1) copy of the Final Plat submission acted upon shall be retained by the Department of Planning and Zoning and the remaining copies returned to the applicant.
- (7) Final Plat approval shall not constitute acceptance by County Council of any streets, public ways, infrastructure, or any maintenance thereof. Maintenance and dedication shall be as provided for in Articles XXIII and XXIV of this Ordinance.

Section 18.3 Appeals

- (a) Any party of interest in a decision of the Planning Director regarding administrative approval of subdivision plats may appeal the decision to the Planning Commission within thirty (30) days of the decision. The Planning Commission shall take action on the appeal within sixty (60) days of the decision appealed.
 - (1) In exercising the appeal power, the Planning Commission may reverse or affirm, wholly or partly, or may modify the decision being appealed.
 - (2) The Planning Commission's decision shall be on the record; it shall consider only the facts of the original application, plans or related project materials and the issues raised by the appeal.
 - (3) In acting on the appeal, the Planning Commission shall presume the correctness of the Planning Director's decision, which places the burden of persuasion of error on the appellant.
 - (4) An appeal shall be sustained only if the Planning Commission has found an error in the decision of the Planning Director. At least two thirds (2/3) of the members present and voting shall be required to reverse a decision of the Planning Director.
- (b) Any party with substantial interest in a decision of the Planning Commission regarding any land development application, or any officer, board, or bureau of the County, may appeal the Planning Commission's decision to the Circuit Court of Dorchester County. Appellants shall file with the Clerk of Court a written petition that clearly states how the decision of the Planning Commission is contrary to law. The appeal shall be filed within thirty (30) calendar days after the notice from the Planning Commission.

Section 19.3 Final Plat

- (a) Names of applicant, owner(s) of the property proposed for development, developer(s), the surveyor(s) or engineer(s) responsible for execution of the survey, and the design professional(s) responsible for planning and design.
- (b) A title block, including the proposed name or title of the project or subdivision, where applicable, as well as the name, signature, license number, seal, address, and telephone number of each engineer, land surveyor, planner, architect, and/or landscape architect, or firm thereof, involved in the preparation of the Final Plat and supplementary materials, which shall be required so as to certify the accuracy of the information submitted.
- (c) Date of the original Final Plat and all subsequent revision dates.
- (d) A signature box, allowing space for the stamp and signature of the Planning Director and date thereof, to indicate approval of the Final Plat.

- (e) Reference north arrow.
- (f) Graphic and numerical scales, which shall not be smaller than required by the Planning Director and generally not smaller than one inch equals fifty feet (1"=50').
- (g) An inset containing a vicinity map at a minimum scale of one inch equals two thousand feet (1"=2,000'), depicting the tract proposed for development and surrounding streets, railroads, and watercourses with names or highway numbers thereof.
- (h) Description of the project boundaries in metes and bounds, as well as those of the residual parent tract, which may be illustrated in an inset at a smaller scale, subject to the approval of the Planning Director.
- (i) The Dorchester County parcel identification number in 10-digit format of the tract proposed for development, its acreage to the nearest tenth of an acre, its street address, and block and lot number, if applicable.
- (j) The names of all owners of adjacent land with parcel identification numbers in 10-digit format.
- (k) All existing watercourses and jurisdictional wetlands on and, if available, within two hundred feet (200') of the tract, with delineation of critical areas for each.
- (l) All proposed new, adjusted, and abandoned lot lines, the square footage of each proposed lot, and existing and proposed lot and block numbers.
- (m) Location and dimensions of all existing and proposed streets and names thereof, railroads, bridges, and associated rights of way, proposed street names, and all crash gates.
- (n) Detailed infrastructure plans, including locations and sizes, where applicable, for pre-existing and installed service of sanitary sewerage, potable water, stormwater management, telephone, electric, and cable television, as well as all proposed easements and rights-of-way necessary for each, where applicable.
- (o) All proposed park and school sites and other lots or portions thereof proposed for dedication to public use.
- (p) All building footprints with dimensions from property lines must be shown.
- (q) The Final Plat shall be accompanied by any other information deemed essential to Plat approval by the Planning Director.

Section 23.2 Application

- (a) Submission of a plan for Final Plat Approval will include a licensed professional engineer's certification that all the required improvements have been installed as per the approved plans and specifications as well as all provisions of this Ordinance.
 - (1) Prior to final plat approval all required improvements shall be installed in accordance with the approved Preliminary Plan. Due to the potential damage to sidewalks in front of lots and required landscaping on or in front of lots, the developer may performance bond sidewalk and landscaping when located on or in front of lots at one hundred fifty percent (150%) of the cost to complete

outstanding improvements. The Planning Director may allow for the bonding of other landscaping on a case by case basis as needed to ensure the health of new plant materials.

(2) The provisions for a maintenance guarantee shall be for that period required prior to final acceptance of the improvement and in an amount not to exceed seventy-five percent (75%) of the cost of the streets and drainage improvements.

a. Application for a maintenance guarantee shall be made to the Director of Public Works who will be responsible for reviewing and approving.

b. To ensure adequate funding, financial guarantee estimates shall be resubmitted every two years to the Director of Public Works who will evaluate and determine if the financial guarantee on file needs to be updated.

(3) In the event that other governmental agencies or public utilities are proposed to own the utilities to be installed, or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required for such utilities or improvements.

(b) Upon substantial completion of the remaining sidewalk and landscaping improvements, the developer may notify the County in writing of the progress being made and request a reduction in the amount of the performance bond.

(1) The developer may seek a one-time reduction of the required performance bond amount when the bonded improvements are fifty percent (50%), or more, complete.

(2) The developer may not seek such a reduction for six (6) months after the bond is posted.

Section 23.3 Foreclosure

In the event that any or all of the required improvements are not completed within the time specified, the County may let or re-let the contract, using the posted security to defray the cost of such required improvements.

Section 24.1 Performance and Maintenance Mechanisms

(A) Performance and Maintenance guarantees shall be provided by a variety of means. The selected guarantee will show "Dorchester County" as the payee or beneficiary. The guarantee shall be made to the County in one of the following means.

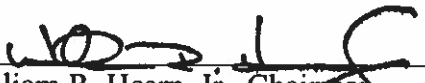
(1) **Security Bond:** The applicant may obtain a security bond from a surety bonding company authorized to do business in the State of South Carolina.

(2) **Letter of Credit:** The applicant may provide an irrevocable Letter of Credit from a bank or other reputable financial institution acceptable to Dorchester County. There will be a provision for the lending institution to provide Dorchester County a written sixty (60)-day notice of expiration date.

(3) **Escrow Account:** The applicant shall deposit cash, or other instruments readily convertible into cash at face value acceptable to the Director of Public Works, with the County.

This Ordinance shall be effective upon third and final reading.

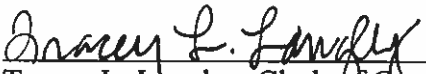
Approved and adopted on this 15th day of November, 2021.



William R. Hearn, Jr., Chairman
Dorchester County Council

First Reading: 10/04/2021
Second Reading: 11/01/2021
Public Hearing: 11/01/2021
Third Reading: 11/15/2021

ATTEST:



Tracey L. Langley, Clerk of Council