

**ARTICLE V. GENERAL PROVISIONS**

**Section 5.1 General Conformity with Regulations Required**

The regulations set forth in this Article serve to clarify, supplement and/or modify the other regulations of this Ordinance. The regulations set forth for each zoning district are the minimum requirements necessary to carry out this Ordinance. These regulations apply to all of the unincorporated land within the County of Dorchester and serve as the minimum standards for all clearing, building, development, structures or alterations of these lands.

**Section 5.2 Prohibitions**

No building, structure, or land shall hereafter be used, modified, altered or developed, and no building, structure or part thereof shall be erected, reconstructed, converted, enlarged, moved or structurally altered, unless in conformity with the provisions set forth in this Ordinance provided that proposed development activities approved in accord with the provisions of applicable ordinances at the time of approval are exempt as listed in Section 5.3 below.

**Section 5.3 Exemptions from Conformity to Regulations**

**5.3.1 Land**

Development in subdivisions for which a Preliminary Plan has been approved by the Dorchester County Planning Commission prior to the effective date of this Ordinance in accordance with the provisions of the Dorchester County Subdivision Ordinance at the time of such approval shall be exempt from the requirements of this Ordinance provided, however, that:

- (a) if the installation of improvements has not substantially begun or if a Final Plat of all or a portion of the subdivision has not been submitted for approval within one (1) year of the date of Preliminary Plan approval, this exception shall be deemed void, and the provisions set forth in this Ordinance shall apply in full; and
- (b) an extension of the time period for compliance with Article XVIII of this ordinance by the Dorchester County Planning Commission shall not extend the period during which this exception is available.

### **5.3.2 Structures**

Any structure for which zoning and building permits have been issued prior to the effective date of this Ordinance shall be exempt from the requirements of this Ordinance. All structures for which an application has been received prior to the effective date of this ordinance must be complete and approved prior to October 1, 2004 to be exempted from this ordinance.

### **5.3.3 Uses**

Any use of land or a structure for which a zoning permit has been issued prior to the effective date of this Ordinance shall be exempt from the requirements of this Ordinance. All uses for which an application has been received prior to the effective date of this ordinance must be complete and approved prior to October 1, 2004 to be exempted from this ordinance.

### **5.3.4 Existing Variances**

Any variance lawfully approved prior to the effective date of this Ordinance, or amendment thereof, shall be deemed to be and continue to be valid after the adoption of this Ordinance.

### **5.3.5 Height Limits**

No building or structure shall exceed the height limit specified for the zoning district in which it is located. Except in special areas in which the requirements of Article XI will apply, the height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes not intended for human occupancy, monuments, water towers, observation towers, chimneys, ham radio towers, masts and aerials. These structures are required to meet the regulations and height limitations set forth by the Federal Aviation Administration and the Federal Communications Commission.

### **5.3.6 Utility Companies**

The following utility uses are exempt from the provisions of this Ordinance: poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar equipment when used for the purpose of distributing service to individual customers, but not including substations, transmission lines or trunk lines located on or above the surface of the ground, for the distribution of to consumers of telephone, cable television or other communications, electricity, gas or water or for the collection of sewage or surface water.

**Section 5.4 Methods of Measurement for Lots, Yards and Related Terms**

**5.4.1 Width Measurements for Regular Lots**

The width of a regular lot shall be determined by the measurement across the rear of the required front yard. Lot width shall be measured only along continuous frontage facing one street. Yards and street lines shall be measured along the arc of the curve for curvilinear yards and street lines.

**5.4.2 Determination of the Front Yard for Regular Lots**

- (a) For regular interior lots, the front shall be construed to be the portion nearest the street.
- (b) For regular corner lots, the front shall be construed as the shorter boundary fronting the street. If the lot has equal frontage on two or more streets, the front of the lot shall be determined by the prevailing building pattern, or the prevailing lot pattern if a building pattern had not been established.

**5.4.3 Yards Adjacent to a Street**

- (a) Regular lots shall have front yards of at least the depth required for the district across the entire frontage of the lot.
- (b) Other required yards adjacent to streets shall be provided across or along the entire portion of the lot adjacent to the street.
- (c) Street lines should be used for the measurement of required yards adjacent to streets. Where the lot line adjacent to the street is straight, required yards shall be measured from such line, extended the case of rounded corners. On convex or concave lots, if applicable, front, side and rear yards, shall be parallel to or concentric with the street line.
- (d) The depth of required yards adjacent to streets shall be measured perpendicular or radially to such straight lines.

**5.4.4 Yards on Double Frontage Lots**

On double front lots the minimum front yard setback established for the district in which such lot is located shall be provided on each street. Double frontage lot setbacks apply on any lot wherein the structure is to be situated diagonally (approximately 45 degrees + or -) with respect to two intersecting lot lines, both of which are roadway frontages.

#### **5.4.5 Yards on Corner Lots**

Corner lots shall be deemed to have no rear yards, only two (2) front yards that are adjacent to the street and two (2) side yards. The driveway to a house represents the front yard and the second front yard setback is 15 feet. If two (2) different side yards are required in a district, the larger available yard shall apply.

#### **5.4.6 Side Yards on Regular Lots**

Side yards on regular lots are defined as running from the required front yard line to the required rear yard line. On regular through lots, the required side yard shall run from the required front yard line to the second required front yard line. On corner lots, the required side yards shall run from the point where side yard lines intersect to the required front yard lines.

#### **5.4.7 Rear Yards on Regular Lots**

Rear yards provided on interior regular lots shall be at least the depth required for the district, and shall run across the full width of the lot at the rear.

### **Section 5.5 Reduction in Minimum Yard Requirements based on Error in Building Location**

Notwithstanding any other provision of this Ordinance, the Zoning Administrator shall have the authority, as qualified below, to approve a reduction in minimum yard requirements in the case of any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected. Such a reduction may be approved in accordance with the following provisions:

#### **5.5.1** The Zoning Administrator determines that:

- (a) The error does not exceed ten (10) percent of the measurement that is involved; and
- (b) The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in location of the building subsequent to the issuance of a Building Permit, if such was required; and
- (c) Such reduction will not impair the purpose and intent of this Ordinance; and
- (d) It will not be detrimental to the use and enjoyment of other property in the immediate vicinity; and
- (e) It will not create an unsafe condition with respect to both other property and public streets; and

- (f) To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- (g) The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulation.

**5.5.2** In approving such a reduction under the provision of this Section, the Zoning Administrator shall allow only a reduction necessary to provide reasonable relief and, as deemed available, may prescribe such conditions, to include landscaping and screening measures to assure compliance with the intent of this Ordinance.

**5.5.3** Upon the approval of a reduction for a particular building in accordance with the provision of this Section, the same shall be deemed to be a lawful building.

**5.5.4** The Zoning Administrator shall have no power to waive or modify the standards necessary for approval as specified in this Section.

**5.5.5** If there is an error greater than ten (10) percent of the measurement that is involved, the property owners may seek a variance from the Board of Zoning Appeals.

## **Section 5.6 Nonconformities**

To avoid undue hardship, the lawful use of any structure, land use or lot which can be shown to have lawfully existed prior to the effective date of this Ordinance, or any structure, land use or lot which has become nonconforming as a result of the adoption of this Ordinance, may be continued in accordance with the terms of this subsection.

**5.6.1 Non-conforming land uses** are declared by this Ordinance to be incompatible with permitted uses in the districts involved. The lawful use of any structure or lot which can be shown to have lawfully existed prior to the effective date of this Ordinance, may be continued even though such use does not conform with the provisions of this Ordinance.

**5.6.1.2 Discontinuation of Nonconforming Use.** If a nonconforming use is discontinued or abandoned for a continuous period of more than one (1) year, including any period of discontinuation before the effective date of this Ordinance, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform to the regulations of this Ordinance.

### **5.6.2 Nonconforming Lots of Record**

In any zoning district, where a lot of record at the effective date of adoption of this Ordinance does not contain sufficient land area or dimensions to meet the requirements of the district in which is located, such lot may be used as a building

site for any use that is a permitted use in the zoning district which the lot is located provided that all structures on these lots must conform to the minimum front and side yard requirements set forth in this Ordinance for the district in which the lot is located, and further, that any permitted use serviced by a private septic tank system shall meet minimum SC Department of Health and Environmental Control (DHEC) regulations.

**5.6.2.1 Boundary Line Adjustments.** Boundary line adjustments may be permitted between nonconforming lots, (or between a conforming and nonconforming lot), provided that the Zoning Administrator finds that the degree of nonconformity for any lot resulting from such boundary line adjustment is not increased due to such adjustments.

**5.6.2.2 Highway Realignment or Condemnation.** Any lot, which by reason of realignment of a Federal or State highway or by reason of condemnation proceedings, has been reduced in size to an area less than that required by this Ordinance, shall be considered a nonconforming lot of record subject to the provisions set forth in this Ordinance; and any lawful use or structure existing at the time of such realignment or condemnation proceedings which would thereafter no longer be permitted under the terms of this Ordinance shall be considered a nonconforming use or structure as that term is used in this Ordinance.

### **5.6.3 Repair or Reconstruction of Nonconforming Structures**

Nonconforming structures may be repaired, rebuilt, or altered after damage, provided that the structure is placed on the foundation or building footprint of the old structure. Where damage does not exceed fifty (50%) percent of total physical replacement cost, including labor and material cost only at the time the building permit is issued for the repair or reconstruction, reconstruction must begin within six (6) months after the damage is incurred. The provisions of this subsection shall not apply to any bonafide residence. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order or permission of such official.

### ***Section 5.7 Hiring of Professionals to Assist in Evaluation of Development Projects; Establishment of Fees and Development Review Fee Account***

*Applications for (a) Subdivision / Development, Preliminary / Construction only Plan Review, Subdivision / Development Final Plan Review, (b) Planned Development District, (c) Zoning Map Amendment / Overlay, (d) Exempt Plat, (e) Sign Permit / Variance, (f) Special Exception and (g) Administrative Appeal may require professional evaluations by individuals with special architectural, engineering, environmental, construction, soil, hydrological, chemical and other professional expertise. The Director of Growth Management shall determine the*



**5.7.2.2 Commercial / Office / Industrial / Institutional Plan Review:**

<i>Commercial / Office / Industrial:</i>	<i>\$ 250.00 plus \$ 0.06/Gross Square Foot</i>
<i>Institutional:</i>	<i>\$ 250.00 plus \$ 0.03/Gross Square Foot</i>

**5.7.2.3 Planned Development District:**

- (a) *Concept Plan Review:* \$ 250.00
- (b) *Master Plan Review:*  
*Residential: \$ 1,000 plus \$ 1.00/unit*  
*(not including any costs for outside professional services)*  
  
*Commercial / Office / Industrial / Land Disturbance*  
*\$1,000.00 plus \$0.10/Gross Square Foot*  
*(not including and costs for outside professional services)*

**5.7.2.4 Zoning Map Amendment Overlay:**

<i>Up to 2 lots:</i>	<i>\$ 250.00</i>
<i>Each Additional Lot:</i>	<i>\$ 25.00</i>
<i>Raw Acreage:</i>	<i>\$ 250.00 plus \$ 10.00/acre</i>

**5.7.2.5 Variance**

<i>Residential:</i>	<i>\$ 250.00</i>
<i>All Other:</i>	<i>\$ 250.00</i>

**5.7.2.6 Special Exception:** \$ 250.00 plus publication cost

**5.7.2.7 Administrative Appeal:** \$ 250.00 plus publication cost

**5.7.3** *The Director of Growth Management, with the assistance of the Finance Director, shall establish a trust account to be called the Development Review Fee Account Fund. The Development Review Fee Account Fund is established for the purpose of recovering the actual expense incurred by the County for professional assistance in processing and reviewing applications pertaining to development activity in the County. Upon receipt of an application, the Director of Growth Management shall make a preliminary determination of the professionals, if any, which may be required to assist the Director of Growth Management and Planning and Codes Director in their evaluation of the project and the anticipated cost of such services. Prior to commencement of evaluation of the application, the applicant shall deposit with the Director of Growth Management the amount estimated by him for development review fees for professionals. These funds shall be placed in the Development Review Fee Account established herein in the name*

*of the applicant and shall be used by the Director of Growth Management to pay the fees and costs of such professionals. In the event the Director of Growth Management determines that because of a substantial amendment to the application, other changes in the scope of work, a determination that a need exists for additional professional consultants, or if the original estimate does not adequately cover all professional fees and expenses, he shall notify the applicant and the applicant shall deposit with the Director of Growth Management additional funds to replenish the Development Review Fee Account. Upon final determination of the application for a zoning permit, overlay zone, or special exception, the Director of Growth Management shall make an accounting to the applicant and remit to him or her any balance in the account without interest.*