

**Land Development
and
Subdivision Regulations
for
*Berkeley County,
South Carolina***

Ordinance No. 99-4-20, Adopted April 26, 1999
Amended Ordinance No. 04-11-67, Adopted November 24, 2004

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ARTICLE I. TITLE

This Ordinance shall officially be known, cited, and referred to as the Land Development and Subdivision Regulations of Berkeley County, South Carolina (hereinafter “these regulations”).

ARTICLE II. JURISDICTION

The provisions set forth herein shall apply throughout the unincorporated area of Berkeley County.

ARTICLE III. PURPOSE

The purpose of this Ordinance is to encourage the development of an economically sound and stable county; to assure the timely provision of required streets, utilities, and other facilities and services to new land developments; to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments; to assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, transportation, and other public purposes; and to assure, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the Comprehensive Plan of Berkeley County (Ordinance No. 99-4-18 as amended with ordinance No. 04-11-67).

ARTICLE IV. SCOPE

- A. No land development plan, including subdivision plats, will be approved unless all land intended for use as building sites can be used safely for building purposes, without danger from flood or other inundation or from other menaces to health, safety, or public welfare.
- B. No land shall be subdivided, nor shall a plat of land be recorded for any purpose, nor shall any parcel resulting from the subdivision of land be sold, shown, or offered for sale or lease unless the requirements of this Ordinance are fully complied with.

ARTICLE V. DEFINITIONS

When used in this Ordinance, certain words shall have the meaning as herein defined. Words and terms not herein defined shall have their customary dictionary definitions. The term “shall” is mandatory. When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future tense.

1. **Administrative Officer:** Such person as shall be designated by the County to be responsible for administering this Ordinance.
2. **Alley:** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
3. **Block:** A parcel of land entirely surrounded by streets or highways or by a combination of streets, highways, parks, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.
4. **Contiguous:** Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.
5. **Comprehensive Plan:** The Comprehensive Plan adopted by Berkeley County Council pursuant to Sections 6-29-310 through 6-29-1200 of the Code of Laws of South Carolina 1976, as amended (the South Carolina Local Government Comprehensive Planning Enabling Act of 1994).
6. **Cul-de-Sac:** A local street with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.
7. **Design Criteria:** Standards that set forth specific improvement requirements.
8. **Developer:** The owner of land proposed to be subdivided or his/her representative who is responsible for any undertaking that requires review and/or approval under these regulations. See Subdivider.
9. **Ditch:** A manmade channel constructed to convey stormwater runoff.

10. Easement: A grant by the property owner of the use, for a specific purpose, of a strip of land.
11. Engineer: A registered professional engineer in good standing with the South Carolina State Board of Registration for Professional Engineers and Land Surveyors.
12. Final Plat: An accurate graphical representation showing one or more lots or tracts of land; said drawing(s) shall meet all the standards and requirements as set forth herein and in the laws of the State of South Carolina.
13. Floodplain or Flood Hazard Area: The land area within a community subject to a one percent (1%) chance of flooding in any given year, as delineated on the Federal Emergency Management Administration's official Flood Hazard Boundary Maps, and/or the land area within the Santee Dam Break Hazard area.
14. Governing Body: Berkeley County Council.
15. Grade: The slope of a road, street, or other public way specified in percentage terms.
16. Health Department: The agency designated by the South Carolina General Assembly to administer the health regulations of Berkeley County, currently the South Carolina Department of Health and Environmental Control, (SCDHEC).
17. Improvements: Streets, utilities, drainage facilities, and street signs.
18. Land Development: The changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease, or any combination of owner and rental characteristics.
19. Lot: A portion of a subdivision or any other parcel of land that is intended as or may become a unit for transfer of ownership or for development or both. The word "lot" includes the words "plot", "tract", and "parcel".
20. Mobile/Manufactured Home Park: A parcel of land containing five (5) or more mobile/manufactured home sites per acre, and said sites are available for rent or lease.

21. Perimeter Street: Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.
22. Planning Commission: The Berkeley County Planning Commission.
23. Preliminary Plan: A scaled drawing, or drawings, showing a proposed subdivision; said drawing shall meet the requirements as set forth in this Ordinance.
24. Right-of-Way: see Easement
25. Road: see Street
26. Sketch Plan: A rough drawing showing a proposed subdivision. Such plan is not binding to the Planning Commission, its agent, or the developer.
27. Swale: A privately maintained ditch having side slopes of 4:1 or falter.
28. Street: For the purpose of this Ordinance, a street is classified according to the following categories most accurately describing it:

Public Street: Vehicular right-of-way dedicated or deeded to a governing authority for perpetual maintenance, including:

- a. Alley: A minor way used for service access to the back or side of properties otherwise abutting on a street.
- b. Collector Street: A street used to collect and distribute medium traffic volumes between origin and destination points.
- c. Cul-de-sac: A local street having one end open to minor vehicle traffic and one end terminating in a motor vehicle turnaround.
- d. Highways and Thoroughfares: Streets designed primarily to move large volumes of traffic and provide for the movement of through traffic.
- e. Local Street: A street used primarily for access to abutting properties.

Private Street: Vehicular right-of-way held in private or corporate ownership, and one that is ineligible for public expenditures and/or public maintenance.

29. Subdivider: The owner or the agent of the owner of any land to be subdivided within Berkeley County, who transfers or sells or agrees to sell or negotiate to

sell such land. The term “subdivider” is synonymous with the terms “developer” and “applicant” for the purpose of this Ordinance.

30. Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. Subdivision includes re-subdivision and condominium creation or conversion.
31. Subdivision Plat: The final map or drawing, described in these regulations, on which the subdivider’s plan of subdivision is presented to the Administrative Officer for approval and which, if approved, may be submitted to the Berkeley County Register of Deeds for filing.
32. Surveyor: A registered land surveyor who is in good standing with the South Carolina State Board of Registration for Professional Engineers and Land Surveyors.
33. Utilities: Utilities consist of any or all utility services to a subdivision, including water, electricity, telephone, cable television, gas, and sanitary sewerage, whether such utilities are supplied by a private individual or company, or a governmental entity.

ARTICLE VI. PROCEDURE FOR SECURING APPROVAL OF SUBDIVISIONS

- A. The procedure by which a developer gains approval for a subdivision is described in this Section. The procedure is mindful of the interests of the subdivider, the potential buyer of the subdivided land, and the surrounding community. The procedure is in four (4) steps and consists of:
 1. Informal presentation of a Sketch Plan for discussion (optional),
 2. Formal submission of a Preliminary Plan for approval,
 3. Formal submission of a Final Plat for approval, and
 4. Recording of Final Plat.

Step 2 shall be completed prior to making improvements associated with subdivision development. Steps 3 and 4 shall be completed prior to the sale of any lot within the proposed subdivision.

B. Submission and Review of Sketch Plan

1. At any early point in planning the subdivision, the developer may appear before the Administrative Officer for informal discussion of the intended development project. The objectives of this discussion are: 1) to provide early identification of potential problems, or conflicts with any applicable County policy or law, or State law, and 2) to provide for the pursuit of more desirable development alternatives prior to the commitment of financial resources.
2. Since this step is informal in nature, and optional to the formal review/approval process, the Sketch Plan is not acted upon by the Administrative Officer; accordingly, the developer is free to assume the risk and modify the Sketch Plan as his or her planning matures. Similarly, the Administrative Officer is not bound to approve an element of the subdivision by virtue of its being included as part of a Sketch Plan.

C. Submission and Review of Preliminary Plan

1. Application for approval of a Preliminary Plan of a proposed subdivision shall be made to the Administrative Officer. In making application, a subdivider or property owner shall include six (6) copies of the Plan and such materials as shall be required in these regulations. Also, either an 8 ½ x 11 or an 11 x 14 size copy of the preliminary plan must be provided.
2. The Administrative Officer shall submit copies of the Preliminary Plan to the Berkeley County Engineer's Office, the Berkeley County Soil and Water Conservation District Office, the Berkeley County Water and Sanitation Authority and the Berkeley, Charleston, Dorchester Council of Governments for their review and recommendations. Their recommendations shall become part of the Administrative Officer's findings. The applicant is required to provide the SCDHEC office an application or private sanitary sewer system(s) review. The applicant is then responsible for providing the SCDHEC report of the test(s) to the Administrative Officer prior to approval of the plat.
3. To defray the costs of administration and notification, the subdivider shall pay the following fees to the Planning and Zoning Department at the time of filing for Preliminary Plan approval or, in the case of exceptions, shall pay such fees at the filing for Final Plat approval.

<u>Number of Lots</u>	<u>Fees</u>
1	\$20.00
2-15	\$40.00
16-25	\$40.00 plus \$2.00 per lot
26-50	\$50.00 plus \$10.00 per lot
51-100	\$100.00 plus \$10.00 per lot
101-and over	\$150.00 plus \$10.00 per lot

The subdivider shall pay the following fees to the County Engineering Department at the time of filing for Preliminary Plan approval.

<u>Number of Lots</u>	<u>Fees</u>
1 – 10	\$150
11 – 50	\$150 plus \$15 per lot
Over 50	\$900 plus \$5 per lot over 50 lots

Additional plan review fees may be assessed if required due to significant plan changes made at the request of the subdivider or in response to review comments.

4. A “Preliminary Plan Review Committee” shall consist of the Administrative Officer, the Berkeley County Engineer or his/her designee, a Berkeley Soil and Water Conservation District agent, a Berkeley County SCDHEC representative, and a representative from the Berkeley County Water and Sanitation Authority. Each member shall review the plans to be considered and their review comments shall become part of the Administrative Officer’s findings as well as any comments submitted by the Berkeley, Charleston, Dorchester Council of Governments. The Administrative Officer shall establish a regular meeting schedule.
5. The Administrative Officer shall approve, approve conditionally, or deny the Preliminary Plan. If the Preliminary Plan is disapproved or approved conditionally, the reasons for such actions shall be stated in writing and signed by the Administrative Official, and one copy shall be mailed to the applicant within ten (10) days after action was taken.
6. If the Preliminary Plan is found to conform to all of the requirements of this Ordinance, approval shall be given by the Administrative Official. The Planning and Zoning Department shall retain one (1) copy, and one (1) copy shall be given to the subdivider.
7. Preliminary Plan approval shall be authorization for the subdivider to proceed with the installation of site improvements and to proceed with

preparation of the Final Plat, but shall not authorize the sale or transfer of lots. Approval of the Preliminary Plan shall become void unless installation of improvements is substantially begun (i.e. more than 50% of the installation has been completed) or unless a Final Plat of all or a portion of the subdivision is submitted for approval within one (1) year of the date of said approval; provided, however, that the Administrative Official may waive this requirement and consent to an extension of said time period. If the subdivider is proposing to develop the preliminary plan in phases, a phasing plan shall be included. Proposed changes in the phasing plan shall be subject to approval by the County Engineer. The subdivider must begin the construction of all approved phases of the Preliminary Plan within thirty-six (36) months or such Plan must be resubmitted for the Administrative Official's further approval.

8. No permanent improvements shall be made prior to a granting of approval of the Preliminary Plan by the Administrative Official.

Prior to proceeding with construction of public roadway and drainage improvements, the subdivider shall pay the following inspection fees to the County Engineering Department.

Number of Lots	Fees
1 – 10	\$200.00
Over 10	\$0.50 per linear feet of roadway centerline

A fee of \$100.00 per inspection will be assessed for re-inspection of incomplete or failed construction.

9. The following applications for subdivisions shall be exempted from the preliminary plan review process, and may be submitted directly for final plat review:
 - a. In the case of a combination or recombination of portions of previously platted lots where the total number of lots, as shown on an approved Final Plat, is not increased and the resultant lots are equal to the standards of this and other relevant County Ordinances.
 - b. In the case of any proposed subdivision where no new street, either public or private, is involved and no parcels are created which are smaller than five (5) acres.

- c. In the case of property transferred by will or intestate succession or forced division decreed by appropriate judicial authority or by tax sale as authorized by The Code of Laws of South Carolina 1976, as amended.
 - d. In the case where a proposed subdivision results in one (1) new lot, is located on an existing public road, complies with SCDHEC rules and regulations pertaining to the availability of potable water and sanitary sewer facilities, and the proposed new lot and the residual portion meets minimum lot size.
 - e. In the case of a property subdivided by deed prior to September 22, 1980, the date of adoption of the Berkeley County Subdivision Regulations, Ordinance 79-12-34, the initial subdivision of the property shall be exempt and the plat will be stamped "for information only". Any subdivision of the property subsequent to the plat will have to comply with all current regulations.
10. Appeals of the Decisions of the Administrative Officer. If an applicant disagrees with the disapproval or approval with modifications of the Preliminary Plan by the Administrative Officer, he may appeal the decision on the Preliminary Plan to the Planning Commission in accordance with this Ordinance.

It is expressly understood that the Planning Commission shall not act to override the requirements of other agencies or County Departments. It may, however, seek to bring agreement in case of conflicts between the various reviewing agencies, or a reviewing agency and the subdivider.

Approval of the Preliminary Plan shall be noted on the plan and certified by the Administrative Officer. Also noted shall be the date on which the Administrative Officer granted approval. Approval of a preliminary subdivision plan shall not constitute approval of the final subdivision plan. Application for approval of the Final (record) Plat will be considered only after the requirements for Final Plat approval as specified herein have been fulfilled and after all other specified conditions have been met. Upon approval of the preliminary subdivision plan the subdivider may proceed with compliance with the other requirements of these regulations, construction of proposed improvements and the preparation of the final subdivision plat.

D. Submission and Review of Final Plat

1. Application for approval of a Final Plat of a proposed subdivision shall be made to the Administrative Officer. In making application, a subdivider of property shall include five (5) copies of the Plat and the number of copies which the applicant desires to be stamped and returned.

2. The Final Plat shall conform in all respects to the Preliminary Plan as previously approved by the Administrative Officer, but shall incorporate all modifications required by the Administrative Officer in his/ her review of the Preliminary Plan. The Administrative Officer may, however, accept a Final Plat so modified as to reflect any substantial changes which have occurred on the site of the proposed subdivision, or in its surroundings, since the time of Preliminary Plan approval.
3. Prior to approving a Final Plat, all required site improvements must have been installed to the County's satisfaction, or a Financial Guarantee, naming the County as payee, must have been posted to secure the actual construction and installation of required site improvements. (See Section IX. Financial Guarantees, of this Ordinance).
6. If the Final Plat and all supplementary data comply with all applicable requirements of this Ordinance, the Administrative Official shall approve said Plat and such approval shall be noted on each copy of the Final Plat.
7. If the Final Plat is denied, the reasons for such action shall be stated in writing and signed by the Administrative Official. If deemed necessary, any modifications required by the Planning Commission as prerequisites to approval of the Final Plat shall be noted on the Plat. The Department shall retain one (1) copy and the remaining copies shall be returned to the subdivider.
8. Appeals of the Decisions of the Administrative Official.
If an applicant disagrees with the disapproval or approval with modifications of the Final Plat by the Administrative Official, he may appeal the decision on the Final Plat to the Planning Commission in accordance with this ordinance.

It is expressly understood that the Planning Commission shall not act to override the requirements of other agencies or County Departments. It may however, seek to bring agreement in cases of conflict between the various reviewing agencies, or a reviewing agency and the subdivider.

E. Recording of Final Plat

1. No subdivision plat shall be recorded unless it bears the endorsement of the Administrative Officer or bears an exemption as granted by the Administrative Officer (see paragraph 2., below). The subdivider or applicant shall be responsible for filing and paying the appropriate filing fee to the Register of Deeds Office. .

2. A Final Plat shall be exempt from review of the Preliminary Plan Review Committee in the below reference situations, but must meet the other requirements of this Ordinance. Such exemptions shall be granted by the Administrative Officer, and duly noted on the Plat and the plat may be approved by the Administrative Officer. The procedure for recording shall be the same as paragraph 1, above. These exemptions shall not be used in any manner which would attempt to evade the general purpose of this Ordinance. Piecemealing a development will not be allowed. Exemptions shall apply in the following situations:
 - a. In the case of a combination or recombination of portions of previously platted lots where the total number of lots, as shown on an approved Final Plat, is not increased and the resultant lots are equal to the standards of this and other relevant County Ordinances.
 - b. In the case of any proposed subdivision where no new street, either public or private, is involved and no parcels are created which are smaller than five (5) acres.
 - c. In the case of property transferred by will or intestate succession or forced division decreed by appropriate judicial authority or ~~In~~ the case of property transferred by tax sale as authorized by The Code of Laws of South Carolina 1976, as amended.
 - d. In the case where a proposed subdivision results in one (1) new lot, is located on an existing public road, complies with SCDHEC rules and regulations pertaining to the availability of potable water and sanitary sewer facilities, and the proposed new lot and the residual portion meets minimum lot size.
 - e. In the case of a property subdivided by deed prior to September 22, 1980, the date of adoption of the Berkeley County Subdivision Regulations, Ordinance 79-12-34, the initial subdivision of the property shall be exempt and the plat will be stamped "for information only". Any subdivision of the property subsequent to the plat will have to comply with all current regulations.

ARTICLE VII. SURVEY AND PLAT REQUIREMENTS

All land subdivisions within the jurisdiction of this Ordinance shall conform to Chapter 49, Article 4, R.400-490 of the Code of Laws of South Carolina, 1976, as amended, and to the regulations set forth herein.

A. Markers: Markers shall be installed at the following locations:

1. All points where lot lines intersect street or alley right-of-way lines.
2. All points where curves begin and end.
3. All angles formed by intersection of lot lines.
4. All exterior corners of the subdivision.
5. All points, as required by the County Engineer or his designee, to delineate the location or extent of reservations, easements, or dedications not otherwise defined.

B. Preliminary Plan: A Preliminary Plan shall conform to the requirements of this Ordinance and shall contain the following information:

1. The proposed name of the subdivision.
2. Vicinity, or Location, Map that describes the proposed subdivision in relationship to the surrounding area.
3. A graphic scale, a numerical scale, a north arrow, and the date that such plan was drawn.
4. Names of owner(s), developer(s), surveyor(s), and engineer(s).
5. Amount of acreage to be subdivided.
6. The names of adjacent land owners and the corresponding TMS numbers, and the lot and/or block numbers (if any) of such adjacent lands.
7. The centerline and outer edges of existing highways, roads, streets, drainage ditches, and waterways; and the names of existing highways, roads, streets, and named waterways.
8. All existing political boundaries, property lines, right-of-ways, easements, railroads, utility transmission lines, culverts, bridges, and water courses.
9. A description of existing features such as storm water systems, sanitary sewers, power lines, gas lines, and water lines on the subject property.

10. Jurisdiction wetlands and critical areas when required by the County Engineer.
11. Zoning classification.
12. Lands known to be in a flood zone, or any area to be subject to flooding shall be clearly identified as such.
13. All proposed streets, street right-of-ways, pavement widths, and street names.
14. All proposed lot lines, lot dimensions, and lot and block numbers.
15. All proposed easements, including location, dimension, and purpose.
16. All proposed parks, school sites, and other areas designated for public use.
17. A description of all proposed sanitary sewers, storm drains, power lines, water lines and other utilities proposed to serve the subdivision.
18. A description of all proposed erosion and sedimentation control measures.
19. A topographic survey plat conforming with the requirements of Chapter 49, Article 4, R.400-490 of the Code of Laws of South Carolina, 1976, as amended, showing topography by contours at vertical intervals of not more than one (1) foot, and all proposed contour changes in areas where cut or fill is to be done.

Exception: A topographic survey plat is not required when the Preliminary Plan calls for the subdivision of a tract of land into ten (10) lots or less, unless required by the County Engineer.
20. The engineer or surveyor shall certify the accuracy of the plan by affixing his or her seal on the face of the preliminary plan pursuant to the standards and requirements set forth in Chapter 49, Article 4, R.400-490 of the Code of Laws of South Carolina, 1976, as amended.
21. A signed dedication statement for all new right-of-ways, and/or ingress/egress and general utility easements, in one of the forms as follows:
 - a. For all plats showing a right-of-way or a road intended to be turned over to Berkeley County for maintenance:

“BY THE RECORDING OF THIS PLAT, I HEREBY DEDICATE THE EASEMENTS AND RIGHTS-OF-WAY SHOWN HEREON TO THE USE OF THE PUBLIC FOREVER. NOTHING IN THIS DEDICATION SHALL BE CONSTRUED TO IMPLY AN ACCEPTANCE BY BERKELEY COUNTY OF ANY ROADWAY OR DRAINAGE FACILITY OR AS CREATING ANY DUTY BY BERKELEY COUNTY TO MAINTAIN ANY ROADWAY, RIGHTS-OF-WAY OR DRAINAGE EASEMENT SHOWN HEREON.” or

- b. For all plats showing a private (not city, county, state, or federal) ingress/egress easement:

“BY THE RECORDING OF THIS PLAT, I HEREBY DEDICATE THE 50’ INGRESS/EGRESS EASEMENT AND GENERAL UTILITY EASEMENT SHOWN HEREON TO ALL PURCHASERS AND SUCCESSORS IN INTEREST OF THIS PROPERTY, AND I HEREBY DEDICATE THE GENERAL UTILITY EASEMENT SHOWN HEREON TO THOSE ENTITIES WHICH PROVIDE SAID UTILITIES. NOTHING IN THIS DEDICATION SHALL BE CONSTRUED TO IMPLY AN ACCEPTANCE BY BERKELEY COUNTY OF ANY ROADWAYS OR AS CREATING ANY DUTY BY BERKELEY COUNTY TO MAINTAIN ANY ROADWAYS OR RIGHTS-OF-WAY SHOWN HEREON.”

- C. Final Plan/Plat: The Final Plan/Plat shall meet all standards and requirements set forth in Chapter 49, Article 4, R.400-490 of the Code of Laws of South Carolina, 1976, as amended, and shall meet all standards and requirements set forth in these regulations. Further, the Final Plan/Plat shall conform in all respects with the approved Preliminary Plan/Plat, including all conditions for approval thereon noted.

ARTICLE VIII. DESIGN STANDARDS AND IMPROVEMENTS

These standards and improvements shall be considered minimum requirements. Higher standards are encouraged in subdivision design and shall not be limited to these minimum requirements.

A. Lots

1. Each lot shall have an ingress/egress easement granted to it; and each lot shall be accessible by a road or street, unless exempted from this requirement by the Administrative Officer in accordance with Article VIII, B.2.g. below.
2. The lot size, width, shape, grade, and orientation shall be in proper relation to street and block design, to existing and proposed topographical and

natural vegetative conditions, and for the type of development and use contemplated.

3. Where applicable, all lots shall meet the minimum area requirements for the zoning district within which they are located.
4. Insofar as practical, side lot lines shall be at right angles to straight street lines and radial to curved street lines.
5. Excessive lot depth in relation to lot width shall be avoided, and as a general rule, the depth of residential lots shall be not less than one (1) nor more than two and one-half (2½) times their width; provided, however, that the Administrative Officer may grant exceptions to this in order to overcome specific disadvantages of topography or other site conditions.
6. Corner lots shall be of sufficient size and shape to permit required building setback and orientation to both streets.
7. Any remnants of land not meeting all requirements of these regulations for a lot shall be incorporated into an existing or proposed lot.
8. Each proposed lot shall be so designed as to allow the development of a private driveway serving said lot, and sufficient space for off-street parking and loading.
9. Driveways on corner lots shall be located at least forty (40) feet from the point of intersection of the nearest street right-of-way lines. Minimum frontage for any corner lot shall be forty (40) feet.
10. Minimum frontage for any lot shall be twenty (20) feet.
11. All lots shall meet the minimum size requirements as specified in the applicable zoning classification per Berkeley County Zoning and Development Standard Ordinance No. 01-8-35, as amended. If no minimum lot size is specified, then the following shall apply:
 - a. For lots with Public Water and Public Sewerage: 14,000 square feet.
 - b. For lots with Individual Wells and Public Sewerage: 14,000 square feet
 - c. For lots with Public Water and Individual Septic Tanks: 14,000 square feet

- d. For lots with Individual Wells and Individual Septic Tanks: 30,000 square feet

B. Streets

1. In general:

- a. Proposed streets shall be coordinated with the major street plan, existing street systems in the surrounding area, and where possible, shall provide for the continuation of existing streets abutting the subdivision.
- b. All streets shall be opened to the exterior property lines of the subdivision unless permanently terminated by a vehicular turnaround or an intersection with another street, and approved by the Administrative Officer.
- c. The arrangement of streets shall be such as will not cause hardship to owners of adjoining property in providing convenient access.
- d. Local streets, primarily serving abutting land uses, shall be laid out to discourage their use by through traffic. For these streets, curvilinear alignments and "T" intersections should be used where possible to discourage through traffic and to encourage safety.
- e. Dead end streets designed to be permanently closed at one end may be required to have a turnaround every 800 feet sufficient to allow a fire truck or emergency vehicle to turn in one motion. Length shall be measured from the center of the intersecting street to the center point of the turnaround.
- f. Turnarounds shall be provided as set out in subparagraph e., above, and also at the closed end of the street.
- g. No more than two (2) streets or any ingress/egress easement shall intersect at any one point.
- h. All streets shall intersect as nearly at right angles as possible, subject to variations approved by the Administrative Officer upon evidence of good cause; provided, however, no street shall intersect at an angle of less than seventy-five (75) degrees.
- i. All Streets intersecting other streets shall either intersect directly opposite to each other, or shall be separated by at least a one hundred-

fifty (150) foot offset between centerlines, measured along the centerline of the street being intersected.

- j. All Street intersections shall be located at least one hundred-fifty (150) feet from the right-of-way of any railroad, measured from the center point of the intersection to the railroad right-of-way line nearest the intersection.
- k. Public street right-of-ways and pavement travel-way widths shall not be less than the following:

	<u>Pavement Width</u>	<u>Right-of-Way Width</u>
Local	22'	50'(with curb & gutter) 66' (with open ditch)
Collector Street		
2 lane	24'	50'(with curb & gutter) 66' (with open ditch)
4 lane	48'	75'
Highways and Thoroughfares	<u>Pavement Width</u>	<u>Right-of-Way Width</u>
2 lane	24'	66'
4 lane	56'	80'
4 lane with service lanes	74'	100'
4 lane with left turn lane	68'	90'
4 lane with left turn lane and and service lanes	86'	120'

- l. Proposed streets which are obviously in alignment with other existing and named streets shall bear the assigned name of the existing streets. In no case shall the name of the proposed streets duplicate or be phonetically similar to existing street names within an established zip code area, irrespective of the use of suffix (e.g. street, avenue, boulevard, drive, place, court, etc.). It shall be unlawful for any person in laying out any new street to name such street on any recorded plat, by marking in any deed or instrument without first getting approval of the Administrative Officer.
- m. Subdividers shall dedicate a right-of-way or an easement along those County maintained streets and drainageways that have only a prescriptive easement.

- n. Subdividers shall obtain permits from the South Carolina Department of Transportation (SCDOT) for access points and/or any other proposed encroachments onto SCDOT right-of-ways or easements.
 - o. Subdividers shall obtain encroachment permits from the Berkeley County Roads & Bridges Department for access points and/or any other proposed encroachments onto County right-of-ways or easements, or onto County maintained roads or drainage facilities.
 - p. Traffic control signs shall be provided in conformance with the South Carolina Manual on Uniform Traffic Control Devices, latest edition.
 - q. The subdivider shall erect street name signs and stop signs at all intersections of newly created roads. Signs shall consist of corrosion resistant panels with a dark background and white reflective lettering. Signposts shall be U-channel galvanized steel. Alternative signs and/or posts must be approved by the County Engineer.
2. Private Streets. When the Administrative Officer has granted approval for the retention of a private street within a proposed subdivision, the following requirements are applicable, notwithstanding any other section of these regulations:
- a. All private streets shall observe a minimum fifty (50) foot right-of-way and a minimum travel-way width of twenty-two (22) feet to allow for safe passage of two vehicles over the roadway.
 - b. The developers must require and receive a hold harmless agreement and indemnification agreement signed by each landowner. These agreements shall be presented to and approved by the County Attorney, or his/her designee, prior to Final Platting and shall operate to relieve the County of any liability or responsibility arising from the construction and use of said private street and/or drainage facility. This release shall be in favor of the County from any harm, which may result from the use of the private street by adjoining landowners, visitors, or any user of the road, including the public at large. Each signed agreement will be recorded with the plat and reference shall be made as to the character of the road on the plat.
 - c. A system or means shall be established to provide for the continued maintenance of the road and storm drainage system. This agreement must be approved prior to Final Platting and may include, but not be limited to, the following methods:
 - (1) Perpetual maintenance agreement, or

- (2) Homeowners Association, or
- (3) Landowners agreement, or
- (4) Creation by developer of a performance bond or other form of security as determined appropriate by the Administrative Officer.

The maintenance system must include an escrow account, established prior to Final Platting, in a minimum initial balance equal to the number of lots times \$1,000.00, but not less than \$5,000.00. The account must be used solely for maintenance of the road(s) and storm drainage system.

The maintenance system, as provided, must be adequately described to potential purchasers and become a responsibility of each landowner as evidenced by recordation with each deed, plat, or restrictive covenant.

- d. Streets approved must be clearly distinguished as private streets and not a maintenance responsibility of the County. Plats, street signs, and other references, as required, shall serve to put persons on notice as to the private nature of the street.
- e. The developer must address provisions covering the taxing consequences of these private streets. Specifically, a scheme shall be established to ensure that proper taxation will occur.
- f. In the discretion of the Administrative Officer, certain streets may be developed as unpaved streets in accordance with the following requirements. However, unpaved streets shall not be accepted by Berkeley County for maintenance. The requirements for private unpaved streets are:
 - (1) No more than fifteen (15) lots may be provided access by use of a private unpaved street. Any future subdivision of these lots and/or of the residual property in excess of fifteen (15) lots will require construction of paved roads serving the entire subdivision, including the original subdivided lots. Re-subdivision of such lots or the use of such lots by more than one dwelling place shall be prohibited and such prohibition shall be incorporated within the deed and/or restrictive covenants granted to each purchaser.
 - (2) Construction techniques – Unpaved streets must meet the general requirements set forth in Article VIII, B.1 (above), and the following special requirements:

- (a) Streets must be stabilized with a stabilizing type soil, earth base material, or aggregate base course.
 - (b) Such stabilizing agents shall be mixed with the material in place to a depth not less than six (6) inches.
 - (c) All streets constructed under this section must serve expected traffic needs in all types of weather, from dry conditions to extremely wet conditions. Design material and specifications must be presented to establish compliance with this requirement.
 - (d) Developers may also be required to follow additional construction requirements or standards as determined by the Administrative Officer and promulgated hereunder.
- g. The Administrative Officer may exempt subdivisions from the requirements of these regulations regarding the construction of roads only if the property is being transferred to the owners' immediate family members or is being transferred by will or intestate succession or forced division decreed by appropriate judicial authority. The subdivider must submit legal documentation satisfactory to the Administrative Officer in order to establish eligibility for this exemption. This exemption shall apply only to initial division of property, not to subsequent sale or further development by the heirs, devisees, or transferees. Plats of subdivisions so exempted shall show an ingress/egress easement providing access to all parcels, and shall contain the following information:
- 1. Names of owners of each parcel being created, and
 - 2. Purpose of the subdivision, and
 - 3. A note stating that "ROAD ACCESS NOT PROVIDED", and
 - 4. A note stating "THESE LOTS/PARCELS MAY NOT BE TRANSFERRED, SUBDIVIDED, OR FURTHER DEVELOPED UNTIL ROAD ACCESS IS PROVIDED AND A REVISED PLAT IS APPROVED BY BERKELEY COUNTY".

3. Public Streets:

- a. If subdivision improvements are intended to be maintained by Berkeley County, the subdivider shall enter into a Development Agreement with Berkeley County upon approval of the Preliminary Plan. The form of

agreement is contained in the “Berkeley County Engineering, Construction and Development Standards” manual.

- b. Public streets shall be designed and constructed in conformance with the “Berkeley County Engineering, Construction and Development Standards” manual. These standards may periodically be amended by the County Engineer where such amendments do not contradict this Ordinance.

C. Sidewalks-The subdivider shall construct sidewalks within the right-of-way of new public streets in residential and commercial developments. The sidewalks must be constructed on at least one side, for the full length, of all local streets, and both sides of major thoroughfares and commercial collector streets. Sidewalks may be required on both sides of residential collector streets where suitable pedestrian crossings are not provided. Industrial zoned properly and uses shall be exempt from this section unless otherwise determined by the Administrative Officer as a necessary connection to existing pedestrian facilities.

1. Sidewalks may be required to extend to an along adjoining public streets where needed to accommodate pedestrian traffic to schools, recreation sites, commercial areas, and adjoining neighborhoods.
2. Sidewalks and ramps must accommodate the needs of disabled pedestrians, including compliance with prevailing regulations associated with those needs.
3. Sidewalks shall be designed and constructed in accordance with the “Berkeley County Engineering, Construction and Development standards” manual.

D. Easements

1. Drainage Easements. Where a subdivision is traversed by a water course, drainage way, channel, or stream, adequate areas for storm water or drainage easements shall be reserved, conforming substantially with the lines of such water courses, and of sufficient width to convey storm water and to provide for maintenance and improvement of such water courses. Drainage easements shall mesh with other drainage systems in the vicinity, and be integrated into the countywide drainage canal system, so that hazard to properties within the proposed subdivision are minimized, and hazard to other properties downgrade from the proposed subdivision will not be adversely affected by the increased run-off after development. Where practicable, drainage easements shall center along or be adjacent to a common property line. The minimum acceptable drainage easement will be determined by the following formula: three times the depth, plus the bottom width, plus twenty feet. The ditch will be offset in the easement to provide fifteen feet on one side at the top of the ditch bank (the same side for the

length of the easement) for the purposes of maintenance. Drainage improvements are maintained by the County for the conveyance of storm water. General maintenance of easements for appearance, etc., shall be the responsibility of the property owner(s).

2. Utility Easements. Adequate areas of suitable size and location shall be allocated for utility easements. The location and size of such easements shall be worked out with the public and private utilities involved, shall center along or be adjacent to a common property line where practicable, and shall be installed underground except where unusual circumstances prohibit such practice.
 3. Maintenance. The County shall maintain only those improvements specifically accepted for public maintenance. Other easements shall stipulate that contiguous owners shall be responsible for general maintenance of such easements. The governing authority and utility companies with lines in such easements shall have full right of access.
 4. Easement Clearance. All trees, brush, stumps, debris, trash, fallen trees, and other obstructions within the easement right-of-way shall be cleared and removed. Specimen trees meeting the requirements of the "Berkeley County Engineering, Construction, and Development Standards" manual may be allowed to remain under an Encroachment Permit.
 5. Encroachments. Encroachments, including landscaping, fences, and utilities shall not be constructed within a County maintained easement right of way unless an Encroachment Permit is obtained from the County.
 - a. The Encroachment Permit review/inspection fee shall not exceed \$50.00 to be established in a memorandum of Department policy in the County Engineer's office.
 - b. The County may require performance bonds or other security for Encroachment Permits where potential damages warrant or for applicants who have previously failed to comply with permit requirements.
- E. Blocks. Block size and shape shall reflect the physical characteristics of the site regarding topography, applicable zoning requirements, natural growth and soil conditions, and shall permit access, circulation, control and safety of traffic.
1. No block shall be more than one thousand four hundred (1,400) feet in length.

2. No block shall be less than six hundred (600) feet in length. Where practicable, blocks along highways and thoroughfares and collector streets shall be not less than one thousand (1,000) feet in length.
3. In general, blocks used for residential purposes shall be of sufficient width to allow for two tiers of lots of appropriate depth, except where reverse frontage lots are required along a major street, or where prevented by the size, topographical conditions or other inherent conditions of property, in which case the approval of the Administrative Officer is required.
4. Blocks in commercial and industrial areas may vary from the elements of design previously detailed if required by the nature of the use, subject to the approval of the Administrative Officer.

F. Open Space.

1. In reviewing subdivision plans or mobile/manufactured home parks as defined in Article V. of this Ordinance, the Administrative Officer shall consider the needs for open space and recreational land areas. If such needs are determined to exist, the Administrative Officer shall require the subdivider or park developer to reserve a portion of the land as open space.
2. The reservation of open space land shall be required. The amounts of such land shall conform to the following table and formula:

<p>Total Number of lots</p> <hr style="width: 50%; margin-left: 0;"/> <p>2 – 25 26 or more</p>	<p><u>Land Area Required</u></p> <p>None 1 acre per 500 population</p>
$\frac{3 \times \# \text{ of lots}}{500} = \text{acre(s) required}$	

The “3” in the above formula represents “persons per household”.

3. The subdivider or park developer shall indicate the lands to be reserved for recreational use on his or her Preliminary Plan and Final Plat. The location of the proposed open space land shall be subject to the review and approval of the Administrative Officer.
4. The Final Plat shall clearly show the areas reserved for open space with annotation as to the purpose of the space.

5. All stumps, debris, trash, and fallen trees within the open space area shall be cleared and removed before Final Plat approval.

G. Storm Drainage

1. A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part, to permit the unimpeded flow of natural water courses, and to protect both residents of the proposed subdivision and upstream and downstream property owners from increased runoff resulting from development.
2. Where adequate existing public storm sewers or drainage canals of the countywide system are reasonably accessible, the County Engineer may require that the system proposed for the land being subdivided be connected thereto.
3. Street drainage shall supplement the countywide drainage canal system. All streets shall be provided with an adequate storm drainage system, integrated into the countywide drainage system.
4. The off-street system shall include the water shed affecting the subdivision and shall be extended to a natural water course or storm water drainage system adequate to receive the storm drainage and shall be designed in accordance with the following requirements:
 - a. When the drainage system is outside of the street right-of-way, the subdivider shall provide all required easements in accordance with the provisions of this Ordinance.
 - b. Open ditch drainage may be used. However, when open ditches are used to meet these requirements, they shall be adequately protected from erosion with approved vegetation, riprap, concrete lining, or other approved method.
 - c. As a minimum the drainage system must be piped from the right of way to the rear property line on residential lots.
 - d. Per Berkeley County's Zoning Ordinance No. 01-8-35, as amended, lot shall be designed to accommodate minimum setbacks from all property lines and/or easements, whichever is greater. Planned residential developments shall be designed so that permanent primary structures shall be set back a minimum of 30 feet from open ditch drainage easements (other than swales) and from stormwater pond easements.

5. Storm water drainage improvements must be designed and constructed in accordance with the “Berkeley County Engineering, Construction and Development Standards” manual.
6. In addition to the requirements for storm drainage contained herein, the developer and/or subdivider shall comply with all requirements of Berkeley County Storm Water Drainage Ordinance No. 89-4-9, as amended.
7. The storm drainage plan shall be reviewed and approved by the Berkeley County Engineer or by his/her designee prior to receiving Preliminary Plan or Final Plat approval by the Administrative Officer.

H. Erosion and Sedimentation Control.

1. The developers shall take measures to ensure that erosion is minimized and that sedimentation does not adversely affect upstream or downstream property.
2. The Preliminary Plan shall include a plan for erosion and sedimentation control consistent with current regulations.

I. Areas Subject to Flooding. If the area being subdivided, or any part thereof, is located within the boundary of a designated Flood Hazard Area in Berkeley County, as delineated by FEMA and/or by the South Carolina Public Service Authority (Santee Cooper), adequate plans and specifications for protection from flooding shall be provided as herein required and as may be specified by the Administrative Officer upon review:

1. Any plat of a subdivision which contains land subject to flooding shall be accompanied by evidence that no appreciable expansion of the area subject to flooding would result from the proposed development of the land being subdivided, and that the proposed development will be adequately protected from inundation without appreciable interference with the flow of any water course or into an impounding basin. All such evidence, including surveys and specifications, shall be submitted with the Preliminary Plan, and no Preliminary Plan shall be approved in the absence thereof.
2. In no case shall any fill, levee, or other protective works be approved unless sufficient compensating adjustments of waterways, ditches, or impounding basins are made to prevent any appreciable expansion of flood hazard areas.

3. The centerline elevation of all streets shall be equal to or above the ten-year flood elevation. Collector roads shall have a centerline elevation equal to or above the 25-year flood elevation.

J. Sanitary Sewage Disposal. All disposal systems, whether public or individual, must conform to all Department of Health and Environmental Control (DHEC) rules, regulations, policies, and requirements governing the planning, installation, and operation of such systems, and conform with the plans and regulations of the Berkeley County Water and Sanitation Authority. Where public water and sewer lines are not available, seller must obtain soil analysis for septic tank before property is sold.

K. Water Supply. The subdivider and/or the Berkeley County Water and Sanitation Authority or other entity shall provide water supply systems for all lots lying within the proposed subdivision by one of the methods as described below in subparagraphs 1 - 3. All water supply systems, whether public, semi-public, or wells, must conform to all SCDHEC rules, regulations, policies, and requirements governing the planning, installation, and operation of such systems, and conform with the plans and regulations of the Berkeley County Water and Sanitation Authority.

1. Whenever individual on-site water supply systems are proposed for a subdivision, the subdivider shall either install such facilities or shall require as a condition of the sale of each lot or parcel within the subdivision that the facilities shall be installed by the purchaser of such lot or parcel at the time that a principal building is constructed, and in accordance with these regulations.

2. Where a public water system is judged by the Administrative Officer to be reasonably accessible to the land being subdivided, a permanent water distribution system meeting all SCDHEC requirements shall be provided and said system shall be connected to the Berkeley County Water and Sanitation Authority System or other public system in accordance with approved plans and specification.

3. In subdivisions where a public water system is not applicable, the subdivider shall install a community water distribution system meeting all SCDHEC requirements and including all pipes, fire hydrants, valves, and other appurtenances; provided, however, that this requirement may be waived by SCDHEC to permit individual on-site water supply systems. A community water supply system shall be constructed according to plans and specifications approved by SCDHEC and in accordance with this Ordinance.

- L. Oversized and Off-Site Improvements – Whenever a subdivision contains streets, water mains, or sewer mains that are required by application of this Ordinance to be larger than those required to serve the future occupants of the subdivision, the subdivider shall be required to bear the costs for only that portion of the improvement that would be equal to the improvement required by the Ordinance to serve only his or her subdivision, as determined by the Administrative Officer. The balance of the cost shall be borne by the unit of government which is responsible for constructing the facility; provided, however, that said unit of government may waive the requirement of the oversized facility upon approval of the Administrative Officer.

Whenever a subdivision's impact on existing roadways and drainage systems requires upgrades to existing facilities, the subdivider is required to construct the upgrades concurrent with development of the subdivision. The subdivider may make a payment in lieu of the upgrades if more extensive improvements to those facilities have been planned by the agency having jurisdiction.

ARTICLE IX. FINANCIAL GUARANTEES

- A. Upon completion of the construction and installation of required improvements, the subdivider shall file with the Department written certification that said improvements have been completed according to the Final Plat and design drawings and specifications therewith and according to the requirements of this Ordinance.
 - 1. The subdivider may post a performance bond, cashier's check, letter of credit, or other acceptable security with the County guaranteeing the completion of said improvements in compliance with the requirements herein. The security must be in a form and by an issuer acceptable to the County.
 - 2. The County shall have the right to refuse such security for any and/or required improvements and to require construction and installation thereof by the subdivider.
 - 3. Where accepted by the County, the security shall:
 - a. Empower the County or, if applicable, any other governmental unit having a legal responsibility for the construction and completion of said improvements to draw on funds on deposit in an institution of the developer's choice, or accept such funds for deposit to its own account.

- b. Be in an amount equal to one-hundred and fifty percent (150%) of the cost, as estimated by the developer's engineer and approved by the County Engineer or the County Engineer's designee, of any improvements which have not been constructed in compliance with the requirements of this Ordinance prior to the posting of said security and for which sufficient certification has been furnished.
 4. In the event that any or all the required improvements are not completed within the time specified by the Administrative Official, the County may complete the improvements using the posted security to defray the costs of such required improvements.
- B. Prior to completion of all required improvements by the subdivider, financial guarantees covering said improvements shall be prerequisite to Administrative Officer action on the application for Final Plat approval. The subdivider shall submit such guarantees in accordance with the requirements of this Section.
- C. Warranty.
 1. The subdivider shall guarantee the completed public roadways and drainage system improvements against defect in function, workmanship, and materials for two years following acceptance of such improvements under warranty.
 2. The subdivider shall furnish a cash bond, letter of credit, or other acceptable security with the County guaranteeing the maintenance of the improvements and/or correction of deficiencies during the warranty period.
 3. The warranty period security shall be in an amount equal to twenty percent (20%) of the cost of the completed roadway and drainage system improvements.
 4. The security shall empower the County to draw on the posted funds to correct deficiencies which the subdivider does not correct in a timely manner.

ARTICLE X. MAINTENANCE

- A. The subdivider shall make such adequate provisions as shall be approved by the Administrative Officer for the perpetual maintenance of all sewer and water facilities, private streets, and private storm water drainage systems in the subdivision until such obligations have been assumed by another entity.
- B. The maintenance of all streets, storm water drainage systems, and easements intended to be transferred to the County for maintenance, and properly

identified on the plat as such, shall be the responsibility of the County from and after final written acceptance of such improvements by the County into its maintenance program.

ARTICLE XI. VARIANCES

Whenever, in the opinion of the Administrative Officer, the strict application of the requirements contained in this Ordinance would result in extreme practical difficulties or undue misuse of property, the Planning Commission may modify such requirements as necessary so that the subdivider is allowed to develop his or her property in a reasonable manner, providing that public interests are protected and the general intent and spirit of these regulations are preserved. The Planning Commission shall grant such variance or modification only upon a determination that:

1. The variance will not be detrimental to the public health, safety, and general welfare of the County, and
2. The variance will not adversely affect the reasonable development of adjacent property, and
3. The variance is justified because of topography or other special conditions unique to the property involved, and the variance is not requested due to mere inconvenience or financial disadvantage, and
4. The variance is consistent with the objectives of this Ordinance and will not have the effect of nullifying the intent or purpose of this Ordinance, or any other pertinent County or State regulations.

ARTICLE XII. APPEALS PROCEDURE

- A. The Administrative Officer's action to approve or disapprove a land development plan or a subdivision plat may be appealed to the Planning Commission by any party in interest. The appeal shall be in writing and shall contain whatever additional information the aggrieved party believes is pertinent. If the aggrieved party believes that one or more provisions of this Ordinance have been violated, then it should be so stated. The Planning Commission shall act on the appeal within sixty (60) days of receiving the appeal.
- B. An appeal from a decision of the Planning Commission may be taken to circuit court within thirty (30) days after actual notice of the decision.

ARTICLE XIII. PENALTY

Any violation of these regulations or amendments thereof shall be a misdemeanor under the laws of the State, and the offender, upon conviction, shall be punished as for a misdemeanor, and any court of the County having jurisdiction of misdemeanor cases shall have jurisdiction to try such offenders and upon conviction to so punish them; and each day that any structure or land is used in violation of these regulations shall constitute a separate offense.

ARTICLE XIV. AMENDMENTS

- A. Amendments to these regulations shall be proposed by the Planning Commission or shall be submitted for approval, disapproval, or suggestion of the Planning Commission before being enacted.
- B. Berkeley County Council may adopt amendments to these regulations, provided that a public hearing shall be held, notice which shall be given thirty (30) days in advance in a newspaper of general circulation in the County.

SECTION II SEPARABILITY

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.