

ORDINANCE NO. 08-06-30

AN ORDINANCE TO AMEND CHAPTER 11 OF THE CODE OF ORDINANCES, BERKELEY COUNTY, SOUTH CAROLINA, ENTITLED BUILDINGS AND BUILDING REGULATIONS, TO ADOPT THE MOST RECENT VERSION OF VARIOUS INTERNATIONAL CODES RELATED TO BUILDING, RESIDENTIAL, GAS, PLUMBING, MECHANICAL, ELECTRICAL, AND FIRE STANDARDS AS PROMULGATED BY THE STATE OF SOUTH CAROLINA; TO PROVIDE FOR THE ENFORCEMENT OF SAID CODES; TO ESTABLISH UNIFORM FEES; AND TO REPEAL ORDINANCES NUMBERED 99-07-41, 03-01-01, 05-06-48, AND 07-06-33 IN THEIR ENTIRETY.

NOW, THEREFORE, IT SHALL BE ORDAINED that Chapter 11 of the Code of Ordinances, Berkeley County, South Carolina, shall be amended as follows:

Chapter 11

Buildings and Building Regulations

Division 1. Generally

- Sec. 11-31 Technical codes adopted by reference
- Sec. 11-32 Responsibility for enforcement

Division 2. Permits, Inspections and Fees

- Sec. 11-61 Accompanying documents
- Sec. 11-62 Erosion Control
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- Sec. 11-64 Permit required; posting of permit card
- Sec. 11-65 Fee when work has begun without a permit
- Sec. 11-66 Suspension or revocation of permit
- Sec. 11-67 Separate permits required per building or structure
- Sec. 11-68 Payment of fees; valuation table
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- Sec. 11-70 FEMA Flood Zone; Santee Cooper Dam Breach Area; Elevation Certificates
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Sec. 11-90	Swimming pool permit fees
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Sec. 11-92	Tower permit fees
Sec. 11-93	Construction trailers and shipping containers
Sec. 11-94	Fence permits and fees
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Sec. 11-98	Temporary use permits and fees
Sec. 11-99	Underestimated contracts
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Article II. Construction Codes

DIVISION 1. GENERALLY

Sec. 11-31. Technical codes adopted by reference

The following codes, as promulgated by the International Code Council and in the version most recently adopted by the State of South Carolina's Department of Labor, Licensing and Regulation, shall constitute and become an ordinance of the county, and are hereby adopted as fully as though set out at length herein, excluding the appendices and including Chapter One, except as further provided herein. Provided, however, that the provisions of the codes which concern the qualification, removal, dismissal, duties, responsibilities of, and administrative procedures for all building officials, deputy building officials, chief inspectors, and other inspectors and assistants are not adopted herein.

Amendments to these codes shall become effective in the county on the effective date specified by the state. The 2003 International Residential code will remain in effect until June 30, 2009. The 2006 International Residential code, with amendments, will become effective on July 1, 2009.

2006 Editions:

International Building Code, including Chapter One

*Amending section 105.2 (2) to read: 6' or greater solid masonry or solid steel

fence.

*Amending section 105.2 (9) to read: Prefab pools that are 4' or less in height.

International Residential Code, including Chapter One

*Amending section 105.2 (2) to read: 6' or greater solid masonry or solid steel fence.

*Amending section 105.2 (7) to read: Prefab pools that are 4' or less in height.

International Mechanical Code, including Chapter One

International Plumbing Code, including Chapter One

International Fire Code, including Chapter One but excluding Section 105 of Chapter One

International Fuel Gas Code, including Chapter One

International Energy Efficiency Code, including Chapter One

2005 Edition:

National Electric Code

Sec. 11-32. Responsibility for enforcement

Within the codes adopted by this article, when reference is made to the duties of certain officials and/or boards named therein, that designated official and/or board of the county that has duties corresponding to those of the named official and/or board in such code shall be deemed to be the responsible official insofar as enforcing the provisions of such code(s) are concerned.

DIVISION 2. PERMITS, INSPECTIONS AND FEES

Sec. 11-61. Accompanying documents

Construction documents and civil documents shall accompany permit applications and shall contain all information required by the relevant code(s) and ordinances. Construction and civil documents shall be prepared by an architect or engineer properly licensed by the State of South Carolina with the exception of the following residential construction:

- A. Attached one-story structures of 400 sq.ft. or less and maintain a 7/12 roof pitch or less
- B. Open porch or deck additions with or without roofs that maintain a 7/12 roof pitch or less
- C. Detached accessory structures that are only one story in height, non-habitable, and maintain a 7/12 roof pitch or less

The above items, A, B and C shall be accompanied with construction and site drawings per prescriptive methods of required codes and ordinance requirements.

A copy(s) of the recorded plat, DHEC construction permit or water and sanitation approval letters, FEMA elevation certificates, if applicable, and other documents as requested by Engineering, Planning & Zoning, Building and Codes and Permitting as stated on the applicable application(s).

A CERTIFICATE OF OCCUPANCY WILL NOT BE ISSUED UNTIL THE PERMITTING DEPARTMENT RECEIVES THE WATER & SEWER TAP RECEIPTS AND/OR FINAL DHEC APPROVAL FOR SEPTIC, ALL APPLICABLE FEMA ELEVATION CERTIFICATES, AND VERIFICATION THAT ALL FEES HAVE BEEN PAID.

Sec. 11-62. Erosion control

All properties shall comply with the Berkeley County *Storm Water Drainage Ordinance*. New residential construction shall, at a minimum, sod front and side yards, hydro-seed rear yards, sod all swales and graded slopes exceeding 15%. Areas that are not affected by construction and have natural vegetation established are exempt from these requirements. Flowerbeds around the perimeter of the home cannot exceed 6 feet in width without being sodded, unless approved by the Chief Building Official.

Sec. 11-63. Addressing

All buildings shall have permanent affixed numbers and must comply with the requirements of the streets, roads and other public property ordinance(s). Residential buildings must affix a minimum of 4" letters and/or numbers and commercial buildings must affix a minimum of 8" letters and/or numbers.

Sec. 11-64. Permit required; posting of permit card

No work relating to the codes adopted by this article shall commence until a valid permit for such work has been issued by the Permitting Department. Work requiring a permit shall not commence until the permit holder, or his/her agent, has posted the building permit card in a visible location on the premises. The permit card must be protected from the weather and maintained on site throughout construction.

Sec. 11-65. Fee when work has begun without a permit

For work commencing prior to obtaining proper permit(s), all administrative and permit fees specified herein shall be doubled. The payment of such doubled fees shall not relieve any persons from fully complying with the requirements of this ordinance or codes in the execution of work or from any other penalties prescribed herein.

Sec. 11-66. Suspension or revocation of permit

The Chief Building Official is authorized to suspend or revoke an approved permit(s) issued under the provisions of this ordinance whenever the permit is issued in error; on the basis of incorrect, inaccurate, or incomplete information; or in violation of any ordinance, regulation, or any state or federal laws.

Sec. 11-67. Separate permits required per building or structure

A separate permit(s) must be applied for each separate building or structure being constructed.

Sec. 11-68. Payment of fees; valuation tables

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The permit applicant, prior to the issuance of said permit(s), shall pay all fees and/or any inspection services, which are prescribed under the applicable codes, attached hereto. Such fees shall be based on the most recent Valuation Tables as recommended by the International Code Council (I.C.C.). These Valuation Tables will be updated annually on July 1st, the beginning of Berkeley County's fiscal year. The Chief Building Official shall set the final building permit valuation.

The fees suggested by the Building Valuation Data table are for the "Total Cost of Construction". Per section 40-11-20 of the General and Mechanical Contracting Act, #23, "Total cost of construction means the actual cost incurred by the owner, all contractors, subcontractors, and other parties for labor, material, equipment, profit and incidental expenses for the entire project. This does not include the cost of design services unless those services are included in a construction contract." Section 40-11-300 (A) of the General and Mechanical Contracting Act states that "the total cost of construction must be used to determine the appropriate license group for a project."

Sec. 11-69. Administrative Fee(s)

A non-refundable administrative fee of twenty-five (\$25.00) dollars shall be paid by the applicant for each permit requested, at the time of application.

Sec. 11-70. FEMA Flood Zone; Santee Dam Breach Area; Elevation Certificates

Where a structure is being erected in a flood zone or within the Santee Cooper dam breach area, or both, all-applicable elevation certificate(s) must be submitted to the Flood Plains Manager for review, prior to issuance of the Certificate of Occupancy. The first elevation certificate is due at the time of submission for a permit. The second elevation certificate is due before vertical construction can begin, and the third elevation certificate is due prior to a final inspection.

Where a request for FEMA flood information is requested that is not associated with a permit, an administrative fee of \$25.00 shall be paid by the applicant prior to obtaining said information.

ALL PROPERTIES IN THE FEMA FLOOD ZONE MUST COMPLY WITH THE BERKELEY COUNTY ORDINANCE FOR *FLOOD DAMAGE PREVENTION AND PROTECTION*.

Sec. 11-71. Licensed contractors; purchase of permits

All persons requesting to apply or purchase permits within the unincorporated areas of Berkeley County, must comply with South Carolinas Labor and Licensing Regulations regarding proper licensing as outlined in the Residential Builders Commission Licensed Law and/or the General and Mechanical Contracting Act.

Sec. 11-72. Owner/Builder Disclosure Statement

State law requires residential construction to be done by licensed residential builders and/or specialty contractors. Under the exemption to this law, an owner of their property may build or improve a one-family or two-family residence. It must be for their use and

occupancy and may not be built for sale or rent. The owner of record must first file, as a matter of public record with the Register of Deed's, an Owner/Builder Disclosure Statement provided by the permitting department.

Sec. 11-73. Inspection only fees

A fee of twenty-five (\$25.00) dollars shall be paid by the applicant for each inspection service which is required under the Codes or is otherwise required by the Building Official, which is not otherwise addressed in this ordinance.

Sec. 11-74. Re-inspection fees

In addition to any fees listed herein, the re-inspection fees listed below shall apply and be paid by the permit holder or his/her agent for each re-inspection due to any of the following violations:

- I. Upon notification by the permit holder or his/her agent that work is ready for inspection, inspector arrives at site and finds work has not been completed or is otherwise not ready for inspection; or
- II. Non-compliance with Code requirements; or
- III. Wrong address or no address on the structure; or
- IV. Failure to post an approved and valid "permit" card in a conspicuous place on the premises; or
- V. Failure to have proper documentation at job site, i.e. Approved site and/or construction plans, etc.

*First re-inspection fee is twenty-five (\$25.00) dollars;

**Second re-inspection fee for the same violation is fifty (\$50.00) dollars;

***Third re-inspection fee for the same violation is one hundred (\$100.00) dollars; and

****For each re-inspection thereafter for the same violation, the fees will continue to increase in twenty-five (\$25.00) dollar increments.

Sec. 11-75. Fees for modular construction

Fees for modular construction as defined by the South Carolina Modular Construction Act shall be based upon the same fee schedule as residential or commercial building permits. Separate electrical, mechanical, plumbing and gas permits will be required along with site specific foundation and building plans meeting wind and seismic loads, from a South Carolina licensed design professional.

Sec. 11-76. Permit Authorization Cards

A Permit Authorization Card (PAC Card) shall be required for all contractors requesting to do work within the unincorporated portions of Berkeley County, including, but not limited to; licensed general and mechanical contractors, licensed residential home builders and/or registered residential specialty contractors, sign contractors, etc. A fee of twenty-five (\$25.00) dollars is required per card for contractors and/or businesses whose home office is registered and located in South Carolina and forty (\$40.00) dollars per card, for contractors and/or businesses whose home office is registered and located out of state. All out-of-state contractors must have a valid South Carolina state license or registration. A separate card must be purchased for each employee or representative who

wishes to apply for and/or purchase permits. The person who is the qualifying party with the South Carolina Department of Labor and Licensing must sign the application for the Permit Authorization Card. For jobs where a state license is not required, i.e. signs, the owner of the company must sign the application. These cards are renewable annually prior to January 1st of the following year.

Sec. 11-77. Building Official; Revoking of a Permit Authorization Card

The Chief Building Official may revoke the Permit Authorization Card of any contractor and/or business who is found to have made any misrepresentation in obtaining a Permit Authorization Card or deemed to have committed misconduct. Allegations of misrepresentations or misconduct shall be presented in affidavit form to the Chief Building Official.

Sec. 11-78. Re-issuing of a Permit Authorization Card

The Chief Building Official may re-issue the Permit Authorization Card of any person or business whose card has been revoked after twelve (12) months from the date of the revocation.

Sec. 11-79. Plans review fees

A plans review fee will be charged for all permits that require a review by the building and/or planning department(s). This fee will be assessed as follows:

- I. COMMERCIAL PLANS REVIEW FEE- one half (1/2) the cost of the building permit fee
- II. RESIDENTIAL PLANS REVIEW FEE- project IN a flood zone)- one half (1/2) the cost of the building permit fee
- III. RESIDENTIAL PLANS REVIEW FEE- project NOT in a flood zone)- one quarter (1/4) the cost of the building permit fee

Sec. 11-80. Refunds

The applicant of any permit may request, in writing, a refund of all fees paid except, for services that have already been rendered, i.e., administrative fees, plan review fees, floodplain research fees, permit authorization cards, etc. Conditions of this refund request are as follows:

1. No work shall have commenced on the project for which the permit was issued
2. The permit must be cancelled by the owner or permit holder, within 90 days from the date of issuance
3. The owner, contractor, business, etc. of record, who actually paid for the permit, will receive the refund
4. An inspection of the proposed site will be made and a written verification submitted that no work covered by such permit had commenced
5. A refund will not be issued if a stop work order or notice of violation has been issued for work that has begun without a permit.
6. All data will be recorded on a refund form for approval
7. The permit and all related documents shall be surrendered before a check will be issued

8. If all is found to be in order, a refund may be authorized
9. The surrendered permit will then be cancelled

A refund will not be issued if a stop work order or notice of violation has been issued for work that has begun without a permit.

Sec. 11-81. Moving permits

For the moving of any building or structure, with the exception of manufactured homes, the fee shall be one hundred (\$100.00) dollars.

Buildings or structures, with the exception of manufactured homes, moved into or within the unincorporated areas of Berkeley County shall obtain all applicable building, electrical, mechanical, plumbing and/or gas permits as required for new construction. Fees will be based on new construction as stated herein. (Refer to section 11-61 regarding accompanying document information.)

Sec. 11-82. Demolition permits

For the demolition of any building or structure, the fee shall be as follows:

0 up to 100,000 cubic feet – fifty (\$50.00) dollars,
100,001 cubic feet and over - \$ 0.50 per 1,000 cu.ft. or fraction thereof.

All permit holders are responsible for obtaining proper approval(s) from DHEC/State agencies regarding the demolition and disposal of demolished building or structure.

Sec. 11-83. Sprinkler permits and fees

The fee for sprinkler permits, whether included in the building permit or by itself, will be based on \$1.75 per square foot multiplied by the total square footage of the building to be sprinkled, to determine the valuation of the project.

Sec. 11-84. Fire alarm and permit fees

Fire alarms shall be installed per the latest edition of the International Building Code and the latest edition of the International Fire Code. Permit fees shall be based on the signed contract or proposal.

Sec. 11-85. Building permit fees

Building permit fees are based on the cost of construction as previously addressed under **Sec. 11-68** of this ordinance. The fee schedule is as follows:

\$999.99 and less – No fee unless an inspection is required, in which case a \$25.00 fee for each inspection shall be charged along with the plans review fee

\$1,000 to \$50,000 - \$25.00 for the first \$1,000 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000

\$50,001 to \$100,000 - \$260.00 for the first \$50,001 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000

\$100,001 to \$500,000 - \$460.00 for the first \$100,001 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000

\$500,001 and up - \$1,660.00 for the first \$500,001 plus \$2.00 for each additional thousand or fraction thereof

Foundations – for the construction of any type of foundation, \$15.00 sq.ft.

Decks - for the construction of decks, \$15.00 sq.ft.

Porches – for the construction of porches with roofs, \$20.00 sq.ft.

Accessory structures – for the construction of accessory structures, i.e., residential garages, workshops, sheds, etc., \$30.00 sq.ft.

The Chief Building Official reserves to the right to use the contract price of a project/job as a means of determining the building permit fee.

Sec. 11-86. Electrical permit fees

The fees for electrical permits up to 200 amps shall be forty-five (\$45.00) dollars. The fees for electrical permits over 200 amps shall be forty-five (\$45.00) dollars and \$0.15 for each additional amp above 200 amps.

The fee for a safety inspection where electrical service has been interrupted, shall be twenty-five (\$25.00) dollars.

The fees in this section shall apply to any upgrading work undertaken, as well as new service.

A multi-permit may be issued for a building where it is necessary to issue several separate electrical permits, i.e. apartments, condos, dormitories, office rental spaces, strip malls, etc. The fees will be based on the number of separate permits that would have been issued separately. Example: 1 apartment building, 10 separate apartments, 10 separate electrical permits required. One electrical permit would be issued but 10 Administrative fees would be charged along with the 10 electrical permit fees as stated above.

The Chief Building Official reserves the right to use the contract price of a project/job as a means of determining the electrical permit fee.

Sec. 11-87. Mechanical permit fees

The fee for inspecting heating, ventilating, ductwork, air conditioning and refrigeration systems shall be twenty-five (\$25.00) dollars for the first ton and plus ten (\$10.00) dollars per ton or fraction thereof.

The fee for inspecting repairs, alterations and additions to an existing system shall be fifty (\$50.00) dollars.

A multi-permit may be issued for a building where it is necessary to issue several separate mechanical permits, i.e. apartments, condos, dormitories, office rental spaces,

strip malls, etc. The fees will be based on the number of separate permits that would have been issued separately. Example: 1 apartment building, 10 separate apartments, 10 separate mechanical permits required. One mechanical permit would be issued but 10 Administrative fees would be charged along with the 10 mechanical permit fees as stated above.

The Chief Building Official reserves to the right to use the contract price of a project/job as a means of determining the mechanical permit fee.

Sec. 11-88. Plumbing permit fees

The following fees shall be charged when provided:

For each plumbing fixture, (including water and drainage) - \$3.00

For each water heater and/or appurtenances - \$5.00

For each drain, waste and vent system, new, repaired or altered - \$15.00

For installation, alteration, or repair of water piping - \$15.00

For each sewer to public, private, or individual sewage disposal system - \$15.00

A multi-permit may be issued for a building where it is necessary to issue several separate plumbing permits, i.e. apartments, condos, dormitories, office rental spaces, strip malls, etc. The fees will be based on the number of separate permits that would have been issued separately. Example: 1 apartment building, 10 separate apartments, 10 separate plumbing permits required. One plumbing permit would be issued but 10 Administrative fees would be charged along with the 10 plumbing permit fees as stated above.

The Chief Building Official reserves to the right to use the contract price of a project/job as a means of determining the plumbing permit fee.

Sec. 11-89. Gas permit fees

The total fees for inspections of consumer's gas piping at one location, including both rough and final piping inspection, shall be forty-five (\$45.00) dollars for up to four outlets and two (\$2.00)dollars for each additional outlet.

A multi-permit may be issued for a building where it is necessary to issue several separate gas permits, i.e. apartments, condos, dormitories, office rental spaces, strip malls, etc. The fees will be based on the number of separate permits that would have been issued separately. Example: 1 apartment building, 10 separate apartments, 10 separate gas permits required. One gas permit would be issued but 10 Administrative fees would be charged along with the 10 gas permit fees as stated above.

The Chief Building Official reserves to the right to use the contract price of a project/job as a means of determining the gas permit fee.

Sec. 11-90. Swimming pool permit fees.

Residential – A permit is required for above ground swimming pools where the height of the pool is four feet (4') or greater and all in-ground pools. The permit fees for both pool permits will be fifty (\$50.00) dollars. A plot plan will be required at the time of submission for plans review, indicating all set backs are met.

Commercial – An approval letter from DHEC is required when submitting for a commercial pool permit. The fees will be based on the cost of construction stated on the signed contract or proposal. Civil plans indicating drainage and impervious surface will

be required to be submitted at the time of application for permit. A plot plan will be required at the time of submission for plans review, indicating all set backs are met.

Final inspections for residential and commercial pools shall require all barrier requirements to be met per the International Building Code prior to calling for an inspection.

A separate electrical permit shall be required for pumps, lights, and receptacles.

Sec. 11-91. Sign permit fees

Sign permit fees will be based on the signed contract amount provided by the contractor and sign owner. Design professional construction drawings and site plans shall be submitted as required by the sign control section of the zoning ordinance.

A separate electrical permit will be required for wiring of sign, if illuminated.

Sec. 11-92. Tower permit fees

Fees shall be based on the signed contract amount provided by the contractor and/or the owner. Design professional drawings and site plans shall be submitted at time of permit application.

Sec. 11-93 Construction trailers and shipping containers

The fee for the construction trailers and shipping containers shall be \$50.00. This includes the plans review fee(s). This fee is to ensure the trailer or container meets proper setbacks and is properly secured to meet wind and seismic requirements.

If adding electrical, mechanical, plumbing and/or gas to a trailer or container, separate permits will be required.

Sec. 11-94. Fence permits and fees

Fences constructed of solid masonry or solid steel 6' in height or greater will require a permit. Fees shall be based on \$15.00 per linear foot of fence to determine cost of construction. At time of application for permit, design professional drawings will be required and must be designed to meet applicable wind and seismic loads.

Sec. 11-95. Elevator permits and fees

The fee for elevator permits, commercial and residential, shall be based on the signed contract provided by the contractor and or owner at the time of submission or request for the permit. All applicable local, state, and/or federal laws governing licensing will also apply. (Refer to section 11-61 regarding accompanying document information.)

Sec. 11-96. Fire fees

All new construction is assessed a fire fee as set forth by the Berkeley County Fire Fee Ordinance. (See Fire Fee Ordinance for a schedule of these fees.)

Sec. 11-97. Transportation impact fees

Transportation impact fees shall be assessed per the Berkeley County Transportation Impact Fee Ordinance for Unincorporated Berkeley County.

Sec. 11-98. Temporary use permits and fees

Berkeley County recognizes that there exists, certain special instances when a property owner requires temporary use of a residential structure. The following are the only instances a temporary use will be considered:

1. Allowing a residential structure to be built or placed on a parcel while an already existing residential structure is occupied.
 - a. This permit will expire 30 days from the issuance of a certificate of occupancy for the primary structure.
 - b. All other structures must be removed or demolished within this time.
2. Allowing use of an accessory structure (i.e. room over detached garage), built to residential standards, to be occupied while a primary residence is constructed.
3. This permit will expire 30 days from the issuance of a certificate of occupancy for the primary structure.
 - a. The accessory structure must be vacated within 30 days of the receipt of a certificate of occupancy for the primary structure.
4. Permitting the temporary set up of a manufactured home for the purpose of remodeling or bringing it up to building standards. In this case no plumbing hookup or electrical permit will be approved.
 - a. This permit will expire 90 days from issuance of a permit.
 - b. Additional 30-day extensions may be requested but are not guaranteed approval.
5. Allowing the temporary placement or construction of a secondary dwelling unit for the purpose of care giving to permit a family member or professional caretaker to live within proximity of the person in need for as long as the need exists.
 - a. The applicant must also complete an acceptable hold harmless agreement to be signed by the applicant and a representative of Berkeley County.
 - b. When the need for long-term care no longer exists the property owner will have 45 days to remove the secondary dwelling unit from the property.
6. All other instances not stated herein but deemed appropriate by the Zoning Administrator.
 - a. This permit will expire 30 days from the issuance of a certificate of occupancy for the primary structure.
 - b. Extensions of 30 days will be approved on a case-by-case basis.

The fee associated with this application is one hundred \$100.00 dollars, is non-refundable, and expires 30 days from the date approved by the Planning and Zoning Administrator. The owner/ applicant must, within 30 days, apply for all applicable permits. If the application expires or the additional required permits have not been applied for, within the 30 days, the approved temporary use application will then become null and void and a new application and payment will then be required.

Payment for this temporary use request/application, does not guarantee approval. Where a previous temporary use application has been approved, expires, and re-applied for, does not guarantee approval.

Sec. 11-99. Underestimated contracts

If, in the opinion of the Chief Building Official, the cost of construction is underestimated on any of the above applications, the permit shall be denied, unless the applicant can show detailed estimates to meet the Chief Building Official's approval.

Sec. 11-100. Discretions of the Chief Building Official

The Chief Building Official shall have the authority to render interpretations of this ordinance and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in conformance with the intent purpose of this ordinance.

It shall also be at the discretion of the Chief Building Official to request disconnection of electricity and/or other utilities, to a building, home or any other structure, when it is in violation of this or any other Berkeley County ordinance, any applicable state or federal law(s) or where necessary due to safety and/or hazardous conditions.

Sec. 11-101. Miscellaneous fees

Note that other fees may apply to the permits contained herein, i.e., septic, sewer, impact, fire, planning and zoning variances, etc. Contact the appropriate departments for a schedule of their fees.

Sec. 11-102. Insufficient Funds/Returned checks

Where a check is returned for any reason, the permit(s) for which the check was written, shall become null and void unless, within 10 days, the check and any fees, is paid in full. The permitting department will follow all applicable state and/or federal laws regarding the collection and reimbursement of returned checks.

Sec. 11-103. Penalty

Any person who violates this Ordinance or any of the Code provisions adopted herein shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine not exceeding two hundred (\$200.00) dollars or be imprisoned for a period not exceeding 30 days. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of these Codes is committed or continued.

Article III. Storm Drainage Facilities

- Sec. 11-121 Definitions
- Sec. 11-122 Administration

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Sec. 11-125	General drainage system requirements
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Sec. 11-127	Areas subject to flooding
Sec. 11-128	Methods of calculating stream flow and runoff
Sec. 11-129	Natural primary and major drainage channel requirements
Sec. 11-130	Secondary drainage channel and surface drainage requirements
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Sec. 11-134	Open paved storm drainage channels
Sec. 11-135	Fences adjacent to storm drainage channels
Sec. 11-136	Areas outside subdivision or development
Sec. 11-137	Existing open ditches
Sec. 11-138	Applicability to developments currently under construction

Sec. 11-121. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative Officer means such person as shall be designated by the County to be responsible for administering this article.

Coefficient of runoff is a number used as a multiple in measuring the change in storm water runoff.

Detention means temporary storage of storm water runoff and the subsequent slow release of the water to drainage ways, groundwater percolation or evaporation. Detention facilities shall also be for the purpose of reducing peak rates in downstream facilities.

Developer means the owner of the property or his agent engaged in the subdivision or improvement of or construction of structures upon land within the jurisdiction of the County.

Development means the results of improvements made to raw land to convert the primary use of the land to that of a residential or commercial subdivision, shopping center, or apartment or townhouse/condominium complex; and any other major improvements which; substantially change the use of the land such as the redevelopment of an existing area or a renewal project.

Drainage basin means a drainage area or watershed contributing to the flow of water in a receiving body of water.

Drainage channels.

- (1) ***Major drainage channels*** mean all channels which; drain an accumulation of primary and/or secondary drainage channels. These channels shall be the natural drainage channels of the watershed or manmade channels draining an area of one square mile or more.

- (2) **Primary drainage channels** means all drainage channels which; drain an area of 200 acres or more.
- (3) **Secondary drainage channels** mean all drainage channels which; drain an area of less than 200 acres and where the primary benefit is to the development.

Drainage facilities mean any existing or proposed improvement installed for the purpose of conveying storm water or runoff such as watercourses, storm drain pipe, culverts, sewers specifically designated to handle storm water, open ditches or swales either with paved inverts or without, and all appurtenances to such works.

Engineer means a licensed professional engineer currently authorized to practice engineering by the South Carolina Board of Engineers and Land Surveyors.

Impervious surface means a surface which; has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, patios, swimming pool decks and other similar structures.

Inverted crown section means a road or street cross section where the center of the road or street profile is lower than the edges of the profile to allow for storm water to drain toward the center of the road or street for removal through a storm water drainage system.

Lined channels means the use of plastic, concrete, stone, asphalt or similar material to define a drainage channel.

Littoral vegetation means vegetation found off, on or along the shore of surface water.

Manmade water body means any manmade pond, lake, lagoon, channel, wetland, marina, or basin which ordinarily or intermittently contains water and which has a discernible shoreline.

Natural water body means any natural pond, lake, channel, wetland, marsh, river or creek which ordinarily or intermittently contains water and which has a discernible shoreline.

On-site means on or within the area contained in the development permit application or within other areas which, pursuant to this article, may be included in defining the site's such referenced purpose.

Peak flow (for runoff) means, at the time of greatest runoff concentration, the volume of velocity in cubic feet per second (cfs) being discharged at a given point.

Predevelopment conditions means those conditions of the natural topography, vegetation and rate, volume or direction of surface water or groundwater flow which existed before alteration resulting from human activity as indicated by the best available historical data.

Receiving waters means any water bodies, watercourses or wetlands into which surface waters flow either naturally, in manmade ditches, or in a closed conduit system.

Retention means storage of storm water runoff in a facility that has a relatively permanent minimum water level for the purpose of reducing peak runoff in downstream facilities.

SCDOT means the South Carolina Department of Transportation.

Sediment means fine particulate material, whether mineral or organic, that is temporarily in suspension or has settled in a water body.

Vegetation means all plant growth, especially trees, shrubs, vines, ferns, mosses and grasses.

Sec. 11-122. Administration

Prior to authorization of any building permit, or land disturbance of an area of ½ acre or greater, the County Engineer shall review and approve all such stream flow, runoff calculations, drainage plans, and erosion and sediment control plans as he may require of a developer under the terms of this article, and the County Engineer shall have final authority of engineering interpretations of all required 50- and 100-year flood elevations necessary to this article.

Sec. 11-123. Inspections; variations and exceptions; amendments; enforcement

(a.) *Inspections.* Sufficient inspections shall be made to ensure compliance with the specifications set forth in this article. A registered engineer employed by the developer and approved by the county may certify in writing to the administrative officer of the planning commission that he has inspected each phase of the construction of the storm drainage improvements required in this article, and such inspection certification shall meet the terms of this article. The county engineer/public works director, however, shall make a final inspection of such improvements before accepting the improvements for dedication to the county for permanent maintenance.

(b.) *Variations and exceptions.* Whenever strict compliance with this article results in extraordinary hardship or injustice to the sub divider because of unusual conditions in surrounding property or development, the administrative officer with concurrence of the County Council, acting on a recommendation of the county planning commission, may modify, vary or waive such regulations in order that the sub divider or developer may subdivide or develop his property in a reasonable manner, provided that such modification, variation or waiver will not nullify the intent or purpose of this article and that the public welfare and interest of the County and the surrounding area shall be protected. Any such variance, together with the reasons therefore, shall be entered upon the minutes of the Planning Commission.

(c.) In granting modifications, variations or waivers, the County Council may impose such other reasonable conditions as will, in its judgment, be necessary in order to justify such modification, variation or waiver and still maintain the objectives of this article.

(d.) Each modification, variation or waiver of the regulations in this article sought by a sub divider or developer shall be applied for specifically in writing and addressed to the Planning Commission Administrative Officer.

(e.) *Amendments.* The County Council may amend the regulations or provisions of this article after considering recommendations of the County Planning Commission and the County Engineer and the holding of a public hearing as required by law.

(f.) *Enforcement.*

- (1) No building permit shall be issued for any commercial, industrial, or institutional building until the County Engineer approves the site development plans, including the drainage plan, and the erosion and sediment control plan.
- (2) In case of any violation of this article, the County Engineer, Building Official or other appropriate officials are authorized and directed to institute any appropriate action to put an end to such violation, which may include:
 - i. Issuing a written order to comply, to suspend work, or to revoke the approval issued;
 - ii. Seeking redress through legal action;
 - iii. Withholding the release of permanent electric power to the site or certificate of occupancy;
 - iv. Withholding or revoke other permits related to the site; and/or
 - v. Levying fines.
- (3) The developer is responsible for any damage to the drainage facilities during construction operations regardless of the source of damage. Upon completion of development, the drainage facilities shall be in the same condition as accepted by the County for permanent maintenance. The developer shall repair and restore the drainage facilities to the satisfaction of the County Engineer. Prior to issuance of subsequent development permits, the developer may be required to post with the County, suitable financial or legal surety to cover the cost of restoration and/or repair to correct damage which the drainage system may suffer.

Sec. 11-124. Interpretation; conflicting regulations

In interpreting and applying the provisions of this article, the provisions shall be held to the minimum requirements necessary to uphold the purpose of this article. It is not intended by this article to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, where this article imposes greater restrictions on subdivision and/or use of buildings or land, or requires more open spaces or more stringent development standards than required by other resolutions, ordinances, rules or regulations, or by easements, covenants or agreements, the provisions of this article shall govern. When the provisions of any other statute require more restrictive standards than are required by the regulations of this article, the provisions of such statute shall govern.

Sec. 11-125. General drainage system requirements

- (a) A drainage system shall be designed by a licensed engineer and constructed by the developer to provide for the proper drainage of surface water of the development and the drainage area of which it is a part, to permit the unimpeded flow of natural watercourses, and to provide positive drainage away from structures and on-site sewage disposal facilities. The sub divider/developer's responsibility shall include those drainage facilities to discharge his storm runoff to an existing facility outside the development area capable of receiving such runoff with no adverse effects.
- (b) A registered licensed engineer engaged by the developer shall prepare a drainage study and report. This report shall include both existing and proposed drainage conditions and shall include an evaluation of the ability of the proposed drainage facilities and other improvements pertaining to drainage or flood control within the

development to handle the runoff, which would be generated by the development. The report shall also contain the following items:

- (1) Calculated estimates of the quantity of storm water entering the development naturally; also, estimates of such water when the upper watershed area shall have been developed for the maximum runoff anticipated under full development.
 - (2) Existing conditions of the watershed that may affect the proposed development, such as subsoil type, positive drainage channels, obstructions and the like.
 - (3) Quantities of flow at each pickup point.
 - (4) Estimates of temporary erosion and pollution controls necessary while the development is under construction.
 - (5) Description of the major, primary and secondary system. The report shall include evaluation of proposed facilities under both frequent and infrequent storms (ten-year, 50-year, 100-year), in such a way that required areas of ponding or flow ways are clearly indicated and protected from future encroachment. The report shall take into account, where applicable, chapter 26, article II, pertaining to flood damage prevention; chapter 59, pertaining to subdivisions; and the current storm water management guidelines of the South Carolina Department of Health & Environmental Control.
- (c) In designing storm drainage facilities, special consideration shall be given to the avoidance of problems, which may arise on developed or undeveloped properties.
- (d) Storm drainage facilities shall be designed not only to consider the anticipated peak discharge from the property being developed, but also the anticipated increase in runoff that will occur when all property at a higher elevation in the same drainage area is fully developed consistent with the approved land use plan.
- (e) Where adequate existing public drainage facilities are accessible, the County shall require that the system proposed for the land being developed be connected thereto.
- (f) Drainage easements shall be provided in accordance with the following criteria:
- (1) Where development is traversed by a drainage facility, adequate areas for storm drainage, including ponding, shall be allocated, conforming substantially to the lines of such drainage facility, and of sufficient width to carry off storm drainage and provide for maintenance and improvement of the drainage facility. Adequate access for maintenance and equipment will be required. Generally, for underground storm drain pipe, the minimum width of the easement shall be not less than 20 feet or the outside diameter of the pipe in feet plus 15 feet on one side and four feet on the other side of the pipe, whichever is greater. In either case, a minimum of 15 feet shall be left on one side for maintenance access. Where pipes are installed at cuts greater than five feet in depth, soil conditions may dictate the requirement for additional easement widths. Where open improved drainage channels, paved or unpaved, are permitted, the width of the easement shall be in accordance with section 59-95(a) or as required by slope changes noted at section 11-

126(b)(2). Deviations from the guidelines shall be based on considerations for public safety or sound engineering considerations (such as soil characteristics at the construction site).

- (2) The location of any surface or underground drainage facility shall not be changed without the approval of the County.

Sec. 11-126. Standards for subdivisions

- (a) **Street drainage.** In subdivisions, all street drainage shall serve as an integral part of the basic drainage system for the specific subdivision. As such, all street planning shall include an adequate storm drainage system augmented when necessary by adequate subsurface drainage. The street drainage system shall consist of, but not be limited to, a system consisting of subsurface drainage (when required by the County), curbs and/or gutters, storm sewers, and/or approved open swales or roadside ditches.

- (1) All streets shall be designed so as to carry the storm water drainage of at least the street itself and contributory adjacent property.

- (2) Curb drainage inlets shall be provided at appropriate intervals along streets with curb and gutter drainage facilities. These inlets shall connect to storm sewers and structures installed in accordance with County and SCDOT standards.

- (3) Inlet spacing and capacity shall be adequate to limit the spread of water into the street and to maintain pedestrian walks and street crosswalks free of standing water during minor storms. See section 11-130(3) for allowable flooding over street curbs.

- (4) All streets having curb and gutter on which storm water flows across intersections and/or driveways shall be provided with suitable cross-gutters at such intersections and driveways.

- (5) All streets having approved open swales or valley gutters shall have appropriately designed driveway pipe installed to permit unimpeded flow of storm water. Such pipe shall have the same invert grade as the flow line of the drainage channel to include the slope. Such pipe will be installed prior to any construction on the subject property and under no condition shall traffic be allowed to cross the drainage channel or shall the storage of materials be allowed in the drainage channel.

- (6) The developer will remain responsible for any damage to storm drain facilities occurring after acceptance by the county until development of the property is complete. Financial legal surety acceptable to the county shall be posted to cover the cost of maintenance of the drainage system.

- (g) **Off-street drainage.** The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage and shall be designed in accordance with the following requirements:

- (1) When the drainage system is outside of the street right-of-way, the subdivider shall provide all required easements in accordance with section 11-125(f).
- (2) Open ditch drainage may be used, provided that such ditches are "V" or trapezoidal ditches with side slopes not exceeding the following requirements based upon maximum depth:
 1. Depths up to and including five feet: Side slope ratio of 1:1.5 (1 vertical to 1.5 horizontal).
 2. Depths greater than five feet but no more than seven feet: Side slope ratio of 1:3 (1 vertical to 3 horizontal).
 3. At the option of the developer, any open ditch may be piped in lieu of these requirements.

No drainage ditch shall exceed a maximum depth of seven feet. Where open ditches meeting these requirements are not adequate to provide satisfactory storm drainage, an underground piped system or paved invert ditch shall be installed as required by the county. These open ditches shall be protected from erosion by either sodding or seeding as approved by the county. (Open ditch side slopes may be flattened where public safety or engineering considerations dictate.)

- (3) No open major storm drainage course shall be permitted within 100 feet of the rear or side of a building as measured from the building to the top of the edge of the drainage facility or vice versa, unless exceptional site planning opportunity is afforded and the improvement will not be jeopardized by flooding or erosion.

Sec. 11-127. Areas subject to flooding

- (a) A floodplain area of any major channel shall be established for lands and property subject to inundation and flooding conditions. Such areas shall be determined from sources as outlined in section 11-125(b)(5). In areas along major channels, which are not designated as floodplain areas, an engineering report shall be submitted to the county by the developer of lands adjacent to or in the natural floodplain. This report shall determine the 50- and 100-year flood levels in the vicinity of the development. If the area being developed, or any part thereof, is subject to flooding, adequate plans and specifications for protection from flooding shall be submitted as may be specified by the county.
- (b) Further, any proposed development will be adequately protected from inundation without appreciable interference with the flow of any watercourse.
- (c) In no case shall any fill, levee or other protective works be approved unless sufficient compensation adjustments of waterways, ditches, or impounding basins are made to prevent any appreciable expansion of flood hazard.
- (d) Any building lines extending into a designated floodplain area must comply with the provisions of chapter 26, article II, pertaining to flood damage prevention.
- (e.) No street(s) shall be approved which would be subject to frequent inundation.

Sec. 11-128. Methods of calculating stream flow and runoff

Methods of calculating stream flow and runoff shall be selected based on characteristics of the drainage basin and must be acceptable to the County Engineer.

Sec. 11-129. Natural primary and major drainage channel requirements

All natural primary and/or major drainage channels, which; are located within or along the property line of an improvement, development or subdivision, shall be protected by the developer as follows:

- (1) The existing channel lying within or along the property line of the subdivision or parcel of land proposed for development or redevelopment shall be straightened, widened, and improved to the extent required to prevent overflow, resulting from a 50-year frequency rainfall, beyond the limits of the dedicated drainage easement provided for in section 11-125(b) and section 11-125(f)(1).
- (2) Site improvement shall provide for the grading of all building pads to elevation where all building pads will not be subject to overflow from 100-year frequency flood and in a manner that will provide for rapid runoff of storm water.
- (3) Whenever channel improvements are carried out, sodding, back sloping, cribbing, and other bank protection shall be designed and constructed to control erosion from the anticipated condition and flow resulting from a 50-year frequency rainfall.
- (4) An existing natural drainage channel shall not be located in a street easement unless channel improvements, acceptable to the County Engineer, are made.
- (5) Culverts, bridges, and other drainage structures shall be constructed in accordance with the specifications and design criteria of the County when the County shall have present or future maintenance responsibility.
- (6) No open major storm drainage course shall be permitted within 100 feet of the rear or side of a building to the top of the edge of the drainage course or vice versa, or within 35 feet from impervious parking areas, unless exceptional site planning opportunity is afforded and the improvement will not be jeopardized by flooding or erosion.

Sec. 11-130. Secondary drainage channel and surface drainage requirements

All secondary drainage channels which are within or immediately adjacent to an improvement or subdivision shall be protected and improved by the developer as follows:

- (1) Secondary drainage channels which; have a primary function of collecting surface water from adjacent properties or intercepting and diverting side hill drainage shall be, grassed, bank stabilized or piped.

- (2) Developments shall comply with the following:
- a. In single-family residential, duplex or apartment-townhouse-condominium development, site grading shall be carried out in such a manner that surface water from each dwelling lot will flow directly to a storm sewer, grassed swale, or paved street with storm drainage without crossing more than four adjacent lots in overland flow and with no adverse effects to adjacent property. Lots shall be graded so that storm water does not collect and remain standing as observed two hours following a five year frequency rainfall.
 - b. In commercial, industrial and institutional development, roofs, paved areas, yards, open space, courts and courtyards shall be drained into a storm drainage facility.
- (3) Surface water collected on streets shall be diverted to a drainage facility at satisfactory intervals to prevent overflow of six-inch-high curbs or designed swales during a ten-year frequency rain for the area and grades involved. Design frequency may vary with the classification of streets, highways, or land use in the area.
- (4) Drainage easements of satisfactory width to provide working room for construction and maintenance shall be provided for all drainage facilities as detailed in section 11-125(f).

Sec. 11-131. Major channel requirements

All major channels which are located outside the floodplain area as defined in section 11-125(b)(5) and which are located within or immediately adjacent to an improvement or subdivision shall be protected and improved by the developer as follows:

- (1) The existing channel shall be cleaned to provide free flow of water, straightened, widened, levied, or diked, or otherwise improved to the extent required to prevent overflow from a 50-year frequency flood subject to approval by the county.
- (2) Site improvements shall provide for the grading and filling of all residential building pads will not be subject to overflow from a 50-year frequency flood and in a manner that will provide rapid runoffs.
- (3) Between the minimum elevation of the 50-year frequency flood and the maximum elevation of 100-year frequency flood, the residential developer must provide and is permitted to select any combination of additional fill or grading measures and building flood proofing measures as approved by the county which will ensure flood proof protection to an elevation on all residential buildings equal to the elevation of the 100-year frequency flood proofing standards and rules according to accepted engineering methods.

Sec. 11-132. Bridge and culvert requirements

All flow of water across continuous streets shall be through culverts or bridges. Bridges and culverts shall be sized to accommodate a 25-year frequency rain. Design of bridges

and culverts shall conform to County and SCDOT construction specifications, and approved by the County.

Sec. 11-133. Closed storm sewers

Closed storm sewers shall be constructed of precast, prefabricated pipe or built in place of closed box design to conform to County and SCDOT construction specifications. Storm sewers carrying runoff from streets may be designed to serve the design frequency rainfall for the drainage area involved, provided that overflow from a 100-year frequency rainfall can reach a suitable outlet without inundating any building pad.

Sec. 11-134. Open paved storm drainage channels

Open paved storm drainage channels shall be constructed in accordance with appropriate County specifications. Side slopes above the paved section shall be shaped and grassed or sodded on a slope as designated in section 11-126(b)(2).

Sec. 11-135. Fences adjacent to storm drainage channels

Fences may be allowed within the easements as provided for in section 11-125(f), but the owners shall meet all conditions established by the County and allow access for maintenance and any other purpose which the County deems necessary. Upon request, the owner shall temporarily relocate the fencing at his expense to allow maintenance. The County shall always maintain the right to remove such fencing in order to adequately maintain or gain access to the drainage easement. Any relocation of such fencing shall be borne entirely by the landowner.

Sec. 11-136. Areas outside subdivision or development

The County reserves the right to require improvements to preclude any backup of waters inundating any areas outside of the dedicated easements in the subdivision or development as a result of a 50-year frequency flood.

Sec. 11-137. Existing open ditches

Any existing manmade waterway essential to the drainage plan shall be cleaned, graded and/or piped at the time of development depending upon drainage study requirements and subject to approval by the County.

Sec. 11-138. Applicability to developments currently under construction

All developments having received preliminary plan approval at the time of enactment of the ordinance from which this article is derived shall have a period of one year to be completed and accepted by the County before the provisions of this article shall apply to those developments. In those cases where extenuating circumstances exist beyond the control of the developer, the Administrative Officer may recommend to the County

Planning Commission that an extension of not more than six months be granted. The Planning Commission shall be the approving authority for all extensions.

BE IT FURTHER ORDAINED that Ordinances Numbered 99-07-41, 03-01-01, 05-06-48, and 07-06-33 are repealed in their entirety.

THIS ORDINANCE SHALL BECOME EFFECTIVE ON JULY 1, 2008.

ADOPTED this 23rd day of June 2008.

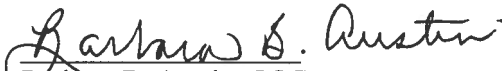
BERKELEY COUNTY, SOUTH CAROLINA

(SEAL)



DANIEL W. DAVIS, Chairman
Berkeley County Council

ATTEST:


Barbara B. Austin, CCC
Clerk of Council

Approved as to form:


Nicole Scott Ewing, Esq.
County Attorney

First Reading: February 25, 2008
Second Reading: April 28, 2008
Public Hearing: May 27, 2008
Third Reading: June 23, 2008

MEMBERS OF COUNTY COUNCIL

Phillip Farley

PHILLIP FARLEY

Voting yes

Dennis L. Fish

DENNIS L. FISH

Voting yes

Timothy J. Callanan

TIMOTHY J. CALLANAN

Voting yes

Jack H. Schurlknight

JACK H. SCHURLKNIGHT

Voting yes

William E. Crosby

WILLIAM E. CROSBY

Voting yes

Caldwell Pinckney, Jr.

CALDWELL PINCKNEY, JR.

Voting yes

Cathy S. Davis

CATHY S. DAVIS

Voting yes

Steve C. Davis

STEVE C. DAVIS

Voting yes