

O R D I N A N C E

AMENDING SECTIONS 3.1 AND 3.5 OF THE CITY OF BEAUFORT UNIFIED DEVELOPMENT ORDINANCE TO MAKE EXPIRATION OF APPROVALS CONSISTENT WITH THE VESTED RIGHTS ACT

WHEREAS, in July 2005, the South Carolina General Assembly adopted the Vested Rights Act; and

WHEREAS, the Vested Rights Act stipulates that site specific development plans are vested for a period of two years, with the option for five one-year renewals; and

WHEREAS, the Unified Development Ordinance currently limits development plan approvals to one year; and

WHEREAS, staff has drafted an ordinance that revises the Unified Development Ordinance to make the ordinance consistent with the Vested Rights Act; and

WHEREAS, this amendment has been presented to the City of Beaufort-Town of Port Royal Joint Municipal Planning Commission and the Commission recommended approval; and

WHEREAS, a public hearing before the Beaufort City Council was held regarding this ordinance amendment on April 28, 2009, with notice of the hearing published in *The Beaufort Gazette* on April 13, 2009;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Beaufort, South Carolina, duly assembled and by authority of same, pursuant to the power vested in the Council by Section 6-29-760, *Code of Laws of South Carolina, 1976*, that *The Unified Development Ordinance of the City of Beaufort, South Carolina* be amended as follows:

1. Revise Section 3.1, "General Approval Procedures," by deleting the current subsection M "Expiration of Permits and Approvals," and replacing it with a new subsection M to read as follows:

M. Expiration of Permits and Approvals

1. Generally

Approval of any application pursuant to this UDO shall authorize only the particular use, plan, or other specific activity for which the application was issued, and not any other approval requiring separate application.

2. Vested Rights for Final Development Plans/Plats

A vested right is established for two years upon the final approval of a development plan, plat, or phased development plan. An applicant shall have two years from final approval to receive a building permit, or, if no building permit is required, to obtain a certificate of compliance. Such vested right shall receive five one-year extensions for good cause upon written request by the

landowner to the administrator no later than one month prior to expiration unless an amendment to this UDO has been adopted that prohibits approval.

- a. A vested right in a development plan, plat, or phased development plan shall not attach to the property until all plans have been received, approved and all fees paid in accordance with this Article.
- b. A vested right is subject to revocation by the city council upon its determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval.
- c. A vested plan is subject to later local governmental overlay zoning that imposes site plan-related requirements, but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses.
- d. Phased development plans remain subject to review and approval of all phases prior to any portion of the project being vested.
- e. In case of projects where more than one building is to be built, the applicant may submit a series of building permit applications. The first application must be submitted within two years from the date the development plan approval is granted. Each subsequent application must be submitted within 180 days from the date of issuance of a Certificate of Compliance or Certificate of Occupancy for the previous building, whichever shall occur first. The lapse of more than 180 days shall cause the expiration of the development plan approval.
- f. The Zoning Board of Appeals does not have the authority to grant a vested right and no such right shall accrue as a result of their decision.
- g. Variances or special uses do not create a vested right.

3. Time Limitations For Other Types Of Approval

- a. All permits and approvals not referenced in paragraph 2 above, shall expire as shown in the Table below without further action of the Administrator, Building Official, Zoning Board of Appeals, Historic District Review Board, Design Review Board, Planning Commission or City Council, unless the holder of the permit or approval either submits a complete application for the appropriate subsequent permit or approval; or, if no subsequent permit or approval is required, completes the work described in the permit or approval, within the time frames established.

- b. An applicant who submits an appropriate subsequent application for a permit or approval must diligently pursue approval of such application, which means, at a minimum, the applicant must submit any required additional materials or revisions within the time frame specified by the Administrator or if no time frame is specified, within six months. Failure to submit the required information or revision within the specified time frame shall result in the application's expiration.
- c. Upon written request, a one-time extension of an approval may be granted by the decision-making body for good cause for a period not to exceed that shown in the Table. No written request for an extension shall be considered unless submitted to the administrator no later than one month prior to expiration. Failure to submit an application for an extension within the time limits established by this section shall result in the approval's expiration.

Use	Time Limit (months)	Extension (months)
Special use	12	6
Variance	12	6
Appeal	12	3
Sign permit	6	3
Zoning permit	12	6
Concept plan or plat	12	6
Preliminary plan or plat	12	6

- 2. Revise Section 3.5.F, "Subdivision Review; Major Subdivision Plat Submission Requirements," by deleting the current subsection 3, "Final Review," and replacing it with a new subsection 3 to read as follows:

3. Final Review

The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time of submission. Approval of the final plat shall be subject to the installation of the improvements designated in Section 8.3 or certified evidence from the City that said improvements shall be installed in accordance with these regulations.

a. Procedure

- (1) The subdivider shall submit to the Administrator the required number of copies of the final plat.
- (2) The plat shall then be submitted to and checked by the Technical Review Committee for conformance with the approved preliminary plat and with the requirements of these regulations. The Technical Review Committee shall review the plat within 30 days after submission. The Technical Review Committee shall either approve and certify the plat or notify the subdivider in writing of any

noncompliance with these regulations or any deviation from the approved preliminary plat which is found on the final plat.

- (3) Approval and certification by the Technical Review Committee shall not be deemed to constitute or affect an acceptance by the City or the County or the public of the dedication of any street or other ground shown upon the plat. Upon receipt of the plat, the City Council shall determine the acceptance or non-acceptance of all dedicated streets, easements right-of-way, public parks, and other public lands as shown on the plat. If accepted by the City, action to that effect shall be noted on the final plat; if not accepted, the reasons for non-acceptance shall be so stated.
- (4) It shall be unlawful to sell or transfer property (lots) within the approved subdivision until after the plat has been recorded with the Register of Mesne Conveyances.

4. Subdivision in Phases

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future or abutting land is in the same ownership, a sketch plan for the entire tract shall be submitted with the plat.

- 3. Revise Section 3.5, "Subdivision Review," by deleting the current subsection H, "Expiration of Approval," and replacing it with a new subsection H to read as follows:

H. Expiration of Approval

A subdivision approval shall expire as set out in Section 3.1.M of this UDO unless a Certificate of Compliance is obtained, or unless recorded at the Beaufort County Register of Mesne Conveyances.

This ordinance shall become effective immediately upon adoption.

BILLY KEYSERLING, MAYOR

(SEAL) Attest:

SHIRLEY D. HUGHES, ACTING CITY CLERK

1st Reading _____

2nd Reading & Adoption _____

Reviewed by: _____
WILLIAM B. HARVEY, III, CITY ATTORNEY