

ORDINANCE NO. 2014-16

AMENDING ARTICLE 4, SUPPLEMENTAL REGULATIONS, RELATED TO SWIMMING POOL SETBACKS AND TEMPORARY CONSTRUCTION AND REAL ESTATE OFFICES; ARTICLE 5, APPROVAL PROCEDURES, RELATED TO NOTICE REQUIREMENTS AND TO PERMITS, VIOLATIONS AND ENFORCEMENT; ARTICLE 10, LANDSCAPING, RELATED TO LANDSCAPE PLAN AND TREE REMOVAL REQUIREMENTS; AND APPENDIX A, DEFINITIONS, OF THE NORTH AUGUSTA DEVELOPMENT CODE, CHAPTER 18 OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA CODE OF ORDINANCES

WHEREAS, on December 17, 2007, by Ordinance 2007-22, the North Augusta City Council adopted the North Augusta Development Code which is consistent with the City's 2005 Comprehensive Plan and which incorporates all City zoning and land development regulations; and

WHEREAS, pursuant to Title 6, Chapter 29 of the South Carolina Code, the North Augusta Planning Commission may recommend amendments to the Development Code for the purposes of technical clarification, error correction and to accommodate the needs of the City's citizens, provided such amendments are consistent with the City's 2005 Comprehensive Plan; and

WHEREAS, the North Augusta Planning Commission, following a September 18, 2014 public hearing, reviewed, considered and approved amendments to specific sections of Article 4, Supplemental Regulations, related to swimming pool setbacks and temporary construction and real estate offices; Article 5, Approval Procedures, related to notice requirements and to permits, violations and enforcement; Article 10, Landscaping, related to landscape plan and tree removal requirements; and Appendix A, Definitions, of the North Augusta Development Code and recommended said amendments to the City Council for approval.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT:

- I. The North Augusta Development Code, Chapter 18 of The City of North Augusta, South Carolina Code of Ordinances, Providing for New Zoning and Land Development Regulations for the City of North Augusta, South Carolina, is hereby amended and shall read as described in each of the following sections. The section of the Code affected by each proposed amendment is identified by the section number.

A. Line 8 of Table 4-1, Accessory Uses and Structures, in Article 4, Supplemental Use Regulations, is amended to read:

TABLE 4-1 ACCESSORY USES AND ACCESSORY STRUCTURES

	A	B	C	D	E
	Accessory Uses	Permissible Location	Setback or Building Separation	Maximum Height	Additional Standards
8.	Swimming pools	Side and rear yards.	5 feet from rear and side lot lines; 3 feet from structures.	See 1, above	All lighting shall be shielded or directed away from adjoining residences.

B. Lines 17 and 18 of Table 5-1, Notice Requirements in Article 4, Approval Procedures are amended to read:

TABLE 5-1 NOTICE REQUIREMENTS (REV. 12-1-08; ORD. 2008-18)

	A	B	C	D	E	F	G
	Application	Reviewing Agency	Publication	Mail	Internet	Sign	Public Hearing
17.	Annexation (§18.3.7.3)	PC and CC	No	No	No	No	No
18.	Street Abandonment (§18.3.7.2)	PC and CC	Yes	Yes	Yes	Yes	Yes

C. Section 4.35.4 is amended to read:

4.35.4 Real Estate Sales and Construction Offices and Equipment Sheds

- a. Manufactured homes, modular homes and modular building units may be permitted as temporary construction offices, real estate sales and leasing offices and equipment buildings in any zoning district incidental to a construction project. The office or shed shall not contain sleeping or cooking accommodations and shall be removed within ten (10) days after completion of the construction project, final sale or issuance of the final certificate of occupancy, or 2 years from final subdivision approval, whichever is earlier.
- b. A new dwelling unit or lease space constructed separately or as a portion of a larger structure may be used as a real estate sales office or as a sales model or both. Units of different styles and floor plans may be used as additional sales models.
- c. All structures used temporarily as real estate sales or leasing offices, models, construction offices or equipment sheds must be permitted, constructed or installed and approved for occupancy as required by the International Building Code.

D. Section 5.1.6 is amended to read:

5.1.6 Revocation of Permit or Approval

5.1.6.1 Initiation – The Director shall investigate alleged violations of development regulations or other provisions of this Chapter and conditions on the approval of a development order. The Director shall provide notice to the applicant and, if necessary, utilize the provisions of Section 5.11 to achieve compliance. If the remedies provided in Section 5.11 are ineffectual and the Director determines that the revocation of a development approval or permit is appropriate, a recommendation, including the reason(s) for the determination, shall be made to the Board of Zoning Appeals who shall conduct a public hearing on the matter at the next regular meeting scheduled after all public notice requirements have been met.

5.1.6.2 Grounds for Revocation – The following shall be considered grounds for revocation of a permit:

- a. The intentional provision of materially misleading information by the applicant. The provision of information is considered “intentional” where the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence; or
- b. The failure to comply with the development regulations or other provisions of this Chapter or any condition of a development order or development permit.

5.1.6.3 Notice and Public Hearing – See S.C. Code §6-29-790 and Article 18 of this Chapter. Said notice shall be in writing and delivered by personal service or certified mail to the permit holder and shall inform the permit holder of the Director’s recommendation as well as the date and location of the hearing before the Board.

5.1.6.4 Decision and Notice – See S.C. Code §§6-29-790 and 6-29-800, and Article 18 of this Chapter. Said order shall contain findings that address the basis for the decision by, at a minimum, stating the condition(s) that the Board of Zoning Appeals found have been violated, the harm such violation has caused, and, the reason such violation cannot be cured.

5.1.6.5 Effect and Appeals – A petition complaining of the Board of Zoning Appeals’ decision may be presented to a court of competent jurisdiction within the time provided by S.C. Code §6-29-820.

5.1.6.6 Right Cumulative – The right to revoke a development permit, as provided in this section, shall be cumulative to any other remedy allowed by law.

E. Section 5.1.9 is deleted in its entirety.

F. Section Title 5.11 and Sections 5.11.1 and 5.11.2 are amended to read:

5.11 VIOLATIONS, PENALTIES AND ENFORCEMENT

5.11.1 Violations

Violations of the provisions of this Chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, or failure to comply with a compliance directive issued by the Director, the City Engineer or any other authorized representative of the City shall constitute a misdemeanor. Each day the violation continues shall be considered a separate offense.

5.11.2 Penalties

Any person found to be in violation of the provisions of this Chapter or who fails to comply with any of its requirements shall be punishable as provided in Section 1-8 of the North Augusta Municipal Code of Ordinances. Each day in violation of the provisions of this Chapter shall constitute a separate and distinct offense. The penalties shall be in addition to any remedial activity needed to safeguard the public, the environment or the City infrastructure.

G. A new Section 5.11.3 is added to read:

5.11.3 Enforcement

- a. Any violation of a provision of this Chapter or violation of or deviation from an approved application for development approval, site development permit, grading permit or building permit, or site development undertaken in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood will result in the issuance of a stop work order by the City. The stop work order will be in the form of a written notice and will provide for the suspension of the applicable development permit(s).
- b. All development activity covered by the approved application for development approval, site development permit, grading permit or building permit will cease until the permittee under the approved application for development approval has received authorization to resume development activity from the City. Prior to consideration of an authorization to resume development activity, the permittee shall prepare a Correction, Compliance and Mitigation Plan to correct identified deviations from the approved development plan, bring any violations into compliance, and mitigate any damages created by the deviations or violations. Necessary mitigation proposed by the plan shall be designed to restore damaged areas, incomplete or unsafe construction or inadequate development installations to an acceptable

condition. In the case of damage to the natural environment including riparian buffers, designated natural open space, natural terrain or City owned property, the restoration shall be to a condition similar to what existed prior to the damage as determined by the City.

- c. The City's authorization to resume development will be based on the Correction, Compliance and Mitigation Plan, the approval by any and all state or federal agencies with jurisdiction, and an agreement by the permittee to implement the plan. The Correction, Compliance and Mitigation Plan shall be implemented prior to the continuation of any other development activity. The Correction, Compliance and Mitigation Plan may provide for concurrent mitigation and continued development activity if the City determines that that the continued development activity does not conflict with required mitigation or restoration work.
- d. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy a violation.

H. Section 10.4.1 is amended to read:

10.4.1 Landscape Plan Required

Landscape Plans shall accompany every application for a minor site plan, major site plan and major subdivision plan. Such plans shall be sealed by a landscape architect or certified by a nurseryman, horticulturalist or certified landscape contractor. Landscape Plans shall conform to the requirements of Appendix B, Application Documents.

I. Section 10.4.2 is deleted in its entirety.

J. Appendix A is amended to modify the following existing definitions:

Land Disturbing Activity

Any grading, scraping, excavating or filling of land; clearing of vegetation; and any construction, rebuilding or alteration of a structure or any activity which may result in soil erosion from and the movement of sediments into waters or onto lands within the City, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land. Land disturbing activity shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family residence, agricultural practices and the cutting of firewood for personal use.

Open Space

Any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may be natural or may be improved as a natural area, greenbelt, park, Greenway, green, playground or a landscaped traffic management amenity including a traffic circle, roundabout or close.

Perennial Stream

A stream that flows into a well-defined channel throughout most of the year under normal climatic conditions.

Tree

Any self supporting woody perennial plant which has a caliper of two (2) inches or more and which normally obtains a height of at least ten (10) feet at maturity, usually with one (1) main stem or trunk and many branches.

K. Appendix A is amended to add the following definitions:

Endangered Species

Animal, bird, fish, plant, or other living organism threatened with extinction by natural or man-made changes in its environment.

Ephemeral Stream

A stream that typically has no well defined channel and flows only in direct response to precipitation with runoff.

Grading

The movement of earth by mechanical means to alter the gross topographic features, including elevation and slope, to prepare a site for final grading and construction of facilities, including roads, utilities, structures and parking lots.

Heavy Timber

Sawn lumber pieces having a smallest dimension of at least five (5) inches.

Intermittent Stream

A stream with flowing water from a headwater that flows into a well-defined channel during wet seasons of the year but not for the entire year.

Native Tree Cluster

A grouping or cluster of healthy mature, or near mature, trees that covers an area of not less than one quarter (1/4) of an acre. The composition of the trees within the cluster must be composed primarily of species that are native to the Central Savannah area or Piedmont area of South Carolina. Exotic tree species must not comprise more than twenty-five percent (25%) of the cluster.

Natural Open Space

Any parcel or area of identified open space that is defined as a conservation area, Natural Area or Greenbelt Open Space Area as provided for in Article 11. Natural open space is left in a natural state. Any modifications to natural open space are minimal and are limited to removal of debris; selective clearing of understory plant material to provide views; removal of dead, dying, or exotic vegetation; construction of trails; and the installation of passive recreation amenities including benches and viewing areas. Natural

open space required by this Chapter or provided as an element of a development may be dedicated to the City.

Nonresidential Use

A land use other than a residential land use as listed in Section 3.0, Residential Uses, of Table 3-2, Use Matrix, and related accessory uses. Nonresidential uses include all uses listed in Sections 1.0 and 4.0 through 12.0 of Table 3-2, Use Matrix. Nonresidential uses do not include Natural Open Space, conservation areas, riparian buffers or other platted buffers.

Specimen Tree

A tree that is part of an historic site; has been designated as a Champion Tree by the South Carolina Forestry Commission and the Department of Forestry and Natural Resources at Clemson University or is seventy-five percent (75%) or more of the DBH of the current state Champion of that species; has a diameter of twenty-four (24) inches at four and one-half (4.5) feet above the ground; has an exceptional canopy shape and beauty; is a rare, threatened or endangered species; or is individually identified on an approved forest conservation plan.

- II. All other Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.


- III. This Ordinance shall become effective immediately upon its adoption on third reading.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS 15th DAY OF December, 2014.

First Reading 11-17-14

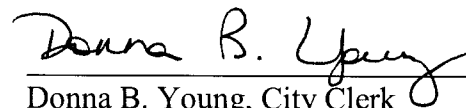
Second Reading 11-17-14

Third Reading 12-1-14



Lark W. Jones, Mayor

ATTEST:



Donna B. Young, City Clerk