ARTICLE ONE
ADMINISTRATION

SECTION A: AUTHORITY

1.a.1. This ordinance is adopted pursuant to the authority delegated to cities and counties in South Carolina under the Code of Laws, in Title 6, Chapter 29 S.C. 6-29-710.

1.a.2. The purpose of this ordinance is to protect the health, safety, and general welfare, while allowing for the cost saving efficiencies, through the proper subdivision of land and the creation of zoning districts of such number, shape, and size the City and County Councils of Sumter determines to be best suited to carry out the purposes of this ordinance.

1.a.3. The purpose of this ordinance will be to regulate:

a. Use of buildings, structures, and land.

b. Size, location, height, bulk, orientation, number of stories

c. Erection, construction, recreation, alteration, demolition.

d. Removal in whole or in part of buildings and other structures.

e. Area and dimensions of land, water, and air space to be occupied by buildings and structures.

f. The effects of aircraft noise and maximize the safety of land use in and around Shaw Air Force Base.

1.a.4. The provisions of this ordinance shall be administered to ensure orderly growth and development and shall supplement and facilitate the provisions in the comprehensive plan.

SECTION B: JURISDICTION

1.b.1. The provisions in this ordinance shall be applicable within the entire City of Sumter and the unincorporated portions of the County of Sumter, South Carolina.

1.b.2. When necessary to further its provisions, this ordinance shall be amended by the City and County Councils of Sumter.

SECTION C: FEES

1.c.1. Reasonable fees sufficient to recover incurred costs shall be set at the Planning Commission meeting in July and approved by the City Manager and County Administrator for the following:

a. Rezoning Application

b. Zoning Board of Appeals Application

c. Historic Preservation Design Review Application

d. Copies of Comprehensive Plan Map

e. Copies of Zoning Map

f. G.I.S. Maps

g. G.I.S. Maps and relevant database

h. Copies of the Sumter City-County Zoning and Development Standards Ordinance

i. Planned Development/General Development Plan Review

j. Site Plan Review

k. Preliminary Subdivision Plat Approval

l. Final Subdivision Plat Approval

m. Temporary Use Fee

n. Mobile Home Certification

o. Conditional Use Request

p. Appeal Application

q. Subdivision Variances

r. Text Amendment

s. Street Name Change

Note: Said fees shall be established by the Sumter City-County Planning Commission based on costs associated therewith, i.e., publishing, printing, copying, man hours, materials, etc.

SECTION D: ENFORCEMENT AND PENALTIES

1.d.1. It shall be the duty of the Zoning Administrator to enforce the provisions of this ordinance and bring to the attention of the appropriate court any violation or lack of compliance.

1.d.2. Violations of the provisions of this ordinance shall be deemed a misdemeanor, punishable as provided by law and with each day such violation continues constituting a separate offense. The Zoning Administrator shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provision of these regulations.

SECTION E: INTERPRETATION, CONFLICT AND SEPARABILITY

1.e.1. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements. The Sumter City-County Planning Commission or the Sumter City-County Zoning Board of Appeals may impose more stringent standards if it is demonstrated that different standards are necessary to promote the health, safety, and welfare of the public.

1.e.2. The provisions of this ordinance are separable. If a section, sentence, clause, or phrase of this ordinance is determined by a court of competent jurisdiction to be invalid, the decision shall not affect remaining portions of this ordinance.

SECTION F. PLANNING COMMISSION, ESTABLISHMENT AND PURPOSE

1.f.1. The Sumter City-County Planning Commission is hereby established pursuant to S.C. Code of Laws, Title 6, and Chapter 29.

1.f.2. These rules of procedure are adopted pursuant to S.C. Code 6-29-360 for the City-County Planning Commission, which consists of nine members appointed by the City and County Councils of Sumter.

1.f.3. The members of the Planning Commission, upon appointment, shall serve four (4) year terms, or until successors are appointed, whichever is later. Upon a vacancy created by a resignation of any member, the vacancy shall be filled for the unexpired term in the manner as are original appointments.

1.f.4. Jurisdiction of the Sumter City-County Planning Commission is established pursuant to S.C. Code 6-29-1110, wherein, approval of subdivision plats by the Planning Commission is hereby required as a condition for the filing of such plats with the Office of Deeds of Sumter County. (See definition of Exempt Subdivisions in Article Ten).

1.f.5. The approval of site plans is hereby required as a condition for the issuance of a building permit, except that individual lot applications for detached one or two dwelling unit buildings shall be exempt from site plan review approval.

1.f.6. The decision of the Zoning Board of Appeals shall substitute for that of Planning Commission wherever the Board of Appeals has jurisdiction over a subdivision or site plan pursuant to S.C. 6-29-800.

1.f.7. Waiver of the Site Plan Application:

a. The Planning Commission may waive the requirement for site plan approval where there is a use or occupancy and no extensive construction or improvements is sought. The waiver may be granted only upon a resolution by the Planning Commission finding that the use will not affect existing drainage, traffic, circulation, relationship of buildings to each other, landscaping, buffering, lighting, and other considerations of site plan approval, and that the existing facilities do not require upgrade or additional site improvements. The application for waiver of the site plan shall include a discussion of the prior use of the site, the proposed use, and its impact.

b. Exception of Specific Subdivision and Site Plan Requirements: The Planning Commission shall have the power to grant exceptions from the requirements for subdivision and/or site plan approval as may be reasonable and within the general purpose and intent of the provisions of this ordinance, if the literal enforcement of one or more provisions of this ordinance is impractical or will exact undue hardship because of peculiar conditions pertaining to the land in question.

SECTION G: PLANNING COMMISSION, RULES OF PROCEDURE

1.g.1. Officers: The officers of the Sumter City-County Planning Commission shall be a chairman and vice-chairman elected for one year terms at the first meeting of the Planning Commission in each calendar year. The officers of the Planning Commission may serve consecutive terms. The Planning Director or his/her designee shall serve as secretary to the Sumter City-County Planning Commission.

a. **Chairman:** The chairman shall be a voting member of the Planning Commission and shall:

1. Call meetings of the Planning Commission;

2. Preside at meetings and hearings;

3. Act as spokesperson for the Planning Commission;

4. Sign documents for the Planning Commission;

5. Transmit reports and recommendations to the City and County Councils of Sumter;

6. Perform other duties approved by the Planning Commission.

b. **Vice-Chairman:** The vice-chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the absence of the chairman and vice-chairman, the members present shall elect an acting chairman.

c. **Secretary to the Planning Commission:** The Secretary shall:

1. Provide notice of meetings;

2. Assist the chairman in preparation of agendas;

3. Keep minutes of meetings and hearings;

4. Maintain Planning Commission records as public records;

5. Attend to Planning Commission correspondence;

6. Perform other duties normally carried out by a secretary.

1.g.2. Meetings:

a. Applications for Planning Commission review shall be submitted through the office of the Zoning Administrator. Prior to the placement of an item on the agenda of the Planning Commission an application must be ***"complete"*** as determined by the Zoning Administrator, and must be submitted in its complete form twenty-two (22) days prior to a meeting of the Planning Commission. The Planning Commission shall act on a complete application within thirty (30) days of receipt of the complete application.

b. **Time and Place:** An annual schedule of regular meetings shall be adopted, published and posted at the Opera House/Sumter City Hall and the Sumter County Administration Building in January of each year. The chairman upon twenty-four (24) hour notice, posted and delivered to all Planning Commission members and the local news media may call special meetings. Meetings shall be held at the place stated in the notices, and shall be open to the public in accordance with State Freedom of Information (F.O.I) regulations.

c. **Agenda:** A written agenda shall be furnished by the Secretary to each member of the Planning Commission and the news media, and shall be posted at least four (4) days prior to each regular meeting and at least twenty-four (24) hours prior to a special meeting. Items may be added to the agenda at a meeting by majority vote.

d. **Quorum:** A majority of the members of the Sumter City-County Planning Commission shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling a meeting.

e. **Voting:** A member must be present to vote. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member(s) affected, who shall announce the reasons for disqualification, have it placed in the minutes, and refrain from deliberation or voting on the question.

f. **Public Input:** Except for public input sought by the Planning Commission, no person shall speak at a Planning Commission meeting unless invited to do so by the Planning Commission. The Chairman or the Vice-chairman presiding at a Planning Commission meeting reserves the unilateral right to gauge the amount of public input desired.

g. **Conduct:** No member of the Planning Commission shall participate in a matter in which he or she has a pecuniary or special interest.

1.g.3. Public Hearings:

a. **Notice:** The Secretary to the Planning Commission shall give the notice required by statute or ordinance for all public hearings conducted by the Sumter City or County Councils.

b. **Procedure:** Before enacting an amendment to this ordinance, the City or County Council shall hold a public hearing thereon. The time and location of this public hearing shall be published in a newspaper of general circulation within Sumter County at least fifteen (15) days prior to the date of the hearing.

1.g.4. Records:

a. **Minutes:** The Secretary to the Planning Commission shall record all meetings and hearings of the Planning Commission on tape which shall be preserved until final action on all matters presented. The Secretary shall prepare minutes of each meeting for approval by the Planning Commission at the next regular meeting. Minutes shall be maintained as a public record.

b. **Reports:** The Secretary shall assist in the preparation and the forwarding of all reports and recommendations of the Planning Commission in appropriate form. Copies of all notices, correspondence, reports, and forms shall be maintained as public records.

c. **Attendance:** The minutes shall show the members in attendance at each meeting and the reasons for absence submitted by any member. The Planning Commission shall recommend to the City and County Councils of Sumter the removal for cause of any member who is absent twenty-five percent (25%) or from three (3) consecutive meetings without adequate reason.

1.g.5. Review Procedures:

a. **Zoning Amendments:** Proposed zoning text and/or map amendments shall be considered and recommendations shall be forwarded to the Sumter City or County Councils within sixty (60) days after receipt of the proposed amendments. Conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property.

b. **Plats:** All plats shall be subject to review of the Planning Commission with the exception of the following which may be reviewed by the staff of the Planning Commission for approval and recording.

1. Plats of existing lots of record;

2. Minor subdivisions of land which meet all zoning requirements;

3. Subdivisions which are exempt from regulation pursuant to S.C. Code 6-29-1110(2).

Note: The Sumter City-County Planning Commission shall be informed at the next regular meeting following all staff approvals and the facts shall be included in the minutes thereof.

c. **Comprehensive Plan:** All zoning and land development regulation amendments shall be reviewed first for conformity with the comprehensive plan. Conflicts with the comprehensive plan shall be noted in any report to the Sumter City or County Councils.

d. **Reconsideration:** The Planning Commission may reconsider any review when so requested by the Sumter City or County Councils.

e. **Appeals:**

1. Staff action, if authorized to approve or disapprove a land development plan or Highway Corridor Protection Plan, may be appealed to the Planning Commission by any party in interest. The Planning Commission must act on the appeal within sixty days, and the action of the Planning Commission is final.

2. a. An appeal from the decision of the Planning Commission must be taken to the circuit court within thirty days after actual notice of the decision.

b. A property owner whose land is the subject of a decision of the Planning Commission may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 1.g.5.f.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the Planning Commission is mailed.

c. Any filing of an appeal from a particular Planning Commission decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11) of South Carolina State Law.

d. When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the Planning Commission, such as , but not limited to, a determination of the amount of damages due for an unconstitutional taking.

f. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

1. If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the Planning Commission.

2 The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (1) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

3. Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

4. Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

a. the local legislative governing body in public session; and

b. the circuit court as provided in subsection (7).

5. Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

6. If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of :

    a. the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

    b. the failure to approve the settlement by the local governing body.

7. The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

    a. in the same manner as provided by law for appeals from other judgments of the circuit court; or

    b. by filing an appeal pursuant to subsection (6).

SECTION H: BOARD OF ZONING APPEALS: ESTABLISHMENT AND PURPOSE

1.h.1. A Board of Zoning Appeals is hereby established pursuant to South Carolina Code of Laws, Section 6-29-780.

1.h.2. These rules of procedure are adopted pursuant to S.C. Code 6-29-790 for the Sumter City-County Board of Zoning Appeals which consists of nine (9) members appointed by the Sumter City and County Councils.

1.h.3. The members of the Board of Zoning Appeals, upon appointment, shall serve four (4) year terms, or until successors are appointed, whichever is later. Upon a vacancy created by a resignation of any member, the vacancy should be filled for the unexpired term in the manner as are original appointments.

1.h.4. Powers of the Board of Zoning Appeals: It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Administrator and that such question shall be presented to the Board of Zoning Appeals only on appeal from the Zoning Administrator.

The Board of Zoning Appeals shall have the following powers and duties:

a. **Appeals from administrative interpretation:** To hear and decide appeals where it is alleged there is an error in an order, requirement, decision, or determination made by an

administrative official of the Sumter City-County Planning Commission in the enforcement of the Zoning Ordinance.

1. An appeal shall be taken within thirty (30) days from the date of the decision rendered by the Zoning Administrator by filing with his or her office a written notice of appeal specifying the grounds thereof.

2. Appeals shall be submitted on application forms obtained from the Zoning Administrator.

3. All papers constituting the record upon which the appeal action was taken shall forthwith be transmitted to the Board of Zoning Appeals.

4. An application fee to be utilized for the incidental costs of administration and advertisement shall accompany appeal applications.

5. Any communication purporting to be an application for an appeal shall be regarded as mere notice to seek relief until it is made in the form required.

b. **Variances:**

1. To hear and decide appeals for variances from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains <u>all</u> of the following:

    a. There are extraordinary and exceptional conditions pertaining to the particular piece of property.

    b. These conditions do not generally apply to other property in the vicinity.

    c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

    d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

2. The Board may not grant a variance the effect of which would be to:

    a. Allow the establishment of a use not otherwise permitted in a zoning district;

    b. Extend physically a nonconforming use of land;

c. Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

3. The fact that property may be utilized more profitably, should a variance be granted, shall not be considered grounds for a variance.

4. In granting a variance, the Board may attach to it such conditions regarding location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to promote the public health, safety, or general welfare.

c. **Special Exception:**

1. Special exceptions are subject to the terms and conditions for the use set forth for such uses in the Zoning Ordinance.

2. Permits for Special Exceptions shall be evaluated by the Board of Zoning Appeals on the basis of the following criteria:

a. That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.

b. That the special exception will be in substantial harmony with the area in which it is located.

c. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.

3. In granting a special exception, the Board of Zoning Appeals may impose such additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the special exception. At the conclusion of the review, the Board of Zoning Appeals shall approve the application with specific modification, or disapprove the application. If approved, the Board of Zoning Appeals shall instruct the Zoning Administrator to issue such permits contingent on the specific modification imposed. If disapproved, the Board of Zoning Appeals shall notify the applicant, in writing, of the action disapproving the application, with the reasons therefore.

SECTION I: ZONING BOARD OF APPEALS: RULES OF PROCEDURE

1.i.1. Officers: The officers of the Board shall be a chairman and vice-chairman elected for one year terms at the first meeting of the Board in each calendar year. The Planning Director or his/her designee shall serve as secretary to the Sumter City-County Zoning Board of Appeals.

a. **Chairman:** The chairman shall be a voting member of the Board and shall:

1. Call meetings of the Board;
2. Preside at meetings and hearings and swear in witnesses;
3. Act as spokesperson for the Board;
4. Sign documents for the Board;
5. Have orders of the Board served on parties;
6. Perform other duties approved by the Board.

b. **Vice-Chairman:** The vice-chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the absence of the chairman and vice-chairman, the members present shall elect an acting chairman.

c. **Secretary to the Board:** The Secretary shall:

1. Provide and publish notice of appeals and meetings;
2. Assist the chairman in preparation of the agenda;
3. See that property involved in appeals for variances or special exceptions are properly posted;
4. Keep recordings and minutes of meetings and hearings;
5. Maintain Board records as public records;
6. Serve Board decisions on parties;
7. Attend to Board correspondence;
8. Perform other duties normally carried out by a secretary.

1.i.2. Appeals Process:

a. **Form of Appeal:** Appeals from administrative decisions, applications for variances, and applications for special exceptions shall be filed on forms approved by the Board and provided to applicants by the Board Secretary. The Board may require additional information deemed necessary for their deliberation on matters before the Board. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.

b. **Time of Appeal:** An appeal from an administrative decision must be filed within thirty (30) days after actual notice of the decision by delivery of the approved appeal form to the Board Secretary who shall notify the Board that an appeal has been received.

c. **Calendar:** Appeals and applications shall be marked with the date of receipt and placed on the Board agenda in the order in which received. Appeals shall be heard in the order on the agenda unless otherwise set by the Board for good cause shown.

d. **Withdrawal of Appeal:** Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the Board. An appeal from an administrative decision which is withdrawn may not be re-filed after thirty (30) days time from the date when originally withdrawn. Withdrawn applications for variances and special exceptions may be re-filed after twelve (12) months and shall be placed on the calendar according to the date re-filed.

e. **Continuances:** The hearing of an appeal or application may be continued one time by the Board for good cause shown.

f. **Disposition:** The Board may deliberate and make a final disposition of a matter by majority vote of members present at the hearing and qualified to vote provided that no less than a quorum are qualified to vote. The vote may be taken at the same or subsequent meeting. A member may not vote on a matter which the member has not heard. Deliberations shall be conducted and voting shall be in public.

g. **Form of Order:** An order shall be issued disposing of a matter by granting or denying relief with such conditions as may be deemed necessary; or affirming, modifying, or reversing an administrative decision. A matter may be dismissed for lack of jurisdiction. Findings of fact and conclusions of law shall be separately stated in an order.

h. **Rehearing:** The Board at its discretion may grant a rehearing of an application which has been dismissed or denied. A written request for a rehearing shall be filed with the secretary within fifteen (15) days after the delivery of an order. Said request shall be accompanied by any new evidence which could not have been presented at the initial hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome.

i. **Order and Documents:** The secretary shall assist in the preparation and services of all orders of the Board in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as a public record.

j. **Service of Order:** The secretary shall deliver a copy of an order to each party in interest by certified mail immediately upon execution of the order by the Chairman.

1.i.3. Meetings:

a. Applications for the Board of Appeals shall be submitted through the office of the Zoning Administrator. Prior to the placement of an item on the agenda of the Board of Appeals an application must be ***"complete"*** as determined by the Zoning Administrator, and must

be submitted in its complete form twenty-two (22) days prior to a meeting of the Board of Appeals. The Board of Appeals shall act on a complete application within thirty (30) days of receipt of the complete application.

b. **Time and Place:** An annual schedule of regular meetings shall be adopted, published and posted at the Opera House/Sumter City Hall and the Sumter County Administration Building in January of each year. Special meetings may be called by the Chairman upon twenty-four (24) hour notice. Meetings shall be held at the place stated in the notices, and shall be open to the public.

c. **Agenda:** A written agenda shall be furnished by the secretary to each member of the Board and the news media, and shall be posted at least five (5) days prior to each regular meeting and at least twenty-four (24) hours prior to a special meeting. Item may be added to or removed from the agenda or postponed at a meeting by a majority vote.

d. **Quorum:** A majority of the members of the Board shall constitute a quorum. A quorum shall be present before any business is conducted other than the rescheduling of meetings.

e. **Appearance:** The applicant or any interested party may appear in person, or be represented by an agent or an attorney. The Board may postpone or proceed to dispose of a matter in the absence or lack of appearance of the applicant or representative thereof.

f. **Witnesses:** Interested parties may present testimony under oath. Witnesses may be compelled to attend by subpoena, which has been signed by the Chairman and served at least ten (10) days prior to a hearing. The Board may call its own witnesses when deemed appropriate.

g. **Cross-Examination:** No party shall have the right to cross-examination witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses shall not be allowed.

h. **Evidence:** Legible copies of relevant documents, photographs, maps, drawings, etc., will be received in the record without authentication. Relevant testimony, which is not cumulative, repetitive, or hearsay, will be received. The chairman will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

i. **Conduct of Hearing:** The normal order of hearing, subject to modification by the Chairman, shall be:

    1. Statement of matter to be heard (Zoning Administrator);

    2. Presentation by applicant and supporters (five minute limit);

    3. Presentation by opponents (five minute limit);

    4. Rebuttal by applicant (three minute limit);

    5. Un-sworn public comment when appropriate;

6. The Board may question participants at any point in the hearing;

7. Matters in which additional time is granted may be moved to the end of the agenda.

Note: Chairman will have discretion on time limits

j. **Minutes:** The secretary shall record all meetings and hearings of the Board on tape, which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the Board at the next regular meeting. Minutes shall be maintained as a public record.

1.i.4. Actions on Appeals: In exercising the above powers, the Board in conformity with the provisions of this Ordinance, may reverse or affirm, wholly or partly, or may modify the order, requirements, or decision of the Zoning Administrator or other administrative officials; and to that end, shall have all powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

1.i.5. Public Notice: Notice of a hearing of the Board shall be provided by publication in a newspaper of general circulation in Sumter County, S.C. fifteen (15) days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected. In cases involving variances and special exceptions, conspicuous notice shall be posted on the property affected, with at least one such notice being visible from each road that abuts the property.

1.i.6. Public Hearings on Appeal: The Board of Zoning Appeals shall fix a reasonable time for hearing matters referred to it after the required posting and notice has occurred. The Board shall follow whatever rules of procedure it may adopt, and shall provide due notification to other parties in interest. At the hearing any party in interest may appear in person or by agent or by attorney. The Board must act upon the request within thirty (30) days after the public hearing. If no decision has been made within that time, the request shall automatically be considered approved by the Board, and the Board shall direct that the necessary permits be issued.

1.i.7. Stay of Proceedings: An appeal stays all legal proceedings in furtherance of the action from which the appeal has been taken, unless the Zoning Administrator certifies to the Board, that by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed unless by a restraining order which may be granted by the Board or by a Court of competent jurisdiction in Sumter County.

1.i.8. Expiration of Variance or Special Exception: If the work authorized by any variance or special exception has not begun within six (6) months from when the date of the variance or special exception was approved, said variance or special exception shall be canceled by the Zoning Administrator and written notice thereof shall be given to the person(s) affected.

1.i.9. Appeals From The Board of Zoning Appeals:

a. Any person who may have a substantial interest in any decision of the Sumter City-County Board of Zoning Appeal may appeal the decision to the Circuit Court in and for Sumter County, filing with the Clerk of Court a petition in writing setting forth plainly, fully, and distinctly wherein such decision of the Board is contrary to law. Such appeal shall be filed within thirty (30) days after the decision of the Board is rendered.

b. A property owner whose land is the subject of a decision of the Board of Appeals may appeal either:

    1. as provided is subsection (A) ; or

    2. by filing a notice of appeal with the Circuit Court accompanied by a pre-litigation mediation in accordance with Section 1.i.10.

Any notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the Board is postmarked.

c. Any filing of an appeal from a particular Board of Appeals decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11)(a) of SC Law.

1.i.10. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

a. If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Caroling Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the Board of Appeals.

b. The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The government entity must be represented by a t least one person for purposes of mediation.

c. Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

d. Before the terms of mediation settlement may take effect, the mediation settlement must be approved by:

    1. the local legislative governing body in public session; and

    2. the Circuit Court as provided in subsection (G).

e. Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

f. If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the Circuit Court within thirty days of:

    1. the report of an impasses as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

    2. the failure to approve the settlement by the local governing body.

g. The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved b the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

    1. in the same manner as provided by law for appeals from other judgments of the circuit court; or

    2. by filing an appeal pursuant to subsection (F).

1.i.11. Notice of appeal; transcript; supersedeas.

a. Upon the filing of an appeal with a petition as provided in Section 1.i.9 or Section 1.i.10, the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and within thirty days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the Board of Appeals, including a transcript of the evidence heard before the board, if any, and the decision of the board including its findings of fact and conclusions.

b. The filing of an appeal in the circuit court from any decision of the board does not ipso facto act as a supersedeas, but the judge of the circuit court may n his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

1.i.12. Determination of appeal; costs; trial by jury.

a. At the next term of the circuit court or in chambers, upon ten day's notice to the parties, the presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the board proceedings. The findings of fact by the board of appeals must be treated in the same manner as a finding of facts by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning

board of appeals for rehearing. In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board is reversed by the circuit court, the board is charged with the costs, and the costs must be paid by the governing authority which established the board of appeals.

b. When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the non-jury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the board of appeals, such as , but not limited to, a determination of the amount of damages due for an unconstitutional taking.

SECTION J: DESIGN REVIEW BOARD: ESTABLISHMENT AND PURPOSE

1.j.1. The City of Sumter Design Review Board is hereby established pursuant to S.C. Code of Laws, Title 6, Chapter 29.

1.j.2. These rules of procedure are adopted pursuant to S.C. Code 6-29-870 for the City of Sumter Design Review Board which consist of seven (7) members appointed by the Mayor and City Council of Sumter, S.C.

1.j.3. The members of the City of Sumter Design Review Board, upon appointment, shall serve four (4) year terms, or until successors are appointed, whichever is later. Upon a vacancy created by a resignation of any member, the vacancy should be filled for the unexpired term in the manner as are original appointments. Membership on the Board shall be composed as follows: one (1) professional architect to extent such a professional is available in the City of Sumter; one (1) person specifically qualified by reason of education, training or experience in the financing of commercial and residential real property; two (2) persons actively engaged in business, commerce or industry; one (1) person experienced in real estate; and (1) resident of Hampton Park; and one (1) person specifically qualified by reason of education, training or experience in the area of Historic Preservation.

1.j.4. Powers of the Design Review Board: Where within a designated overlay district such as the Hampton Park Design Review District, and/or the Sumter Downtown Historic District, exterior appearance of any building or structure is involved, the Zoning Administrator and/or the Building Official shall not issue a permit for erection, alteration, improvement, demolition, or moving of such structure or building unless and until a project application has been submitted to the Design Review Board and a Certificate of Appropriateness is issued. Toward this objective, the Design Review Board shall have the following powers and duties:

a. To adopt procedural regulations;

b. To conduct and/or maintain an ongoing survey to identify historically and architecturally significant properties, structures and areas that exemplify the cultural, social, economic, political or architectural history of the county or city; and develop criteria for designating historic zoning districts or parts thereof;

c. To keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each designation;

d. To determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another;

e. To advise and assist owners of landmarks and properties or structures within historic or design review districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;

f. To review and evaluate all national register nominations from Sumter, prior to consideration by the State Board of Review;

g. To inform and educate the citizens of Sumter concerning the historic and architectural heritage of the City and County by publishing appropriate maps, newsletters, brochures, and pamphlets, by holding programs and seminars, and through media exposure;

h. To confer recognition upon the owners of landmarks or property or structures with design review or historic districts by means of certificates, plaques, or markers.

i. To develop and amend design guidelines for both overlay districts with final approval of City Council by resolution. Once approved, to implement the guidelines.

SECTION K: HAMPTON PARK DESIGN REVIEW AND DOWNTOWN HISTORIC DISTRICT, OVERLAY DISTRICTS ARE CREATED

1.k.1. Where the Hampton Park Design Review District, and the Downtown Historic District are cited in this Ordinance, they shall be noted as an "overlay" district and shown on the Official Zoning Map, referencing their name and designating their existence by map shading.

1.k.2. The "overlay" districts are intended to promote the educational, cultural, economic and general welfare of the public by providing a mechanism for the identification, recognition, preservation, maintenance, protection and enhancement of existing historic and architecturally valuable structures, properties, and neighborhoods which serve as a visible reminder of the

social, cultural, economic, political and/or architectural history of the City and County of Sumter, South Carolina.

1.k.3. Within "overlay" districts the permitted uses are determined by the "underlying" or primary zoning district. Therefore, the uses of land and the uses of buildings is not a matter to be decided by the Design Review Board.

SECTION L: SWAN LAKE OVERLAY DISTRICT

The District is shown on the map adopted by City Council and maintained in the Sumter Planning Commission GIS.

1.l.1. **PURPOSE:** To Protect Swan Lake and Gardens and its surroundings from encroachments and non-compatible uses while maintaining the character of the surrounding landscape and structures.

1.l.2. Certificate of Appropriateness. A Certificate of Appropriateness shall be issued by the Design Review Committee for all new construction, major renovation and rehabilitation of buildings, and landscape changes including removal of any trees listed in Article 8, Section D of this Ordinance. The Design Review Committee will ensure compatibility with the park/gardens/lake as its major criteria.

1.l.3. Uses. The following uses are the only uses permitted in the Swan Lake Overlay District:

1. Park and Playground;
2. City Government Offices and Uses;
3. Single-family detached homes excluding mobile/manufactured homes;
4. Residential accessory uses including home occupations.

Any other use allowed by the underlying zoning district regulations may be permitted only as a Special Exception granted by the Sumter Board of Zoning Appeals after a Public Hearing and finding that the use would be compatible with the purposes of the overlay district.

SECTION M: CERTIFICATES OF APPROPRIATENESS, CRITERIA FOR ISSUANCE

1.m.1. In considering the issue of appropriateness, the Design Review Board shall be guided by the following general guidelines, taking into account the following:

a. Where appropriate the historic character of a property shall be retained and preserved;

b. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved;

c. Where feasible, deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture, and other visual qualities and, where possible, materials.

d. For historic residential or commercial buildings, aluminum or vinyl siding may be an acceptable alternative ***only*** if:

    1. The existing siding is so deteriorated or damaged that it cannot be repaired;

    2. The substitute material can be installed without irreversibly damaging or obscuring the architectural features and trim of the building; and

    3. The substitute material can match the historic material in size, profile, and finish so that there is no change in the character of the historic building.

    4. In cases where a non-historic artificial siding has been applied to a building, the removal of such a siding, and the application of aluminum or vinyl siding would be an acceptable alternative, as long as the above mentioned first two conditions are met.

e. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

f. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

g. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

1.m.2. The design standards to be used by the Design Review Board in reviewing an application for a Certificate of Appropriateness may take into consideration the following considerations:

a. Height - the height of any alteration or construction should be compatible with the style and character of the proposed or modified structure or building and with the surrounding buildings and structures;

b. Proportions of windows and doors - the proportions and relationships between doors and windows should be compatible with the architectural style and character of the building and surrounding buildings;

c. The relationship of a building or structure to the open space between it and adjoining building or structure should be compatible;

d. Roof Shape - the design of the roof should be compatible with the architectural style and character of the landmark and surrounding structures;

e. Landscaping - landscaping should be compatible with the architectural character and appearance of the landmark and of surrounding structures and landscapes;

f. Scale - the scale of the building or structure after alteration, construction, or partial demolition should be compatible with the its architectural style and character and with surrounding buildings and structures;

g. Architectural Details - architectural details including materials, colors, and textures should be treated so as to make a building and/or structure compatible with its original architectural style and character and to preserve and enhance the architectural style of the Hampton Park Design Review District and/or the Downtown Historic District.

SECTION N: DESIGN REVIEW BOARD, RULES OF PROCEDURE

1.n.1. Officers: The officers of the City of Sumter Design Review Board shall be a chairman and vice-chairman elected for one year at the first meeting of the Design Review Board in each calendar year. The officers of the Design Review Board may serve consecutive terms. The Planning Director for the City-County Planning Commission shall serve as an ex-officio (non-voting) member of the Design Review Board. A member of the staff of the City-County Planning Commission shall serve as the secretary to the Design Review Board.

a. **Chairman:** The chairman shall be a voting member of the Design Review Board and shall:

    1. Call meetings of the Design Review Board;

    2. Preside at meetings;

    3. Act as spokesperson for the Design Review Board;

    4. Sign documents for the Design Review Board;

    5. Perform other duties approved by the Design Review Board.

b. **Vice-Chairman:** The vice-chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the Chairman. In the absence of the chairman and vice-chairman, an acting chairman shall be elected by the members present.

c. **Secretary to the Design Review Board:** The secretary shall:

    1. Provide notice of meetings;

    2. Assist the chairman in preparation of agendas;

3. Keep minutes of meetings and hearings;

4. Maintain Design Review Board records as public records;

5. Attend to Design Review Board correspondence;

6. Perform other duties normally carried out by a secretary.

1.n.2. Meetings:

a. **Time and Place:** An annual schedule of regular meetings shall be adopted, published and posted at the Opera House/City Hall in January of each year. Special meetings may be called by the chairman upon twenty-four (24) notice, posted and delivered to all members of the Design Review Board and the local media. Meetings shall be held at the place stated in the notice, and shall be open to the public.

b. **Agenda:** A written agenda shall be furnished by the secretary to each member of the Design Review Board and the news media, and shall be posted at least four (4) days prior to each regular meeting and at least twenty-four (24) hours prior to a special meeting. Items may be added to the agenda at a meeting by a majority vote.

c. **Quorum:** A majority of the members of the Design Review Board shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling a meeting.

d. **Voting:** A member must be present to vote. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member(s) affected, who shall announce the reasons for disqualification, have it placed in the minutes, and refrain from deliberation or voting on the question.

e. **Public Input:** Except for public input sought by the Design review Board, no person shall speak at a Design Review Board Meeting unless invited to do so by the Design Review Board. The chairman or the vice-chairman presiding at a Design Review Board meeting reserves the unilateral right to gauge the amount of public input desired;

f. **Minutes:** The secretary to the Design Review Board shall prepare minutes of each meeting for approval by the Design Review Board at the next regular meeting. Minutes shall be maintained as a public record;

g. **Attendance:** The minutes shall show the members in attendance at each meeting and the reason for absence submitted by any member. The Design Review Board shall recommend to the Mayor and City Council the removal for cause of any member who is absent from three (3) consecutive meeting without adequate reason.

SECTION O: DESIGN REVIEW BOARD, APPLICATION REQUIREMENTS FOR A CERTIFICATE OF APPROPRIATENESS

1.o.1. Applications for a certificate of appropriateness shall be submitted through the office of the Zoning Administrator. Prior to the placement of an item on the agenda of the Design Review Board an application for a certificate of appropriateness must be ***"complete"*** as determined by the Zoning Administrator, and must be submitted in its complete form twenty-two (22) days prior to a meeting of the Design Review Board. The Design Review Board shall act on a complete application within thirty (30) days of receipt of the complete application.

1.o.2. An application shall be determined to be complete by the timely submittal of all items listed Article One, Section L of this Ordinance, and any of the following which adds to an understanding of an application:

a. architectural plans;

b. site plans;

c. landscape plans;

d. proposed signs;

e. proposed exterior lighting arrangements;

f. elevations of all portions of structures or buildings with relationships to public views;

g. indications of construction materials proposed for buildings and/or structures;

h. photographs or perspective drawings indicating visual relationships to adjoining structures and spaces.

1.o.3. A public hearing shall be required when an application for a Certificate of Appropriateness is requested. The time and location of the Public Hearing shall be published in a newspaper of general circulation in Sumter at least fifteen (15) days prior to the public hearing. The property in question shall be posted for the same period as the newspaper notice.

1.o.4. Where a request for a demolition permit is involved in an application for a certificate of appropriateness, the Design Review Board may postpone the issuance of a demolition permit for one hundred (120) days pending a thorough review of the matter. An extension of an additional one hundred (120) days may be authorized when the Design Review Board is reasonably certain that an alternative to demolition can be achieved during the additional time period. The Design Review Board shall provide a recommendation to the Mayor and City Council when it is in the public interest to save valuable architectural, cultural, and/or archeological resources which would be damaged or lost by the demolition or partial demolition or the moving of a building or structure.

1.o.5. **General Certification of Appropriateness:** A general certification for appropriateness for specific kinds of alterations may be issued by the Zoning Administrator if he/she finds that a particular material, paint color, design, architectural feature or style is generally acceptable and appropriate within the district(s). If the Zoning Administrator finds, upon examination of the application, that all aspects which would require Board approval are met through the general certificate of appropriateness process, he/she may proceed without referral to the Board. However, the authority to issue a general certification of appropriateness regarding particular materials, paint color etc., shall first be recommended by the Design Review Board and approved by the Mayor and City Council. Only then may a general certification of appropriateness become established covering a particular material, paint color, design architectural feature, etc., which the Zoning Administrator may unilaterally decide upon. **The following General Certifications have been approved by City Council:**

1. Vinyl siding in Hampton Park Historic District – 1998

2. Vinyl replacement windows in Hampton Park Historic District – 2007

3. Paint Colors for residential structures in Hampton Park Historic District – 2010**:**

    a. Sherwin Williams –Classical / Colonial 1800's
    b. Sherwin Williams – Victorian 1900's
    c. Sherwin Williams – Suburban Modern 1950's
    d. Sherwin Williams – Arts & Crafts 1900's

(Note: Paint may be purchased from supplier of choice – the paint color is only required to match the selected palette colors.)

4. Awnings for buildings in the Central Business District that conform to the Design Review Guidelines. In cases where there are possible conflicts with a proposed awning color, placement, scale, or design that is not approvable by Staff in accordance with what is stated in the Guidelines, the review shall be forwarded to the Historic Preservation Design Review Committee, who shall make a decision on the proposal.

1.o.6. Appeals to the Design Review Board: Appeals to the Board may be taken by any person aggrieved by any alleged error in an order, requirement, determination, or decisions of the Zoning Administrator or other staff members of the Planning Department. The appeal must be taken within thirty (30) days of a staff decision and must be made on a form supplied by the Zoning Administrator. The Zoning Administrator shall transmit to the Board all the paper constituting the record upon which the action appealed from was taken. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator or the Building Official certifies to the Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certification a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed otherwise than by a restraining order which may be granted by the Board or by the Circuit Court.

1.o.7. Denial of Certificate of Appropriateness: A denial of a certificate of appropriateness shall be accompanied by a statement of the reasons for denial. An applicant may resubmit an amended application or reapply for a building or demolition permit that takes into considerations the findings of the Board.

1.o.8. Appeal from the Design Review Board:

a. A person who may have a substantial interest in any decision of the Historic Preservation Design Review Committee (HPDRC) or any officer, or agent of the appropriate governing authority may appeal from any decision of the HPDRC to the circuit court in and for the county by filing with the clerk of court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty (30) days after the affected party receives actual notice of the decision of the HPDRC.

b. A property owner whose land is the subject of a decision of the HPCRC may appeal either:

    1. as provided in subsection (a); or

    2. by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 1.o.10.

A notice of appeal and request for pre-litigation mediation must be filed within thirty (30) days after the decision of the HPDRC is postmarked.

c. Any filing of an appeal from a particular HPDRC decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(a)(a) of South Carolina Law.

1.o.9. Contempt; penalty. In case of contempt by a party, witness, or other person before the HPDRC, the HPDRC may certify the fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

1.o.10. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

a. If a property owner files a notice of appeal with the a request for pre-litigation mediation, the request for mediation must be granted and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the HPDRC.

b. The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (a) or his representative must be notified and have the opportunity to attend the mediation. The government entity must be represented by at least one person for the purpose of mediation.

c. Within five (5) working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

d. Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

    1. the local legislative governing body in public session; and

    2. the circuit court as provided in subsection (g)

e. Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

f. If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty (30) days of:

    1. the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

    2. the failure to approve the settlement by the local governing body.

g. The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

    1. in the same manner as provided by law for appeals from other judgments of the circuit court; or

    2. by filing an appeal pursuant to subsection (f).

1.o.11. Notice of appeal, transcript; supersedeas.

a. Upon filing of an appeal with a petition as provided in Section 1.o.8.a. or Section 1.o.10.f., the clerk of the circuit court must give immediate notice of the appeal to the secretary of the HPDRC and within thirty (30) days from the time of the notice, the HPDRC must file with the clerk a duly certified copy of the proceedings held before the HPDRC, including a transcript of the evidence heard before the HPDRC, if any, and the decision of the HPDRC including its findings of fact and conclusions.

b. The filing of an appeal in the circuit court from any decision of the HPDRC does not ipso facto act as a supersedeas, but the judge of the circuit court may, in his discretion, grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

1.o.12. Determination of appeal; costs; trial by jury.

a. At the next term of the circuit court or in chambers upon ten days notice to the parties, the resident residing judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the HPDRC proceedings. The finings of fact by the HPDRC are final and conclusive on the hearing of the appeal, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter must be remanded to the HPDRC for rehearing. In determining the questions presented by the appeal, the court must determine only whether the decision of the HPDRC is correct as a matter law. In the event that the decision of the HPDRC is reversed by the circuit court, the HPDRC must be charged with the costs which must be paid by the governing authority which established the HPDRC.

b. When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the non-jury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the HPDRC.

SECTION P: ADMINISTRATIVE OFFICER AND RESPONSIBILITIES

1.p.1. There shall be an administrative officer who shall have the responsibility for implementation and enforcement of all provisions of this ordinance as planning director and zoning administrator. This officer may delegate duties to subordinate officials within the department to assist in such administration and implementation and to represent the department as needed. Ultimate responsibility to City Council and County Council for such implementation, enforcement, and representation shall remain with the administrative officer.

1.p.2. The Zoning Administrator shall accept and examine all applications for construction, land use or reuse, and shall jointly issue building and zoning permits in full cooperation with the Building Official where such applications are in accord with the provisions of this Ordinance and the applicable Standard Building Code regulations. He/she shall direct parties in conflict with this Ordinance, cause to be kept records and files of any and all matters referred to him, and execute any and all reports as the City and County Councils of Sumter, South Carolina, may require.

1.p.3. If the Zoning Administrator shall find that any one of the provisions of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order the discontinuance of illegal uses of land, (and in full cooperation with the Building Official) the discontinuance of illegal buildings and structures; the removal of illegal buildings or structures; illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violations of its provisions.

SECTION Q: LAND CLEARANCE, GRADING, BUILDING, AND SIGN PERMITS REQUIRED

1.q.1. Unless elsewhere exempted by this Ordinance, no building, sign, parking lot or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Zoning Administrator. Furthermore, no large-scale (greater than two (2) acres) land clearance or grading of property shall be permitted without a tree protection and landscape plan submitted and approved by the Sumter City-County Planning Commission, which shall then direct the Zoning Administrator concerning the issuance of grading or land clearance permit. Small-scale (less than two (2) acres) land clearance and grading plans will be submitted directly to the Zoning Administrator for approval and permit. Nothing in this Section shall prohibit farming operations regulated elsewhere in this Ordinance. The permit, if issued, shall be posted on the property in full view from each street upon which the property abuts.

SECTION R: APPLICATION FOR A BUILDING PERMIT

1.r.1. All applications for building permits as required by the Sumter City and County Building Codes shall be accompanied by a site plan in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact size and location on the lot of buildings already existing, if any; and the location and dimension of the proposed buildings or alterations. The application shall include such other information as lawfully may be required by the Zoning Administrator; including existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance.

1.r.2. One copy of the plans shall be returned to the applicant by the Building Official after he shall have marked such copy either as approved or disapproved and attested to same by his/her signature on such copy. The original copy of the plan, similarly marked shall be retained by the Building Official. The City or County Engineer shall attest to the correctness and the adequacy of all infrastructure improvements shown on the site plan and/or as-built survey accompanying the site plan by affixing his signature and seal on the plans.

SECTION S: CERTIFICATES OF ZONING COMPLIANCE FOR NEW OR ALTERED USES

1.s.1 Zoning compliance is shown by the completion of the Planning Section of the Building and/or Sign Permit.

SECTION T: CONSTRUCTION AND USE TO BE AS SHOWN IN THE APPLICATIONS, SITE PLANS, BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

1.t.1. Building permits or certificate of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. No other use, arrangement or construction shall be allowed.

1.t.2. No building, other structure, or land shall be used; nor shall any building, structure or land be converted, wholly or in part, to any other use, until a Certificate of Occupancy, certifying compliance with this Ordinance, has been issued by the Zoning Administrator and the Building Official. No Certificate of Occupancy shall be issued where such use is in violation of the provisions of this Ordinance, or of any other applicable law or regulations.

SECTION U: AMENDMENT AUTHORIZATION AND PROCEDURE

1.u.1. This Zoning and Development Standards Ordinance, including the map(s), may be amended from time to time by the Sumter City or County Councils, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Sumter City-County Planning Commission for review and recommendation. The Sumter City-County Planning Commission shall have thirty (30) days from the meeting at which the amendment was presented within which to submit its report. If the Sumter City-County Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the requested amendment. Any communication (written, verbal or otherwise) purporting to be an application for a change shall be regarded as mere notice to seek relief until it is made in the form required. Upon receipt of any communication, the interested parties shall be supplied with the proper application form(s) by the Zoning Administrator.

1.u.2. **Initiation of Amendment:** Proposed changes or amendments to the Sumter City-County Zoning and Development Standards Ordinance and Map(s) may be initiated by the Sumter City Council, the Sumter County Council, the Sumter City-County Planning Commission, the Sumter City-County Zoning Board of Appeals and individual property owners.

1.u.3. Application Fee: Before any action shall be taken on an amendment request, the party or parties proposing or recommending said amendment shall deposit the required fee with the Zoning Administrator. The application fee shall not be refunded for failure of said amendment to be adopted. The fee is not required where the amendment is initiated by a public body listed in 1.t.2. above.

1.u.4. Planning Commission Report: The Sumter City-County Planning Commission shall prepare a report and make recommendations on any proposed amendment, stating its findings

and its evaluation of the request. In making its report, the Sumter City-County Planning Commission shall consider the following factors:

a. The relationship of the request to the City-County Comprehensive Plan and whether the request violates or supports the Plan;

b. Whether the use permitted by the proposed change would be appropriate in the area concerned;

c. Whether adequate public school facilities, roads, and other public services exist or can be provided to serve the needs of the development likely to take place as a result of such change and the consequence of such change;

d. Whether the proposed change is in accord with any existing or proposed plans for providing public water supply and sanitary sewer to the area. In the absence of such infrastructure capabilities, the proposed change must demonstrate that a safe and sanitary living environment exists through the provision of facilities sanctioned by the South Carolina Department of Health and Environmental Control (DHEC);

e. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City or County of Sumter, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

1.u.5. Declaration of Policy: As a matter of policy, no request to change the text of the Zoning Ordinance or the Zoning Map shall be acted upon favorably except:

a. Where necessary to implement the Comprehensive Plan; or,

b. To correct an original mistake or manifest error in the regulations or map; or,

c. To recognize substantial change or changing conditions or circumstances in a particular locality; or

d. To recognize change in technology, the style of living, or manner of doing business.

1.u.6. Public Hearing and Notice Thereof: Before enacting an amendment in this Ordinance, the City or County Council shall hold a public hearing thereon. At least fifteen (15) days notice of the time and place of the hearing shall be published in a newspaper of general circulation in Sumter County. When a proposed amendment affects the district classification of property, notice shall be made by posting the subject property, with at least one notice being visible from each road that abuts the property. Posting of said property shall occur at such time as the notice is given, and shall be at least fifteen (15) days prior to the hearing. All adjoining property owners directly abutting a parcel scheduled for rezoning (and those property owners within a circumference of five hundred (500) feet shall be contacted in writing at least (15) days prior to the public hearing.

a. When it is deemed beneficial by the Planning Commission to hold a public hearing, no public hearing by the City or County Council is required before amending the Zoning Ordinance text or maps. However, the City and/or County Council may hold a public hearing to obtain additional public input on its own initiative;

b. No challenge to the adequacy of notice or challenge to the validity of a regulation or map, or amendment to it, whether enacted before or after the effective date of this section, may be made sixty (60) days after the decision of the City or County Council, if there has been substantial compliance with the notice requirements of this section, and with established procedures of the Sumter City or County Council and the Sumter City-County Planning Commission.

1.u.7. Action by the Sumter City and County Councils: The Sumter City and County Councils shall consider the recommendations of the City-County Planning Commission on each proposed zoning amendment. However, the Sumter City and County Councils are not bound by the recommendation in making a final decision, and may call for additional information.

1.u.8. Resubmission of denied Application: In no instance shall a property owner(s) initiate action for a zoning amendment affecting the same parcel or lot, or any part thereof, for a period of twelve (12) months following denial of such request by the Sumter City or County Councils. The Sumter City-County Planning Commission, the Sumter City-County Zoning Board of Appeals, or the Sumter City and County Councils may initiate a change in the Ordinance any time without regard to the twelve (12) month limitation.