

ORDINANCE NO. 23-07-40

AN ORDINANCE TO AMEND ORDINANCE 22-08-63 TO IMPLEMENT A LARGE-SCALE DEVELOPMENT MORATORIUM, SUBJECT TO CONDITIONS, ON REQUESTS FOR REZONING AND DEVELOPMENT AGREEMENTS AND PLANNED DEVELOPMENTS ENCOMPASSING MORE THAN 75 ACRES INCLUDING COMBINED ACRES OF THE PROJECT AREA OR THOSE SEEKING TO ESTABLISH WITH MORE THAN 75 RESIDENTIAL DWELLING UNITS, AND OTHER MATTERS RELATED THERETO.

WHEREAS, Berkeley County is one of the fastest growing counties in the United States having grown 29.25% in population during the last 10 year census calculation and 51.3% in employment in the last decade; and

WHEREAS, neighboring counties of Charleston and Dorchester also experience rapid employment growth but at rates greatly below that of Berkeley County at 18.30% and 16.57% respectively; and

WHEREAS, rapid employment and residential growth are of benefit to the local economy and quality of life in Berkeley County but also have significant impacts on infrastructure and the provision of critical County services; and


WHEREAS, County Council adopted Ordinance 22-08-63, creating a *LargeScale Development Moratorium*, on August 22, 2022 and desires to expand its applicability to establish procedural uniformity and improve its efficacy; and

WHEREAS, Berkeley County Council implemented various metrics over the past four years to appropriately assess economic growth opportunities but has yet to similarly address residential growth and now endeavors to do so; and

WHEREAS, a moratorium is, as defined by the American Planning Association, a temporary halting or severe restriction on specified development activities, Berkeley County Council hereby establishes such on all rezoning requests seeking to support new or expanded *Large-Scale Developments* within unincorporated areas of the County; and

WHEREAS, *Large-Scale Developments* are, for this purpose, defined as any development, Development Agreements, Planned Developments (PDs) or amendments thereto involving 75 or more acres of land or combined acres of the project area or those contemplating more than 75 residential dwelling units; and

Certified True and Correct Copy of Original Record


Clerk to Council
County Council Berkeley County SC

WHEREAS, this process is not applicable to requests for rezoning to a zoning district that is less intensive than the existing zoning district, which is otherwise referred to as a “down-zoning”; and

WHEREAS, for the purpose of this ordinance Project Area shall be defined as the total acreage or assembly of acreage for proposed development; and

WHEREAS, this moratorium is intended to address public concerns around large-scale developments’ impacts on infrastructure and critical County services, including but not limited to: Police, Fire and Emergency Medical Services, schools, water and sewer, and especially roads and traffic; and

WHEREAS, Berkeley County Council recognizes that strategic employment growth is important to the local economy and keeping taxes low while increasing services for residents, and that employment growth must be proportionally supported by residential growth; and

WHEREAS, Berkeley County Council seeks to be intentional with large-scale residential growth to ensure it is comprehensively addressing its impacts; and

WHEREAS, County Council, when authorizing a “*Request to Lift the LargeScale Development Moratorium*”, will determine a suitable zoning designation for the applicant to pursue through the typical rezoning process; and

WHEREAS, to do so, Berkeley County Council seeks to prohibit any staff consideration of or the expenditure of resources on the planning and permitting of any large-scale development as defined herein, or amendment to the same without a Council vote; and

WHEREAS, applicants must work with staff to ensure impacted properties are posted with conspicuous notice and participate in a public meeting after not less than fifteen (15) days’ notice of the time and place of the meeting has been given in advance of any request to lift the moratorium; and

WHEREAS, Council's determination to lift the moratorium will be based upon the development's private resources to address its impacts on the following:

1. Roads, intersections, and traffic
2. Public Safety including police, fire, and EMS
3. Schools
4. Water and sewer infrastructure
5. Impacts to surrounding communities including but not limited to buffers and setbacks

6. Input from surrounding communities including but not limited to a minimum of two (2) publicly noticed community meetings with record of attendance and provision of information intended to ensure a general awareness of proposed development
7. Consideration of future easements for road and utility expansion and right of way
8. Connectivity to surrounding communities
9. Preservation of green space
10. Traffic calming devices for roads in proposed development
11. Impact on local business
12. Other government provided services

NOW, THEREFORE, BE IT ENACTED by the Berkeley County Council, in meetings duly assembled, after three readings and a public hearing, the following ordinance:

I. PROHIBITED ACTS. Unless approved by Berkeley County Council, staff is prohibited from considering or expending resources on, any application or request for (a) a development agreement; (b) a zoning amendment for a planned development district, as defined in S.C. Code Ann. Sec. 6-29-720, that includes residential uses, or (c) a zoning amendment that would increase the total allowable residential density on the property where the project is located. This moratorium shall apply only to projects consisting of more than 75 acres of land or combined acres of the project area or (ii) more than 75 residential dwelling units.

II. CONFLICTS. Any previously enacted ordinance that is in conflict with the provisions of this ordinance is hereby repealed from and after the effective date of this ordinance.

III. COMMENCEMENT. Should Berkeley County Council authorize an applicant to proceed, the applicant shall coordinate with County staff to develop and prepare for formal consideration the text and any accompanying exhibits necessary for the proposed rezoning, Planned Development, and/or Development Agreement as pursuant to the processes, deadlines and requirements set forth in the Berkeley County Code of Ordinances and relevant County Department(s).

IV. REVISIONS/MODIFICATIONS TO INTENT. Should the proposed rezoning or Planned Development and/or Development Agreement contemplate substantial deviations in intent, including but not limited to increases in development intensity, from that which was considered by County Council when the initial authorization to proceed was granted, the moratorium shall be reinstated and the applicant shall reapply to lift the moratorium as pursuant to the requirements and processes stated herein.

V. FEES. Any applicant requesting the moratorium be lifted is subject to a one hundred fifty dollar (\$150) fee to be paid in full at the time of application.


VI. SEVERABILITY. If, for any reason, any part of this ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this ordinance shall remain in effect.

VII. TERM. This moratorium shall begin immediately upon passage at third reading.

ORDAINED this 24th day of July, 2023.


BERKELEY COUNTY, SOUTH CAROLINA

[SEAL]




John P. Cribb, County Supervisor
Chairman, Berkeley County Council

ATTEST:



Amanda D. Turner
Clerk to County Council

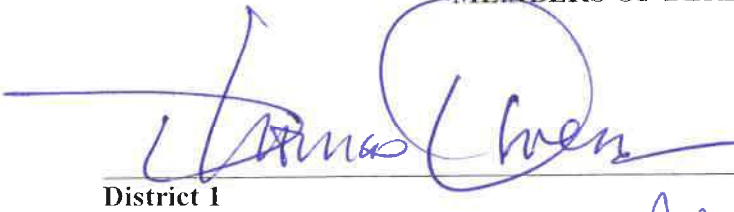
Approved as to form:



John O. Williams, II
County Attorney

First Reading: April 24, 2023
Second Reading: June 26, 2023
Public Hearing: July 24, 2023
Third Reading: July 24, 2023

MEMBERS OF BERKELEY COUNTY COUNCIL



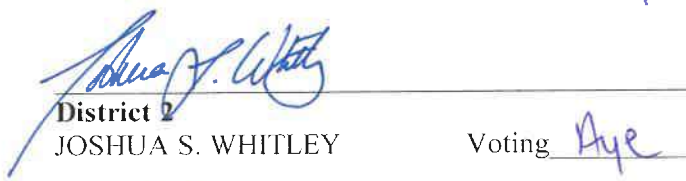
District 1
THOMAS D. OWENS

Voting Aye



District 5
AMY STERN

Voting Aye



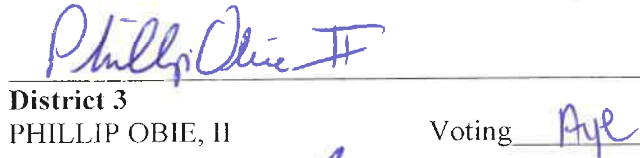
District 2
JOSHUA S. WHITLEY

Voting Aye



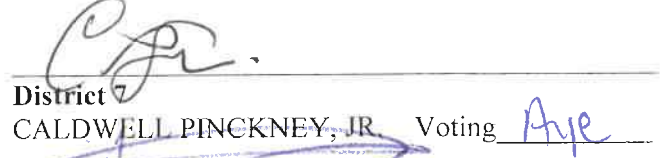
District 6
MARSHALL WEST

Voting Aye



District 3
PHILLIP OBIE, II

Voting Aye



District 7
CALDWELL PINCKNEY, JR.

Voting Aye



District 4
JOE T. NEWELL

Voting No



District 8
STEVE C. DAVIS

Voting Aye