



**Planning Staff Report to  
Greenville Planning Commission  
June 1, 2021**  
*for the June 9, 2021 Public Hearing*

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**Docket Number:** Z-14-2021  
**Applicant:** City of Greenville  
**Proposal:** **TEXT AMENDMENT to MODIFY** Article 19-2.3.14 of the Land Management Ordinance  
**Staff Recommendation:** **Recommend Approval with Staff Comments to City Council**  
**Applicable Sections of the City of Greenville Code of Ordinances:**  
Sec. 19-2.3.14 *Certificate of conformity.*

**UPDATE:**

At the May 20, 2021 Planning Commission Regular Meeting, the Commission moved to postpone text amendments Z-12-2021; Z-13-2021; Z-14-2021; Z-15-2021; Z-16-2021; Z-17-2021; Z-18-2021; and Z-19-2021 to a Special Called Meeting scheduled for June 9, 2021.

Prior to the June 9<sup>th</sup> meeting, Planning Commission held a third public workshop on May 24, 2021 to review and discuss the above-mentioned text amendments. At this workshop, staff re-presented the items highlighting modifications to the proposed text amendments. Staff did not receive any further comments or recommendations for change from the Commission after the conclusion of the workshop.

Modifications to this text amendment include:

- Changed 'General Contractor' to 'Owner'
- Added definition of "substantial compliance" within Sec. 19-1.11 *Definitions.*

**Background**

Planning and Development staff submits this text amendment to amend existing provisions in the Land Management Ordinance for Section 19-2.3.14 *Certificate of compliance.* The language will require a notarized affidavit at time of final inspection as a means to certify that the exterior of the structures and site work complies with the Design Review Board/Board of Zoning Appeals/Planning Commission approved plans.

The proposal addresses a demonstrated community need by attempting to reduce the number of projects constructed out of scope to the approved plans. The city continues to see considerable growth in both residential and commercial development and redevelopment and believes this proposal will promote greater land use compatibility when these uses abut each other.

Proposed amendment applies to the Land Management Ordinance only, and is not applicable to other established regulations, such as Planned Developments and Unity Park Neighborhood District Character Code.

**Staff Analysis:**

The proposal is consistent with the purpose and intent of the Ordinance which is to guide development in accordance with the existing and future needs of the city and to promote the public health, safety, morals,

convenience, order, appearance, prosperity, and general welfare of the property owners and residents of the city, and other members of the public.

Specifically, the proposal is particularly consistent with Land Management Ordinance "Purpose and Intent" Section 19-1.3.4, "Promote diverse quality housing, protect neighborhoods" and Section 19-1.3.10, "Create harmonious community", as the amendment promotes consistency between the built environment and the Land Management Ordinance.

The GVL2040 Comprehensive Plan describes "quality of life" as the key to community and economic vitality and that efforts to positively impact this precondition are the plan's highest priority. The adoption of this proposed amendment would enhance the quality of life of city residents living near non-residential uses by requiring projects to certify compliance to their approved exterior and site plans.

Application # <u>Z-14-2021</u>	Fees Paid _____
Date Received: _____	Accepted by _____
Date deemed complete _____	App Deny Conditions _____



**APPLICATION FOR ORDINANCE TEXT  
AMENDMENT  
CITY OF GREENVILLE, SOUTH CAROLINA**

**APPLICANT INFORMATION**

<u>City of Greenville</u>	<u>(864) 467-4510</u>
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ADDRESS	EMAIL
<u>Greenville, SC 29601</u>	<u><i>John Wolfe</i></u>
	SIGNED (City Manager)
<u>(864) 467-4476</u>	<u><i>5/5/2021</i></u>
PHONE	DATE

**REQUEST**

PERTINENT CODE SECTION(S):

Amendment to Article(s) 19-2.3.14 of the Land Management Ordinance

NARRATIVE DESCRIPTION/PROPOSED REVISION(S):

This text amendment will amend existing provisions in the Land Management Ordinance for Section 19-2.3.14 Certificate of substantial compliance. The language will require a notarized affidavit by the general contractor or the person signing the affidavit on his/her behalf certifying that the exterior of the structures and site work substantially complies with the approved plans.

**INSTRUCTIONS**

1. THE APPLICATION AND FEE, MADE PAYABLE TO THE CITY OF GREENVILLE, MUST BE RECEIVED BY THE PLANNING AND DEVELOPMENT OFFICE NO LATER THAN 5:00 PM OF THE DATE REFLECTED ON THE ATTACHED SCHEDULE.
2. THE APPLICANT MUST RESPOND TO THE "STANDARDS" QUESTIONS ON PAGE 2 OF THIS APPLICATION (YOU MUST ANSWER "WHY" YOU BELIEVE THE APPLICATION MEETS THE TESTS FOR GRANTING A TEXT AMENDMENT). SEE ALSO SECTION 19-2.3.2, AMENDMENTS TO TEXT AND ZONING DISTRICT MAP, FOR ADDITIONAL INFORMATION. YOU MAY ATTACH A SEPARATE SHEET ADDRESSING THESE QUESTIONS.
3. YOU MUST ATTACH THE REQUIRED APPLICATION FEE: \$ 100.00.
4. THE ADMINISTRATOR WILL REVIEW THE APPLICATION FOR "SUFFICIENCY" PURSUANT TO SECTION 19-2.2.6, DETERMINATION OF SUFFICIENCY, PRIOR TO PLACING THE APPLICATION ON THE PLANNING COMMISSION AGENDA. IF THE APPLICATION IS DETERMINED TO BE "INSUFFICIENT", THE ADMINISTRATOR WILL CONTACT THE APPLICANT TO REQUEST THAT THE APPLICANT RESOLVE THE DEFICIENCIES. YOU ARE ENCOURAGED TO SCHEDULE AN APPLICATION CONFERENCE WITH A PLANNER, WHO WILL REVIEW YOUR APPLICATION FOR "SUFFICIENCY" AT THE TIME IT IS SUBMITTED. CALL (864) 467-4476 TO SCHEDULE AN APPOINTMENT.

**APPLICANT RESPONSE TO SECTION 19-2.3.2(E)(1), AMENDMENTS TO TEXT  
(YOU MAY ATTACH A SEPARATE SHEET)**

1. DESCRIBE THE WAYS IN WHICH THE PROPOSED AMENDMENT IS CONSISTENT WITH THE COMPREHENSIVE PLAN.

The GVL2040 Comprehensive Plan describes "quality of life" as the key to community and economic vitality and that efforts to positively impact this precondition are the plan's highest priority. The adoption of this proposed amendment would enhance the quality of life of city residents living near non-residential uses by requiring projects to certify substantial compliance to their approved exterior and site plans.

2. DESCRIBE THE WAYS IN WHICH THE PROPOSAL IS CONSISTENT WITH THE PROVISIONS OF THE ORDINANCE AND RELATED CITY REGULATIONS.

The amendment proposes modification to existing provisions and proposes new text related to a certificate of compliance. These changes continue to maintain the premises of the overall Land Management Ordinance purpose by ensuring neighborhood protection and creating a more harmonious community.

3. DESCRIBE THE CONDITIONS THAT HAVE CHANGED FROM THE CONDITIONS PREVAILING AT THE TIME THAT THE ORIGINAL TEXT WAS ADOPTED.

Greenville has experienced considerable growth in both commercial and residential development throughout the city over the past decade. When new development occurs near differing land uses, land use compatibility issues follow. Projects being built with a design that is not compliant to the approved plans has been a prevalent issue raised by city residents. This proposal seeks to alleviate that concern.

4. DESCRIBE THE WAYS IN WHICH THE PROPOSAL ADDRESSES A DEMONSTRATED COMMUNITY NEED.

The proposal addresses a demonstrated community need by attempting to reduce the number of projects built out of scope of their approved plans. The city continues to see considerable growth in both residential and commercial development and redevelopment and believes this proposal will promote greater land use compatibility when these uses abut each other.

5. DESCRIBE THE WAYS IN WHICH THE PROPOSAL IS CONSISTENT WITH THE PURPOSE AND INTENT OF THE ZONING DISTRICTS IN THE ORDINANCE, WILL PROMOTE COMPATIBILITY AMONG USES, AND WILL PROMOTE EFFICIENT AND RESPONSIBLE DEVELOPMENT WITHIN THE CITY.

The proposal is consistent with the purpose and intent of the Ordinance which is to guide development in accordance with the existing and future needs of the city and to promote the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare of the property owners and residents of the city, and other members of the public. The proposal is particularly consistent with Land Management Ordinance "Purpose and Intent" Section 19-1.3.4, "Promote diverse quality housing, protect neighborhoods" and Section 19-1.3.10, "Create harmonious community", as the amendment promotes consistency between the built environment and the Land Management Ordinance

6. DESCRIBE THE WAYS IN WHICH THE PROPOSAL PROMOTES A LOGICAL AND ORDERLY DEVELOPMENT PATTERN.

The proposal will ensure a logical and orderly development pattern of the city by ensuring the Land Management Ordinance's higher design standards are upheld through from the approval process to the construction process.

7. DESCRIBE THE WAYS IN WHICH THE PROPOSED AMENDMENT WILL RESULT IN BENEFICIAL IMPACTS ON THE NATURAL ENVIRONMENT AND ITS ECOLOGY, INCLUDING BUT NOT LIMITED TO: WATER; AIR; NOISE; STORMWATER MANAGEMENT; WILDLIFE; VEGETATION; AND, WETLANDS.

The proposed amendment will help to ensure that regulations utilized through the plan approval stage are upheld during construction. This will help ensure regulations that help the natural environment, such as stormwater, reduction of impervious surfaces, and landscaping requirements, are maintained during the construction process.

8. DESCRIBE THE WAYS IN WHICH THE PROPOSED AMENDMENT WILL RESULT IN DEVELOPMENT THAT IS ADEQUATELY SERVED BY PUBLIC FACILITIES AND SERVICES (ROADS, POTABLE WATER, SEWERAGE, SCHOOLS, PARKS, POLICE, FIRE, AND EMERGENCY FACILITIES).

The proposed amendment is not anticipated to negatively affect the adequate provision of public facilities and services and should maintain the current high level of services within the City of Greenville.

### Sec. 19-1.11. Definitions

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

*Substantial change* means a modification substantially changes the physical dimension of an eligible support structure if it meets any one or more of the following criteria:

[...]

**Substantial compliance, for purposes of subsection 19-2.3.14, means actual compliance with respect to the substance essential to every reasonable objective of the applicable approval or certificate of appropriateness as distinguished from simple technical imperfections of form.**

*Substantial damage* means damage of any origin including fire, flood, lateral earth movement, war, or wind sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of its before-damaged market value. For purposes of this chapter, any structure flooded four or more feet above its lowest finished floor shall be considered "substantially damaged."

[...]

### 19-2.3.14 Certificate of conformity

- (A) *Applicability.* The requirement of this section shall apply to any development in the city for which a permit has been issued pursuant to this chapter.
- (B) *Certificate of conformity required.* A certificate of conformity, indicating compliance with the requirements of approved permits and this chapter, shall be approved pursuant to this section prior to issuance of a certificate of occupancy.
- (C) *Procedure.*
  - (1) *Initial submission of application.* The procedures and requirements for submission and review of applications are established in section 19-2.2, common procedures.
  - (2) **Affidavit of substantial compliance.**
    - a. **Design Review Board. Any project required to obtain a certificate of appropriateness from the Design Review Board must submit an affidavit of compliance, certifying under penalty of perjury that the exterior of the structure(s) and all site work were constructed in substantial compliance with the official certificate of appropriateness for the project issued under the provisions of section 19-2.2, common procedures. For purposes of this sub-section, the affidavit must be submitted by the owner or the person signing the affidavit on his/her behalf.**
    - b. **Planning Commission. Any project required to obtain approval from the Planning Commission must submit an affidavit of compliance to the administrator certifying under penalty of perjury that the project was constructed in substantial compliance with the official approval conditions for the project issued under the provisions of section 19-2.2, common procedures. For purposes of this sub-section, the affidavit must be submitted by the owner or the person signing the affidavit on his/her behalf.**

- c. **Board of Zoning Appeals. Any project required to obtain approval from the Board of Zoning Appeals must submit an affidavit of compliance to the administrator certifying under penalty of perjury that the project was constructed in substantial compliance with the official approval conditions for the project issued under the provisions of section 19-2.2, common procedures. For purposes of this sub-section, the affidavit must be submitted by the owner or the person signing the affidavit on his/her behalf.**
- (3) *Action by administrator.* After the application is determined sufficient, the administrator shall review the application, **the affidavit(s) of substantial compliance**, and conduct a final inspection of the development for the purpose of verifying conformity with all applicable provisions of this chapter and all relevant terms and conditions of permits and approvals for the development. The administrator may require the preparation and submission of as-built drawings by the designer to verify compliance with the requirements of all permits and the requirements of this chapter. Upon a determination of conformity, the administrator shall approve a certificate of conformity and forward it to the applicant.
- (D) *Temporary certificate of conformity.*
- (1) *General.* At the discretion of the administrator, in cases when, because of weather conditions or other factors beyond the control of the applicant (exclusive of financial hardship), it would be unreasonable to require the applicant to comply with all the requirements of this chapter prior to the use of occupancy of a development, a temporary certificate of conformity may be issued for a period of time not to exceed six months.
- (2) *Standards.* The temporary certificate of conformity may be issued only upon a finding by the administrator that the materials submitted in the application demonstrates:
- (a) *Substantially complete.* The development is substantially complete and the site is in a safe, accessible, and useable condition.
- (b) *Sureties and guarantees.* Development sureties and guarantees have been provided to the city.
- (E) *Conditions.* In approving a certificate of conformity or a temporary certificate of conformity, the administrator may impose conditions on the permit approval pursuant to subsection 19-2.2.13, conditions of approval.
- (F) *Expiration.* A temporary certificate of conformity shall be effective beginning on the date specified in the permit approval and shall remain effective for the period indicated on the permit.
- (G) *Amendment.* A certificate of conformity or temporary certificate of conformity may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

**Summary of Text Amendment:**

Existing Text

**New Text**

**ADDED PROPOSED REVISIONS:**

- Changed 'General Contractor' to 'Owner'
- Added definition of "substantial compliance" within Sec. 19-1.11 *Definitions*.