



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

TO: Honorable Mayor and Members of City Council
FROM: John F. McDonough, City Manager

Agenda Item No.

15g

Ordinance/First Reading Ordinance/Second & Final Reading Resolution/First & Final Reading Information Only

AGENDA DATE REQUESTED: June 14, 2021

ORDINANCE/RESOLUTION CAPTION:

ORDINANCE TO AMEND SECTIONS 19-1.11, DEFINITIONS AND 19-2.3.14, CERTIFICATE OF CONFORMITY, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE TO MODIFY CERTIFICATE OF COMPLIANCE STANDARDS FOR NONRESIDENTIAL USES AND MULTIFAMILY USES ADJACENT TO DETACHED SINGLE-FAMILY RESIDENTIAL USES (Z-14-2021)

SUMMARY BACKGROUND:

Staff submits these text amendments to amend Sections 19-1.11, Definitions, and 19-2.3.14, Certificate of conformity. 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.

These amendments are intended to enhance the quality of life of City residents living near nonresidential uses by requiring projects to certify compliance to their approved exterior and site plans.

The City Planning Commission, pursuant to public notice, held a public hearing on June 9, 2021, to consider the proposed text amendments. The application was recommended for approval with conditions for modifications by a vote of 5-1.

Planning Staff Recommendation: Approve

Planning Commission Recommendation: Approval by a vote of 5-1

IMPACT IF DENIED:

The text amendments will not be approved, and the certificate of conformity standards will remain regulated by the existing standards of the Land Management Ordinance.

FINANCIAL IMPACT:

None

REQUIRED SIGNATURES

DocuSigned by:
Department Director Jonathan B. Graham
219319F5AC3C445...

OMB Director _____

DocuSigned by:
City Attorney Michael Pitts
5E0F2A267E2D413...

DocuSigned by:
City Manager John McDonough
FDC2AC15040F440...

A N O R D I N A N C E

TO AMEND SECTIONS 19-1.11, DEFINITIONS AND 19-2.3.14, CERTIFICATE OF CONFORMITY, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE TO MODIFY CERTIFICATE OF COMPLIANCE STANDARDS FOR NONRESIDENTIAL USES AND MULTIFAMILY USES ADJACENT TO DETACHED SINGLE FAMILY RESIDENTIAL USES (Z-14-2021)

WHEREAS, Chapter 19 of the Code of Ordinances of the City of Greenville, commonly referred to as the Land Management Ordinance (the “LMO”), contains regulations for the establishment of commercial uses, service and industrial uses, and multiple-family dwelling uses; and

WHEREAS, the city of Greenville (the “City”) provides municipal planning and land use services including, but not limited to, land development regulation, zoning, land use planning, permitting, and licensing of businesses and properties, which are vital to the public health, safety, welfare, and quality of life in the City; and

WHEREAS, the City recently adopted its decennial comprehensive plan, entitled GVL2040 (the “GVL2040”); and

WHEREAS, GVL2040 envisions Greenville’s future growth will be directed into higher density nodes or centers located throughout the City and connected by major corridors; and

WHEREAS, City Council desires to protect the character of existing single-family neighborhoods and quality of life for neighborhood residents; and

WHEREAS, GVL2040 recognizes the LMO required substantial revision in response to the rapid growth the City has experienced since the LMO was last revised almost 14 years ago; and

WHEREAS, GVL2040 calls for an immediate update to the City’s land management regulations and states this as the most critical step to take on the path toward implementation of the node and corridor growth framework; and

WHEREAS, the City has been faced with pressures created by multifamily and commercial development along the City’s major corridors that abut neighborhoods, as well as development of properties within existing neighborhoods; and

WHEREAS, the current LMO does not adequately protect neighborhoods from the impacts associated with concentrated development, including issues related to construction impact, noise, lighting, traffic, design, neighborhood character, height, massing, and form; and

WHEREAS, the City desires to modify Sections 19-1.11, Definitions, and 19-2.3.14, Certificate of conformity, of the Code of Ordinances of the City of Greenville (the “City Code”), as shown in the attached Exhibit A; and

WHEREAS, the City Planning Commission, pursuant to public notice, held a public hearing on June 9, 2021, to consider the proposed text amendments, and

WHEREAS, the Planning Commission voted 5-1 to recommend approval of the proposed text amendments as proposed with staff comments and added a condition to clarify certification under penalty of perjury, to the best of the affiant's knowledge and the affidavit must be executed and submitted by the owner or his/her authorized agent signing the affidavit on his/her behalf; and

WHEREAS, City Council finds the text amendments to be compatible with the City's Comprehensive Development Plan;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, Sections 19-1.11, Definitions, and 19-2.3.14, Certificate of conformity, of the City Code are hereby amended as set forth in Exhibit A, which is attached hereto and incorporated herein by reference. This Ordinance shall be effective upon second and final reading.

DONE, RATIFIED AND PASSED THIS THE _____ DAY OF _____, 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER

EXHIBIT A

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, to the best of the affiant's knowledge, 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 executed and submitted by the owner or his/her authorized agent.
 - 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, to the best of the affiant's knowledge, 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 executed and submitted by the owner or his/her authorized agent.
 - 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, to the best of the affiant's knowledge, 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 subsection, the affidavit must be executed and submitted by the owner or his/her authorized agent.

- (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.