

AN EMERGENCY ORDINANCE

TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY ADDING A NEW PART 4 – TEMPORARY PROCEDURES FOR PUBLIC HEARINGS TO ARTICLE 1 – GENERAL PROVISIONS TO IMPLEMENT SECTION 5 OF EXECUTIVE ORDER NO. 2020-10, AS EXTENDED BY EXECUTIVE ORDER 2020-15, BY PERMITTING PUBLIC HEARINGS ON DEVELOPMENT APPROVALS BEFORE CERTAIN PUBLIC BODIES OF THE CITY TO BE HELD VIRTUALLY OR BY REMOTE OR OTHER ALTERNATIVE MEANS, BETWEEN APRIL 6, 2020 AND JUNE 5, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That Article 1 (General Provisions) of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is amended to include a new Part 4 (Temporary Procedures for Public Hearings), as follows:

**PART 4 – TEMPORARY PROCEDURES FOR PUBLIC HEARINGS**

**Sec. 54-130 – Findings.**

City Council finds as follows:

WHEREAS, to meet public emergencies affecting life, health, safety or the property of the people, City Council may adopt emergency ordinances by the affirmative vote of at least two-thirds of the members of City Council;

WHEREAS, an emergency ordinance is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements, or public notice requirements;

WHEREAS, emergency ordinances shall expire automatically as of the sixty-first day following the date of enactment;

WHEREAS, on March 13, 2020, the Governor issued Executive Order 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an actual or imminent public health emergency for the State of South Carolina;

WHEREAS, the COVID-19 pandemic has created a state of emergency in the City of Charleston, the State of South Carolina, the nation, and the world, which has drastically impacted the life, health, safety, and property of the people;

WHEREAS, while the impact to the life, health, and safety of the people is of paramount concern, City Council finds it necessary to blunt, as much as reasonably feasible, the economic impact to the property of the people;

WHEREAS, on March 17, 2020, the Governor of South Carolina issued Executive Order No. 2020-10 (“EO-10”), which, among other things, prohibits and directs the postponement, rescheduling or cancellation of any organized event or public gathering scheduled to be hosted or held at any location or facility owned and operated by the City, if any such event or gathering could or would involve or require simultaneously convening fifty (50) or more persons in a single room, area, or other confined or indoor space;

WHEREAS, EO-10 also provides that the prohibition does not apply to meetings of local government bodies or gatherings of government officials or employees or other personnel that may be required in connection with the performance of essential government functions, but that, to the greatest extent possible, local government bodies should utilize any available technology or other reasonable procedures to conduct meetings and accommodate public participation via virtual or other remote or alternate means;

WHEREAS, on March 28, 2020, the Governor issued Executive Order 2020-15, declaring an additional State of Emergency based on the increased threat of COVID-19 to the public health, safety, and welfare, and extending the efficacy of his previous Orders, including EO-10;

WHEREAS, due to the state of emergency caused by the COVID-19 pandemic, City Council finds that the City has a compelling interest in ensuring the continued predictability and stability of the local economy by continuing to process applications for development approvals in as orderly a manner as practical, while balancing such interest against the importance of ensuring that the general public and interested parties have a full and fair opportunity to voice their support or opposition to applications for development permits;

WHEREAS, the COVID-19 pandemic has had and will continue to have a substantial financial and economic impact on City residents, property owners, business owners, and others, such that the City’s various boards and commissions charged with considering development applications, including but not limited to City Council, the Planning Commission, the Board of Zoning Appeals-Zoning, the Board of Zoning Appeals-Site Design, the Design Review Board, the Board of Architectural Review-Large, and the Board of Architectural Review-Small, provide essential government functions, as described in EO-10; and

WHEREAS, the economic consequences arising from the suspension of the consideration of applications for such development approvals for an indefinite period of time will substantially and adversely impact the development community, persons employed by the development community, and, by extension, the local economy.

**Sec. 54-131 – Definitions.**

Words and terms used in this Part shall be defined as follows:

1. “Development Approval” means an approval issued by the City of Charleston or any of its Boards, regardless of the form of the approval, that is for the development of land, including but not limited to an approval of concept plans, development plans, land development plans, final plats, special exceptions, variances, demolition permits, or a site specific development plan.

2. “Boards” refers to all City boards, commissions, committees, or other City bodies, however named, charged with hearing applications for Development Approvals, including but not limited to City Council, the Planning Commission, the Board of Zoning Appeals-Zoning, the Board of Zoning Appeals-Site Design, the Board of Architectural Review-Large, the Board of Architectural Review-Small, and the Design Review Board.
3. “Board Member” or “Board Members” means all persons serving on Boards.
4. “Virtual Attendance” means attendance by electronic means (e.g., conference call, GoToMeeting, or Skype); provided, however, all Board Members must be able to hear and be heard by all other Board Members, the member of City staff keeping minutes, the applicant, all interested parties, and members of the general public seeking to attend virtually throughout the hearing, subject to Sec. 54-133.

### **Sec. 54-132 - Procedures**

Notwithstanding any other provisions of this Chapter to the contrary, and subject to Sec. 54-134, the following procedures shall apply to meetings and public hearings before Boards for the period running between April 6, 2020 and June 5, 2020:

- A. Virtual Attendance (Board Members). For purposes of calculating a quorum, voting, and in all other respects, only Virtual Attendance is permitted as to all Board Members.
- B. Virtual Attendance (City Staff): For purposes of taking minutes and complying with other procedural requirements, only Virtual Attendance is permitted as to all members of City staff.
- C. Virtual Attendance (Others): For purposes of public participation and the submission of evidence or testimony during a public hearing, only Virtual Attendance is permitted as to the applicant, other interested parties, and members of the general public.
- D. Notice. Any required notice of a public hearing shall be provided in the same manner and according to the same time periods currently set forth in this Chapter; provided, however, the date, time, and the appropriate information for permitting Virtual Attendance shall be provided in any such notice. Notwithstanding the foregoing, the appropriate information for permitting Virtual Attendance may be changed or updated at any time by posting such updated information to the City’s website; provided, however, such information shall not be changed within twenty-four (24) hours of the date and time of the public hearing. Nothing in this Sec. 54-132 shall permit new agenda items or supplements to such agenda items on the agenda, except in conformity with the other notice and timing requirements set forth in this Chapter. Only information for Virtual Attendance may be updated under this Sec. 54-132.D.
- E. Testimony. Any testimony offered by City staff, the applicant, other interested parties, and members of the general public shall be taken only after the person testifying identifies him or herself by name and address and after the person is individually sworn in by the Board chairperson by oath or affirmation in accordance with the general rules applicable to taking such testimony

under oath or affirmation. Such oath or affirmation shall not apply when neither state law nor this Chapter require testimony under oath or affirmation (e.g., when persons provide comments on zoning text or zoning map amendments before City Council). Testimony may be taken by virtual means, provided all the requirements for Virtual Attendance are met. Interested parties and members of the general public may also submit sworn affidavits, addressing the application, which must be received by email or United States mail at least five (5) days prior to the public hearing to be considered. Otherwise, all testimony must be taken at the public hearing.

F. Exhibits. Any and all exhibits should be submitted to City staff by electronic means as early as possible before the hearing so as to be included on the City’s website for review by Board Members, City staff, the applicant, other interested parties, and members of the general public. Any exhibits to be submitted at the public hearing must be provided electronically to a designated member of City staff and be available for viewing by all Board Members and other persons attending by Virtual Attendance simultaneously with the electronic submission of such exhibits. Nothing in this Sec. 54-132.F shall supersede or amend the submission deadlines for applicants otherwise in effect under this Chapter.

G. Other Procedures. Unless expressly amended or supplemented herein, all other procedures set forth in this Chapter for notice, meetings, public hearings, or otherwise on development approvals shall continue to apply.

**Sec. 54-133 – Disruption.**

To the extent reasonably necessary to avoid disruption of any public hearing, the chairperson of a Board may order that all persons attending by Virtual Attendance, except Board Members and members of City staff, be placed on mute; provided, however, the City must provide alternative means for individual participants to be recognized by the Board chairperson and taken off mute during the meeting; and, further provided, that all those participating shall at all times have the ability to hear what is being said by Board Members, City staff, the applicant, interested parties, and other persons who have been properly recognized during the meeting.

**Sec. 54-133 – Early Termination.**

Without waiving or limiting City Council’s ability to sooner rescind this Part by emergency ordinance, City Council reserves the authority to rescind the ability to permit Virtual Attendance under this Part for public hearings noticed on or after May 1, 2020, to the extent warranted by conditions occurring after the effective date of this Part.

Section 2. Pursuant to section 5-7-250(d) of the South Carolina Code and Sec. 2-23(d) of the City Code, this Ordinance shall become effective immediately upon its enactment and shall expire on June 5, 2020, unless terminated, rescinded, or extended by separate emergency ordinance.

Ratified in City Council this \_\_\_ day of \_\_\_\_\_ in the year of Our Lord, 2020, in the \_\_\_\_ Year of the Independence of the United States of America.

By: \_\_\_\_\_  
John J. Tecklenburg, Mayor

ATTEST:

By: \_\_\_\_\_  
Vanessa Turner Maybank  
Clerk of Council