

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)

FILED
NEWBERRY COUNTY
2025 DEC 18 AM 11:17
ORDINANCE NO. 11-02-2025
ELIZABETH P. FOLK
CLERK OF COURT

AN ORDINANCE ADOPTING THE REQUIREMENTS OF THE SOUTH CAROLINA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT; CREATING UNIFORM REQUIREMENTS FOR THE EXECUTION AND DELIVERY OF DEVELOPMENT AGREEMENTS BY NEWBERRY COUNTY COUNCIL; AND OTHER RELATED MATTERS.

WHEREAS, Newberry County Council ("County Council"), as the governing body of Newberry County, South Carolina ("County") finds:

- (a) the lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning;
- (b) assurance to a developer that upon receipt of its development permits it may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, reduces the economic costs of development, allows for the orderly planning of public facilities and services, and allows for the equitable allocation of the cost of public services;
- (c) because the development approval process involves the expenditure of considerable sums of money, predictability encourages the maximum efficient utilization of resources at the least economic cost to the public;
- (d) public benefits derived from development agreements may include, but are not limited to, affordable housing, design standards, and on and off-site infrastructure and other improvements. These public benefits may be negotiated in return for the vesting of development rights for a specific period;
- (e) land planning and development involve review and action by multiple governmental agencies. The use of development agreements may facilitate the cooperation and coordination of the requirements and needs of the various governmental agencies having jurisdiction over land development;
- (f) development agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government

agencies which may conflict with any term or provision of the development agreement or in any way hinder, restrict, or prevent the development of the project;

- (g) development agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State;
- (h) it is the intent of the County Council to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development;
- (i) this intent is effected by authorizing the appropriate local governments and agencies to enter into development agreements with developers, subject to the procedures and requirements of the South Carolina Local Government Development Agreement Act, codified in South Carolina Code Annotated section 6-31-10, et seq. (collectively, "Act"), and this Ordinance; and
- (j) this Ordinance must be regarded as supplemental and additional to the powers conferred in the County and other government agencies by other laws and must not be regarded as in derogation of any powers existing on the effective date of this chapter.

NOW, THEREFORE BE IT ORDAINED by the County Council of the County of Newberry, in Council duly assembled this 17th day of December 2025, as follows:

Section 1. Incorporation of Findings. The County hereby adopts and incorporates the findings contained in the "WHEREAS" clause above.

Section 2. Adoption of State Law. The County hereby adopts and incorporates into the County Code, the Act, including all findings and requirements.

Section 3. Development Agreement Requirements. Development agreements shall be required for all residential developments which consist of Twenty-Five (25) acres or more of highland. Development agreements shall be approved by the County Council by the adoption of an ordinance. Before entering into a development agreement, the County Council shall conduct at least two public hearings. In addition to any requirements for a valid development agreement as contained in the Act, the County adopts the list of requirements as contained on Exhibit A, which is incorporated herein by reference as if set out in this Ordinance in its entirety.

Section 4. Development Agreement Approval Process. Prior to the consideration by the County Council of any proposed development agreement, the County Administrator in

consultation with the County Attorney and Zoning Administrator shall ensure the form, terms, and provisions of the proposed development agreement are consistent with the Act and the requirements of this Ordinance.

Section 5. Development Fees. To lessen the burden and impact on County services, the developer of such projects for which a development agreement is required shall pay a proportionate Development Fee to Newberry County. Newberry County Council determines the anticipated fee to conform to proper spending of such revenue as approved by Newberry County Council. Development Fees and the allocation of the revenue from Development Fees shall be revisited during the fiscal budget process for revision and review. Beginning with Fiscal Year 2026-2027, commencing on July 1, 2026, Development Fee rates shall be prescribed by Newberry County Council in the Uniform Fee Schedule of the Fiscal Year Budget Ordinance. However, until such time, Newberry County Council has determined that an appropriate fee for the development of single-family detached homes shall be the amount of Five Thousand Dollars and No Cents (\$5,000.00) per dwelling unit and that an appropriate fee for the development of single-family attached and multi-family residential units shall be the amount of Four Thousand, Two Hundred, Fifty Dollars and No Cents (\$4,250.00) per dwelling unit. Said rates shall be effective upon adoption of this ordinance and until such time as Newberry County Council establishes Development fee rates in the Uniform Fee Schedule of the Fiscal Year Budget Ordinance.

Section 6. Additional Provisions.

(a) The Chairman of County Council, County Administrator and County Attorney are hereby authorized to execute, deliver, and receive any other agreements and documents as may be required by the County to carry out, give effect to and consummate the transactions authorized by this Ordinance;

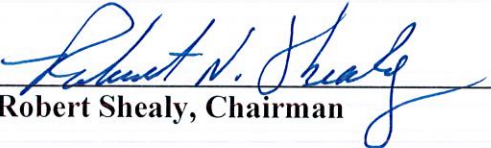
(b) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina;

(c) This Ordinance shall become effective immediately upon approval following third reading by the County Council;

(d) The provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, that declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder; and

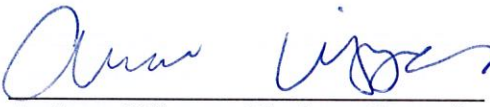
(e) *Section 153.076 – Land Development Agreements* of the official Zoning Ordinance of Newberry County, South Carolina is hereby repealed and replaced with the provisions of this Ordinance. Further, all ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

NEWBERRY COUNTY COUNCIL


BY: 
Robert Shealy, Chairman

(SEAL)

ATTEST:


Andrew Wigger, Clerk to Council

Approved as to form:


Joanie Winters, County Attorney


Jeff Shacker, County Administrator

1st Reading: November 5, 2025
2nd Reading: November 19, 2025
Public Hearing: November 19, 2025
3rd Reading: December 17, 2025

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**EXHIBIT A
DEVELOPMENT AGREEMENT REQUIREMENTS**

- (A) A legal description of the property subject to the agreement and the names of the property's legal and equitable owners.
- (B) The duration of the agreement which must comply with section 6-31-40 of the Act.
- (C) A representation by the developer of the number of acres of highland contained in the property subject to the agreement.
- (D) The then-current zoning of the property and a statement, if applicable, of any proposed re-zoning of the property.
- (E) The development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities, and height.
- (F) A description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the County shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.
- (G) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement.
- (H) A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms, or restrictions.

- (I) A finding that the development permitted or proposed is consistent or will be consistent by the time of execution of the agreement, with the County's comprehensive plan, zoning ordinance, and land development regulations.
- (J) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- (K) A development schedule including commencement dates and interim completion dates at no greater than five-year intervals.
- (L) If more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement.
- (M) A listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers, portions of the County Code of Ordinances, or both.
- (N) A provision, consistent with section 6-31-80 of the Act, addressing the circumstances under which laws and land development regulations adopted after the execution of the agreement apply to the property subject to the agreement.
- (O) A provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly incorporated area and, if so, that the provisions of section 6-31-110 of the Act apply.
- (P) A provision relating to the amendment, cancellation, modification, or suspension of the agreement.
- (Q) A provision for periodic review, consistent with the provisions of the Act.
- (R) A provision addressing the effects of a material breach of the agreement, consistent with the provisions of the Act.
- (S) A provision that the developer, within 14 days after the County executes the Agreement, will record the Agreement with the County Clerk of Court.
- (T) A provision that the burdens of the Agreement are binding on, and the benefits of the Agreement shall inure to, the County and the developer.
- (U) A provision addressing the conditions and procedures by which the Agreement may be assigned, if applicable.