

Ordinance 23-09
Amendments to the
Zoning Ordinance Addressing Residential
Access, Access Plan Approval, and Residential
Attached Multifamily Land Use Regulations and
Invoking the Application of the Pending
Ordinance Doctrine



ARTICLE 2 – APPLICATION OF REGULATIONS

Chapter 2. General Requirements

22.10 Driveway and Street Restrictions

22.13 Driveway Location

There shall be only one driveway per road frontage allowed for each development parcel of land (for activities other than ~~Detached Residential or Mobile Homes~~ residential land uses as identified within this Section). That driveway shall be located in the following manner:

- a. The driveway is to be aligned with the other opposing roads or driveways unless such an alignment violates other provisions of this Ordinance.
- b. Driveway installation requires a favorable approval of an encroachment permit application to the South Carolina Department of Transportation or Lexington County Public Works, depending on which agency has maintenance responsibility for the road being accessed.
- c. For developments with expected high average daily traffic counts, the South Carolina Department of Transportation or Lexington County Public Works may require a more detailed access plan to be developed and implemented. Such a plan would be required to address the installation of improvements such as deceleration/acceleration lanes, traffic control devices, turn lanes, additional driveways, etc. The developer of the property may choose to prepare a traffic impact study to demonstrate the viability of various access improvements. If such a study is done, it must meet the criteria of the Institute of Transportation Engineers and shall be conducted by a qualified engineer. The developer must provide documentation that all necessary improvements required by the traffic impact study have been installed and approved by the appropriate permitting agency prior to the start of the new or expanding land use activity.
- d. Additional driveways may be allowed if the Lexington County Department of Emergency Services, or another federal, state, or local public safety agency, recommends additional access points for emergency ingress/egress and to ensure the safety of the general public.

Multiple parcels developed at the same time shall be required to create a plan for use of a single driveway for access. Out-parcels developed as part of a larger tract of land shall be required to use the single access created for the larger parcel.

Residential developments with 200 or more dwelling units shall provide two unimpeded street access points to the development. For instances where a full secondary access may not be permissible by SCDOT or Lexington County Public Works, a right in/right out or similar restricted access may be considered. Access must connect to streets that allow for the residential land use activity and overall residential density.

Access must be by defined driveways. Continuous access along the road frontage is not allowed.

22.14 Parking Lot Connectivity

Adjoining parking lots shall be designed in a manner to allow them to be connected for vehicular traffic, where feasible and practical. Stub out driveways/cross access points are required between adjacent parcels/lots with traditional commercial and/or mixed-used land use activities to facilitate future connectivity. SCDOT, Lexington County Public Works, and/or Fire Code requirements related to connectivity shall also apply.

Land use activities that may have various security related measures and/or characteristics of the property or properties in question (ex. topography) shall be taken into consideration when determining feasibility and practicality of parking lot connectivity.

In all instances, the applicant must provide supporting documentation for staff to consider in these circumstances. Parking lot connectivity shall also comply with applicable provisions of the Lexington County Subdivision Ordinance and Lexington County Land Development Manual.

Chapter 3. Buffering Restrictions

23.60 Chart of Maximum Buffering Restrictions

The columnar chart below lists the maximum buffering restrictions defined in this chapter as they apply to the list of principal activities. The procedure for determining the actual buffering restrictions that will apply to a particular project or site shall be as outlined in the following paragraphs.

A request for a zoning permit which utilizes the maximum buffering restrictions as published shall be approved with respect to the requirements of this chapter. A request for a zoning permit which proposes to utilize buffering restrictions less than the maximum numbers listed must employ the following procedure:

If the owner of any protected property wished to sanction the selection of a lesser specific restriction, to include business sign setback requirements from adjoining properties, such consent shall be noted on a form provided by Lexington County. This consent shall become valid only upon verification by the Zoning Administrator and attachment to the applicable zoning permit.

If the process outlined above does not produce the buffering restriction desired by the applicant requesting a zoning permit, the applicant may apply to the Board of Zoning Appeals for a decision following the variance procedures outlined in Chapter 2 of Article 17 – Administration. Once the Board renders a decision, the applicant may not utilize the process outlined in the previous paragraph unless significant aspects of the permit request have been modified or the ownership of the protected property has changed.

ACTIVITIES		HEIGHT (#/1)	BUFFER	SETBACKS from		SCREENING	
				Adjoining Property	Road R. O. W.	Total	Partial
Residential Attached - Multifamily	R	½	30-75	75-125	30-50	100*	150*
	I	3	30	75	30	*	*

* Total screening is required in all Districts. Reference Article 15 for any additional provisions for screening.

ARTICLE 8 – MINING OPERATIONS

Chapter 2. Mining Regulations

82.30 Access Plan

Any new extensive mining operation, or expansion of an existing intermediate or extensive mining operation creating a new access, shall submit a proposed Access Plan and must receive approval of a Plan from the Lexington County Council. This Plan shall show the anticipated routing of all truck traffic in compliance with this chapter as well as Section 22.02, Chart of Permitted Access by Street Classification. However, an alternate Plan that may not comply with all of these regulations may also be submitted if it is considered to have less of a traffic impact on the roads accessing the mining operation. Mining (Intermediate) and Mining (Extensive) activities are only allowed access by roads that are paved. Internal access for individual mining operations where parcels are separated by roadways do not require Access Plan approval, provided the point of access is not a main access for external truck traffic and the street classification and road conditions allow such access.

Any roads or bridges to be utilized must be capable of handling the additional traffic and weight loads of the mining activity. The entity responsible for the maintenance of such facilities will be asked to review the condition of any roads and bridges contained in the Access Plan and report that information along with recommendations to the ~~Lexington County Council~~ **Zoning Administrator**. This may be the South Carolina Department of Transportation, the Lexington County Department of Public Works, or a municipality.

The ~~Lexington County Council~~ **Zoning Administrator** will review the Access Plan(s) and reports from the maintenance entities and may require a different Plan using any roads available if it will lessen the impact of truck traffic in the immediate area.

ARTICLE 15 – RESIDENTIAL ATTACHED MULTIFAMILY DEVELOPMENTS

Chapter 1. General Provisions

151.00 Purpose

The purpose of this Article is to provide design standards to ensure land use compatibility with multifamily residential developments and less intensive land use activities, as well as provide a means to ensure such uses accommodate for ~~traffic~~ **local impacts** associated with the nature of the land use.

151.10 Jurisdiction

The regulations set forth herein shall apply to any property located within the jurisdiction of this Ordinance that is proposed to be developed as a Residential Attached - Multifamily land use activity.

151.20 Definition

Residential Attached – Multifamily are three or more dwelling units (DUs) typically located within a single or multiple structures, are generally multi-story, usually have common parking and amenity areas, and are referred to as apartments or condominiums.

151.30 Application of Regulations

Upon the effective date of these regulations, Residential Attached - Multifamily land use activities shall only be developed or expanded in accordance with the applicable restrictions contained herein. Nonconforming Residential Attached – Multifamily land use activities are subject to the provisions found in Article 16.

151.40 Zoning Permit

It shall be the responsibility of the developer to construct and develop Residential Detached – Multifamily land uses in accordance with regulations set for within this Article and in accordance with the approved zoning plan for the development. A Zoning Permit shall be required for the development of Residential Attached – Multifamily land use activities prior to the onset of site construction.

151.50 Adherence to Other Regulations

The regulations contained herein are in addition to other applicable ordinances or requirements, such as, but not limited to the Lexington County Landscape and Open Space Ordinance, Lexington County Building Code Ordinance, Lexington County Stormwater Ordinance,

Lexington County Land Development Manual, Lexington County Subdivision Ordinance, other regulations set forth within this Ordinance, or SCDHEC regulations.

Whenever the provisions of the Article impose regulations that are in conflict with those of other County ordinances or other governmental agencies, the more restrictive regulations shall apply.

Chapter 2. Regulations

152.00 Street Access

The overall development of new Residential Attached – Multifamily land use activities shall access only four lane paved streets with the appropriated zoning street classification ~~to that~~ **allows access for the activity. Master planned mixed-use developments may create new road systems, including two-lane paved streets, to provide the direct access to a four-lane, provided internal connectivity is provided for the various land use activities and there is no direct access to an existing two-lane road outside of the master planned development.**

Existing Residential Attached – Multifamily land use activities that expand the current number of dwelling units by 50 percent or more, shall conform to these provisions. An expansion shall be considered an additional phase(s) of an existing development, whether located on the same or adjoining property, or developed by the same or different developer.

All new access points, driveways, etc. must supply a traffic impact study (TIS) detailing the impacts on the local roadway system, as well as recommendations for necessary improvements within the road system, to include signals. The TIS shall also be reviewed by the appropriate maintenance entity and the recommended improvements must be approved as part of an encroachment permit. All required road improvements must be installed and approved by the maintenance entity prior to a final Zoning inspection of the project.

Left turning lanes shall be provided on the street being accessed, regardless if required/recommended by the TIS. Left turn lanes shall have a smooth transition and a minimum length of 50 feet. Painting, striping, and directional arrows shall meet applicable SCDOT or Lexington County Public Works requirements, depending on which entity has maintenance for the road system. Although not specifically required within this Article, right turn lanes on the street being accessed should also be considered to maintain traffic flow on public thoroughfares

Residential Attached – Multifamily land uses activities shall provide ~~an adequate number a~~ **minimum of two** of access points (i.e., driveways), **regardless of density consistent with the current Lexington County Land Development Manual access point requirements for developments exceeding an identified number of lots. For the purpose of this Ordinance, the number of dwelling units will be used to determine the need for additional access points (i.e., driveways) in order to provide adequate ingress/egress and comply with all other applicable standards as required in Section 22.13 of this Ordinance.**

Prior to Zoning approval for a Residential Attached – Multifamily land use, the developer/applicant shall submit a proposed Access Plan for all new access points and must receive approval of a Plan from the **Zoning Administrator Lexington County Council**. The **Lexington County Council Zoning Administrator** will review the Access Plan(s) and reports from the maintenance entities and may require a different Plan to further address traffic issues potentially generated by the development.

152.10 Maximum Permitted Residential Density

Section 22.30 of this Ordinance shall be referenced for the maximum dwelling units allowed, as well as the method for calculating allowed density. **In no instance shall any Residential Attached – Multifamily land use exceed more than 200 dwelling units.**

152.20 ~~Maximum Permitted Residential Density~~ **Locational Standards**

The development of new Residential Attached – Multifamily land uses activities maintain a three (3) mile separation distance from existing, developing, and/or other permitted Residential Attached – Multifamily land use activities, regardless of jurisdiction.

152.230 **Buffering Restrictions**

Each Residential Attached – Multifamily land use shall adhere to the Buffering Restrictions covering height regulations, buffers, setbacks, and screening as outlined in Chapter 3 of Article 2, except where more restrictive regulations exist in this Article or elsewhere in this Ordinance. Where an existing residential detached or individual mobile home land use is located less than 250 feet from the property line of a Residential Attached – Multifamily land use the required restrictive (R) buffering restrictions shall be doubled. Where an existing residential detached or individual mobile home land use is located between 250 and 500 feet from the property line of a Residential Attached – Multifamily land use, the required restrictive (R) buffering restrictions shall be 1 ½ times the published requisites.

152.231 **Buffer**

Buffering requirements are defined in Section 23.20. All existing forested and/or naturally vegetated areas within the required buffer shall be left undisturbed, unless removal is necessary and incidental to roadway access or utilities. In the event that an encroachment appears to be within the buffer area, and/or the buffer area is likely to be encroached unintentionally, the designated buffer area may be required to be clearly delineated by a material approved by the Zoning Administrator. Buffers shall be re-established as required by the Lexington County Landscape and Open Space Ordinance.

152.232 **Setbacks**

While accessory activities such as driveways and parking and reclamation thereof can occur within the designated setback as defined in Section 23.30, structures such as dwelling units, lease offices, and/or storage units may not encroach upon the setback area.

152.233 **Screening**

1. ~~An opaque privacy fence or structure~~ **Total screening** is required to ~~screen for the activity along all adjoining properties, regardless of the surround Zoning Districts or land uses, unless part of a master planned mixed use development;~~ however, is not required along the street frontage unless otherwise required by this Ordinance. ~~The privacy fence, or similar privacy structure,~~ **Total screening** must be approved by the Zoning Administrator, **and conform to Section 23.40 of this Ordinance. Privacy fencing or structures used to meet the total screening requirement** ~~and~~ shall be a minimum of eight (8) feet in overall height.
2. The location of the ~~privacy fence or structure~~ **materials and/or vegetation utilized for total screening** must be within the same parcel(s) as the development, cannot encroach upon the required buffer, and must conform **to** other local ordinances.
3. **Areas for parking lot connectivity must be clearly delineated and screening is not required between the Residential Attached – Multifamily land use and the adjoining property at the point(s) of parking lot connectivity.**
4. Residential Attached – Multifamily land use are not eligible for the reduction in buffering restrictions as described in Special Rule 6, listed in Section 23.62.
5. **Applicants wishing to seek relief from the total screening requirement may seek relief in the form of a variance request from the Board of Zoning Appeals. Other means of relief, such as Buffering Restrictions Consent forms, cannot be used to seek relief of the total screening requirements outlined in this Section.**

152.340 Management Plan

A management plan is required to demonstrate the ability to manage and operate Residential Attached – Multifamily developments. The management plan should address items such as but not limited to, group gatherings, parking, care and control of household animals, traffic controls, disposal of household and other waste, grounds keeping, exterior storage, and unit/building maintenance.

Pending Ordinance Effective Date. Applications for permits of sufficient form and content as determined by the County staff, received by the County prior to the date of the beginning first reading of the adoption of this Ordinance, may be reviewed and processed by the County. Otherwise, the provisions of this Ordinance shall be effective under the pending ordinance doctrine from the date of approval of first reading.

DONE IN MEETING DULY ASSEMBLED, this ____ day of _____, 2023.

Beth A. Carrigg
Chairwoman, Lexington County Council

ATTEST:

Jessica C. Hendrix, Clerk

First Reading: August 8, 2023

Second Reading: _____

Third & Final Reading: _____

Public Hearing: _____

Filed with Clerk of Court: _____