

which fall under the Dams and Reservoirs Safety Act must comply with those regulations.

- (6) All detention ponds shall have a minimum of one foot of freeboard.
- (7) Detention pond side shall have side slopes 2:1 or flatter.

(M) *Retention ponds.*

- (1) As a minimum, retention ponds shall provide storage capacity for a 25-year storm event and shall have an emergency spillway capable of withstanding a 100-year storm event.
- (2) Retention ponds shall have side slopes of 2:1 or flatter.

(Ord. No. 92-15, § 4, 10-5-92; Ord. No. 96-12, §§ 8—18, 5-20-96; Ord. No. 06-1, § II, 2-6-06; Ord. No. 09-17, § I, 1-5-10)

**Sec. 5.7. Pollution, nuisance and hazard.**

No development shall unreasonably contribute to pollution of the land, air or water, constitute a nuisance, or pose a hazard to life or property. Conformance with all existing local, state and federal statutes shall be construed as conformance with this provision.

(Ord. No. 156, 4-20-87; Ord. No. 90-12, 8-20-90)

**Sec. 5.8. Lot and parcel design requirements.**

All development subject to the ordinance involving the first division of land into lots or parcels on designated restricted access highways shall be submitted the planning commission for approval prior to the division of the property. All development subject to this ordinance involving the division of land into lots or parcels shall include, as a minimum, 20 feet of frontage on a publicly maintained road; provided, however, that the access to the 20-foot road frontage may take the form of an easement for up to two lots if the easement is shown on a plat to be recorded and referenced in a deed which plat clearly shows the easement and labels it as follows "Easement for Access and Utilities, only: Not A Public Road." Such easements may not exceed 200 feet in length unless the requirement is formally waived by the planning commission. Development sales beyond

two lots do not take place along such easements. Any problems shall be reported to the planning commission.

(Ord. No. 92-15, § 8, 10-5-92; Ord. No. 96-12, § 17, 5-20-96)

**ARTICLE SIX. HOW DEVELOPMENT PERMITS ARE REVIEWED AND APPROVED**

**Sec. 6. Development subject to permit.**

All development, unless expressly exempted in section 6.1, shall be authorized by a permit approved in accordance with the provisions of this ordinance and issued by the Director of Planning as the duly Development Official of Darlington County.

(Ord. No. 07-15, § I, 10-15-07)

**Sec. 6.1. Development exempt from permit.**

To streamline the development process, exemptions may be issued through the summary review process outlined below. In all cases, summary approvals must be reported to the planning commission.

- (A) The Development Official may issue summary approval for the following conditions:
  - (1) Any single-family residential structure on a tract of five acres or more on a public road, unless the tract is located within a special district as delineated in article three of the Development Standards Ordinance.
  - (2) All farm and farm-related structures, unless regulated by Chapter 3 (Agriculture) of the Darlington County [Code of] Ordinances.
  - (3) Development of up to five contiguous lots (including lots separated by a road or right-of-way), if located on an existing state or accepted county road which is shown on a plat prepared by a registered land surveyor using primary control points, including bearings, etc., and including normal certifications of accuracy, unless

the tract is located within a special district as delineated in article three or within a county industrial park development district (Chapter 42, Article II, of the Darlington County Code of Ordinances).

- (B) The county development official may issue summary approval for the following condition: Development of up to five contiguous lots, if located on an existing state or accepted county road which is shown on a plat prepared by a registered land surveyor using primary control points, including bearings, etc., and including normal certifications of accuracy, unless the tract is located within a special district as delineated in article three or within a county industrial park development district (Ordinance 163).

(Ord. No. 07-15, § II, 10-15-07)

**Sec. 6.2. Approval by planning commission required.**

The Development Official shall issue no development permit for a subdivision and communications towers under the provisions of this ordinance without the approval of the Darlington County Planning Commission. The Development Official shall be authorized to issue a development permit for other developments covered by this ordinance, including but not limited to, mobile home parks, developments in the floodplain, outdoor advertising signs, and nonresidential site developments. If approval is granted, the permit shall authorize the applicant to:

- (A) Commence all improvements to the land and the construction of all support facilities according to the approved plans.
1. After all improvements to the land (such as road and drainage construction) are completed according to the approved plans and approved by the Development Official, the subdivision plat may be recorded.
- (B) Commence the construction of all buildings and facilities on the approved site once a Building Permit is issued.

(Ord. No. 07-15, § III, 10-15-07)

**Sec. 6.3. Conditions for subdivision or development plan approval.**

(A) The applicant has complied with the procedures of this ordinance and has furnished all information and data required by this ordinance.

(B) The development plan or subdivision complies, as a whole and in part, with the provisions of article four and article five of this ordinance.

(C) The applicant has established adequate legal safeguards to insure compliance with the approved development plan, and to provide for adequate management of the development regardless of future ownership or control of the land or facilities thereon.

(D) The applicant has posted all bonds and performance guarantees specified by the permit.

(E) The applicant is required to meet applicable DHEC regulations in order to receive septic tank approval for all proposed lots in the subdivision, or approved phase thereof, prior to submitting the plat to the Darlington County Clerk of Court's office for recording. This requirement shall not apply to lots which will be served by public sewer.

(F) The applicant has paid all required fees prior to plan review. Darlington County assesses a nonrefundable fee according to the following schedule (unless exempted by state or federal law or by this ordinance):

1. One hundred twenty-five dollars for stormwater review of all development that disturbs one acre or more.
  - a. No fee will be charged for land-disturbing activities that disturb less than one acre which are not part of a larger common plan for development or sale.
2. Two hundred fifty dollars for subdivision review where new streets are to be developed.
  - a. This fee shall be waived for family divisions of ten lots or less. Family divisions are defined as the creation

of lots for sale or transfer to one's own family members, by the provisions of a will or otherwise.

3. One hundred dollars for subdivision review of subdivisions with more than five lots where all lots front a public street.

(Ord. No. 94-18, § 1, 12-19-94; Ord. No. 07-15, § IV, 10-15-07)

#### **Sec. 6.4. Denial of permit.**

The planning commission shall deny approval of a development permit only if it finds that the proposed development does not comply with the provisions of this ordinance.

#### **Sec. 6.5. Rights attaching to development permits.**

(A) Changes in a development ordinance which becomes effective after an application for a development permit has been filed but before the permit has been granted will not apply to the pending application unless the ordinance provides otherwise.

(B) The expectation that a development permit could be obtained does not create any rights that prevent change of a development ordinance. A change in a development ordinance which becomes effective after a development permit has been granted will not affect the developer's right to begin or complete development in accordance with the permit.

(C) A development permit is assignable but an assignment does not discharge any assignor from any obligation owed to the local government in

connection with the development, unless the Darlington County Council consents to the discharge of the obligation.

**Sec. 6.6. Expiration of development permit.**

Any permit approved under the provisions of this ordinance shall become invalid one calendar year from the date of its issue unless:

- (A) Otherwise specified by the permit;
- (B) The subdivision plat has been recorded;
- (C) Improvement of the land has commenced in accordance with the approved permit;
- (D) Development has commenced.

The development official may grant one extension for a period of one calendar year upon request of the applicant. Further extensions may be granted by the planning commission upon show of good cause by the applicant.

**Sec. 6.7. Variances.**

6.7.1. [*Generally.*] The planning commission may approve development not in compliance with the provisions of articles four, five, seven (section 7.9.1.2), nine, twelve, and thirteen (section 13.12.2) of this appendix, if compliance with these provisions would cause practical difficulties as defined below, and if the proposed development:

- (A) Differs from development which would be permitted under the general development provisions no more than is necessary to overcome the practical difficulties;
- (B) The granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to other property.

Practical difficulties:

- (1) The parcel has unusual physical characteristics shape or topography in relation to surrounding parcels.
- (2) The unusual physical characteristics existed at the time regulations were adopted.
- (3) The unusual physical characteristics were created after ordinance

adoption by natural forces or by government action for which no compensation was paid.

6.7.2. *Orphan roads program.* The planning commission may approve development not in compliance with the provisions of articles four, five and nine of this ordinance if the planning commission deems it eligible for classification as an orphan road project. Eligibility for classification, development and acceptance of orphan roads shall be governed by Appendix F, Orphan Roads Program.

6.7.3. *Connector roads open to and in continuous use by the public since April 15, 1965, or before.* The planning commission may grant variances from the requirements of this ordinance in recommending to county council the acceptance of existing roads which have been open to and in continuous use by the public for 20 years or more prior to the adoption of this Ordinance No. 130. Minimum right-of-way width requirements shall be enforced with no variance below 50 feet, unless under the orphan road program. In recommending acceptance of a road under this variances provision, the planning commission shall find that acceptance of the road meets the following criteria:

- (A) The road connects two other public roads which are maintained by the county or the state;
- (B) The road has, within the right-of-way or available existing drainage facilities, positive drainage which at least approximates the standards set forth herein;
- (C) The planning commission finds that the benefit and use to be ensured to the public at large by public maintenance of such a road is substantial, according to criteria it shall establish, which may include implementation and/or furtherance of the goals of the official Darlington County transportation improvement plan; and
- (D) The planning commission has obtained from adjacent property owners the necessary surveyed plats of road and drainage rights-of-way and that an irrevocable conveyance of such rights-of-way have been

properly executed by persons having any possible claim to the property involved and that such conveyances are in the possession of the planning commission for recording in the office of the clerk of court subsequent to council's acceptance of the right-of-way.

Where controversy or questions exist about the eligibility of such roads, affidavits of persons owning property along the road since April 15, 1965, or persons routinely using the road since that time shall be placed on file with the commission.

(Ord. No. 90-12, 8-20-90; Ord. No. 91-3, § 8, 5-20-91; Ord. No. 92-15, §§ 7, 8, 10, 10-5-92; Ord. No. 01-1, § 1, 4-2-01, Ord. No. 04-12, § 1, 10-4-04)

**Sec. 6.8. The county as developer.**

(A) *Policy.* The county will not build roads except in exceptional circumstances or in bona fide emergency situation. Any road building or development project must be approved by county council on the following basis:

- (1) Plans for the construction of the road and supporting drainage system must be approved by the planning commission according to the procedures established in Ordinance No. 130, Development Standards Ordinance. These procedures provide for the permanent and irrevocable transfer of the road right-of-way to the county as is to be depicted on a surveyed plat. Said plat also shall depict the necessary drainage easements. The plat and conveyance shall be recorded in the office of the clerk of court of Darlington County after construction of the public improvements according to the approved plans.
- (2) The public benefit and use must be substantial in considering whether the county should construct or develop a road. All roads so constructed or developed shall be done according to the procedures and standards of this ordinance, except for temporary roads constructed in emergency situations or for service roads connecting public facilities on publicly owned tracts

of land. Categories of roads which may be considered of substantial benefit to the public include those developed for:

- (a) Industrial development projects;
  - (b) Orphan road projects;
  - (c) Connector roads; and
  - (d) Emergency access roads
- (3) All subdivision roads must be constructed by the landowner or developer according to the standards and procedures of this ordinance before any agreement to maintain the same would be entered into by the county. The county shall not construct new subdivision roads or private driveways and lanes.

(B) *Industrial development.* The county may serve as owner/developer for purposes of developing public improvements under the provisions of Ordinance No. 130 if such development is under the auspices of the Darlington County development board. The board shall report its findings to county council concerning any such project as follows:

- (1) The ultimate goal or benefit to the public intended by the project (i.e., generating a certain number of jobs, facilitating so many dollars capital investment, implementing approved industrial infrastructure plans, etc.);
- (2) A determination that the public will be primary beneficiaries of the project, including the reasons for this determination;
- (3) The extent to which the project is or is not speculative in nature, and why; and
- (4) The probability that the project ultimately will serve the public interest, and to what degree.

(C) *Orphan road projects.*

- (1) Improving and providing public facilities in existing substandard neighborhoods for low-to-moderate income facilities is a public purpose recognized and institutionalized by state, federal and local governments.

- (2) Orphan road projects shall be implemented only on eligible rights-of-way and according to the standards and procedures established in Appendix F.

D. *Connector roads.*

- (1) Improving vehicular traffic flow, diverting traffic from congested areas, and decreasing traffic in highly populated areas is a recognized public purpose.
- (2) The county may acquire right-of-way and develop roads connecting two existing publicly maintained roads, following the procedures and standards established herein if county council finds that:
  - (a) The current or projected daily traffic count on at least one of the two existing roads to be connected is 2500 per day;
  - (b) The planning commission recommends and the county council determines that the general traveling public will be the primary beneficiaries of the project; and
  - (c) The project is consistent with the county transportation improvement plan or an industrial development project under the auspices of the economic development board.

E. *Emergency access roads.*

- (1) County council may exercise its emergency powers under Ordinance No. 151, as amended, to direct that a temporary access road be constructed on private property for response to emergency situations anticipated by the Darlington County emergency operations plan.
- (2) The county administrator may direct county forces to construct a temporary access road on private property in response to an emergency situation as directed by a legally authorized state or federal official.

(Ord. No. 92-5, § 8(6.8), 10-5-92)

**ARTICLE SEVEN. ADMINISTRATION,  
ENFORCEMENT, APPEAL COMPLAINTS  
AND REMEDIES**

**Sec. 7. Purpose.**

This article establishes an agency responsible for the administration and enforcement of this ordinance; specifies the powers of the agency; sets forth procedures for the filing of development applications and the issuance of permits including the establishment of time limits; establishes the foundation and procedures for the appeal of rulings made under this ordinance; and sets forth remedies and penalties for violation.

**Sec. 7.1. Powers of the administering agency.**

The Darlington county council delegates the authority for administration and enforcement of this ordinance to the county administrator or county employee designated by the county administrator as the county development official. The county development official shall exercise the following duties:

- (A) The preparation and publication of rules of procedure relating to the administration