
LEGAL AND EDITORIAL RESEARCH AND REPORT
SULLIVAN'S ISLAND, SOUTH CAROLINA
Beaches and Zoning Provisions
AMERICAN LEGAL PUBLISHING CORPORATION

Research and analysis

Responses

TITLE XV: LAND USAGE

- 1) Chapter 156, Beaches
 - A) § 4-4.1 Construction prohibited in RC-2 area, excepting certain docks and piers. Please review the reference to Section 21-39 that appears in this section and note that it is not clear to what it is intended to refer. Please check this reference and supply the appropriate substitute reference or instructions as to other needed revisions. Unless otherwise instructed by you, we shall retain this section as it is presently edited.
 - B) § 4-28 Commencement and landing of aircraft prohibited. Please review the text of this section closely and note that the last sentence contains the expression, "be resolution." Based upon context, we suggest revising this to read, "**by** resolution." Shall we make this suggested revision?
 - C) § 4-31 Appeal of ordinances. Please review this section very closely. It appears from the context that both in the section title and the text itself, "appeal" should be revised to read, "repeal." Shall we make this suggested revision?
 - D) § 4-32. Please note that this section lacked a section header, which makes it inconsistent with the rest of the chapter. Shall we add a section header?
- 2) Chapter 157, Appendix A: Zoning
 - A) Please note that this appendix is inconsistent in its use of capitalization. For example, article, Article and ARTICLE all appear throughout. We suggest creating and maintaining consistency throughout. Is there one particular format for this term that you would prefer to use consistently?
 - B) Please note that both "centerline" and "center line" appear. Please identify which format you would prefer to use consistently.
 - C) Please note that the term "neighborhood incompatibility" is inconsistently capitalized throughout. Please identify the format that you would prefer this term to appear so it can be made consistent.
 - D) Please note that there is an inconsistent use of commas in numbers, which can be seen for example, in 21-26(B)(4). Please advise as to desired revisions to make this consistent.
 - E) Please note that there is an inconsistent use of parenthesis for Roman numerals as division markers. Please review this and advise as to any desired revisions to make this consistent.
 - F) Table of contents. Shall we delete the page numbers since they do not correspond to the location of sections in the new code?
 - G) § 21-11 Definitions and application of zoning standards, design standards and design guidelines.

- 1) Please carefully review the text of division B.(2). In particular, shall we revise the text, "based a determination" to read "based **on** a determination"?
 - 2) Please review the text of division C.(3) and note that the punctuation becomes inconsistent at the end of the list. In particular, shall we combine (h) and (l)?
- H) § 21-12 Lot subdivision, use location and calculation and measurement of areas. Please review carefully the text of division A. In particular, shall we replace "matter" with "manner"?
- I) § 21-20 permitted, conditional, special exceptions and prohibited uses.
- 1) Please note that division B.(3) contains a reference to the South Carolina Modular Building Construction Act. To further assist code book users in locating this material, we suggest completing this reference with, "being S.C. Code §§ 23-43-10 et seq." Shall we do so?
 - 2) Please note that division (C)(5)(d)v. contains a reference to Chapters 18 and 20 of the prior code, but this referenced material now appears at chapters 50 and 51. May we update this reference to reflect the current location of this material?
 - 3) Please note that division (D)(3) contains a reference to "with () below," which does not make sense. Please advise as to how this should be revised. Unless otherwise instructed, we shall retain this as it is presently edited.
- J) § 21-48 Purpose and application of CC-Community Commercial District and CCOD 1 and 2 Overlay Districts. Please note that division A. contains the expression, "...well-regulated residential residential land use." May we delete the extraneous "residential" from this expression?
- K) § 21-49 CC, CCOD 1 and CCOD 2.
- 1) Division B.3. contains a reference to l'On Avenue. Please review this reference and advise as to any needed revision. Unless otherwise instructed by you, we shall retain this reference as it presently appears.
 - 2) Division E.(2)d. contains a random half of a parenthesis following the reference to Section 21-50. Please advise what revisions, if any, you would like for us to make.
 - 3) Division F.(1)c. contains "(a)." It is unclear whether this should be deleted or whether "(b)" should be inserted before the expression, "...two (2') feet above the FEMA base flood elevation." Please advise as to any specific revision that you want us to make. Unless so advised by you, we shall retain this division as it is presently edited.
- L) § 21-51 Electrical and water meters and associated easements.
- 1) Please note that this section contains references to Chapters 18 and 20 of the prior code, which is now chapters 50 and 51, as well as references to sections 18-6, 18-7 and 18-10. May we update these references to reflect the current code locations of the referenced material?
 - 2) Please note that division B.(2)a. contains a reference to "CC)D." Shall we replace this with "CCOD"?
- M) § 21-94 Historic property designation criteria.
- 1) Do you wish to replace the reference to "chapter 21" with "this chapter"?
 - 2) Do you want to re-format the date by replacing "30 June 2003" with, "June 30, 2003"?
- N) § 21-95 Creation or modification of HP Overlay District. Do you want to re-format the date by replacing "30 June 2003" with, "June 30, 2003"?

- O) § 21-108 Creation and responsibilities.
- 1) Please advise whether the "1)" that appears within the text of division B.(1) should be retained.
 - 2) Please review the text of division B.(3) carefully and advise whether "appropriate administrative" should be replaced with "appropriate administrator."
- P) §§ 21-126 General provisions, et seq. As a general note, the Town Attorney should probably review the sign regulations in light of the following case law. The following is not meant to be all-inclusive list of case law concerning signs; rather, these issues are common problem areas, both in theory and practice. We especially recommend that the Town Attorney closely examine any content-based regulations, particularly relating to political signs and commercial signs. In the meantime, unless otherwise directed, we will make no revisions to your sign regulations.
- 1) A resident should not be restricted from displaying both election and non-election political yard signs of reasonable size on a front lawn or window. *City of Ladue v. Gilleo*, 114 S. Ct. 2038 (1994).
 - 2) Regulations on election political signs has been held to be an unconstitutional content-based restriction when no provisions have been made for non-election political signs. *City of Ladue v. Gilleo*, 114 S. Ct. 2038 (1994); *McCormack v. Township of Clinton*, 872 F. Supp. 1320 (D. N.J. 1994); *Collier v. City of Tacoma*, 854 P.2d 1046 (Wash. 1993).
 - 3) Durational limits for temporary political signs tied to a specific election violate the First Amendment when applied to prohibit a person from posting on their own private property a political sign outside of the durational period set by the ordinance. *Painesville Bldg. Dept. v. Dworken & Berstein Co., L.P.A.*, 733 N.E.2d 1152 (Ohio 2000).
 - 4) Restricting advertising to the product sold (or to the business conducted on the premises) and excluding all non-commercial messages violates the First Amendment. *Norton Outdoor Advertising, Inc. v. Village of Arlington Heights*, 433 N.E.2d 198 (Ohio 1982).
 - 5) Imposing a fee or a cash bond for political signs and limiting the number of political signs may be unconstitutional. *Verrilli v. Concord*, 548 F.2d 262 (9th Cir. 1977); *Whitton v. City of Gladstone, Mo.*, 54 F.3d 1400 (8th Cir. 1995); *Arlington County Republican Committee v. Arlington County Virginia*, 983 F.2d 587 (4th Cir. 1993); Mcquillin, *Municipal Corporations* § 24.446.10.
 - 6) An ordinance which imposes different restrictions depending upon whether the signs were political signs, ideological signs, or event-promoting signs is facially content-based and subject to strict scrutiny, because it turns "on the communicative content of the sign." *Reed v. Town of Gilbert*, 576 U.S. ____ (2015) (ordinance struck down).
- Q) § 21-130 Signs - no permit required. Please review carefully the text of division C.(4). In particular, shall we add "of the" as indicated in the text, "Located not less than ten (10) feet out **of the** street right-of-way line" in order to match the text of division E.(4)?
- R) § 21-131 Signs - permitted in CC-Community Commercial District. Please review carefully the text of division G. In particular, shall we add "of the" as indicated in the text, "Located not less than ten (10) feet out **of the** street right-of-way line"?
- S) § 21-138 Accessory structures. Please note that division A.(2)(a) contains "750 s.f.," however, elsewhere square feet is simply abbreviated as "sf" without the periods. We suggest that you utilize a consistent format. Which would you prefer to use?
- T) § 21-162 Application for relocation, or removal and replacement. Please note that division B.3 contains the expression "provide de the Tree Commission." Shall we delete the "de" following the term "provide"?
- U) § 21-167 Emergency removal. Please review carefully the text of division C. Shall we replace "not" with "no" so that this text would read, "There shall be **no** fee charged for the emergency removal of trees or palmettos"?

- V) § 21-187 Certificates of occupancy. Please review carefully the text of division A. In particular, please review the text, "...a Certificate of Occupancy shall have been **certificate** issued by the Zoning Administrator...." This text is awkward as it is currently edited. Shall we delete the term "certificate" as highlighted in the above quoted text?
- W) § 21-203 Definitions.
- 1) **FLOOR AREA.** Please review the text of this definition and note that it is awkward as currently edited. In particular, please evaluate the text, "floor-to-ceiling height is greater than less than four feet." Please advise if any specific revision is needed. Unless otherwise instructed, we shall retain this definition as it is currently edited.
 - 2) **OUTDOOR STORAGE.** Please review the text of this definition and note that it is awkward as currently edited. In particular, please evaluate the text, "in the same place for more than less than thirty days." Please advise if any specific revision is needed. Unless otherwise instructed, we shall retain this definition as it is currently edited.

Editorial report prepared by:

s/ Aimee Choi

Aimee Choi

Aimee Mercer Choi
New Code Department Director
March 8, 2022