

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG) ORDINANCE NUMBER 20230214-2
)
TOWN OF DUNCAN)

AN ORDINANCE TO AMEND CHAPTER 125, ARTICLE IV., DIVISION 4, SUBDIVISION X MHP MOBILE HOME PARK DISTRICT, OF THE TOWN CODE TO SAY SUBDIVISION X MHP MOBILE HOME PARK & CAMPGROUND AND RECREATIONAL VEHICLE PARKS & TINY HOME COMMUNITIES, AND TO CHANGE SECTIONS 125-758 TO SECTIONS 125-767 FROM RESERVED TO PURPOSE AND AUTHORITY, DEFINITIONS, TINY HOME NEIGHBORHOOD, PLAN ELEMENTS, OWNERSHIP AND MAINTENANCE, MAINTENANCE OF COMMON OPEN SPACE, PRELIMINARY PLANS, REVISIONS TO APPROVED PLANS, FINAL PLATS AND GENERAL; AND OTHER MATTERS RELATED THERETO.

WHEREAS, The Town of Duncan, South Carolina (the “Town”), a body politic and corporate and a municipal corporation and political subdivision of the State of South Carolina (the “State”), acting by and through its governing body, the Town Council of Duncan (the “Town Council”), has adopted multiple ordinances for the effective, efficient governance of the Town, which, subsequent to adoption, are codified in the Town of Duncan Code of Ordinances (the “Code of Ordinances”), as amended, from time to time; and

WHEREAS, the Town, acting by and through the Town Council, is authorized by Chapter 35 of Title 11, and specifically, but without limitation, Section 11-35-50 of Chapter 35 of Title 11 of the South Carolina Code, 1976, as amended (the “S.C. Code”), among other sources, to adopt and implement a procurement code and procedures for the Town, not inconsistent with the South Carolina procurement code, as set forth in the S.C. Code; and,

WHEREAS, it is the desire of the Mayor and Council of the Town of Duncan, S.C. to amend Chapter 125, Article IV, Division 4, Subdivision X MHP Mobile Home Park & Campground and Recreational Vehicles Parks to include Tiny Home Communities and to Amend Sections 125-758 thru 125-767 of the Town Codes relative to Tiny Home Communities, and

WHEREAS, the amendment of this section of the code is needed and to establish guidelines and ensure that new developments for dwelling units known as “tiny homes” and “tiny home” communities are meeting minimum standards that protect life, health and safety of the residents within the municipal areas of the Town of Duncan, and

WHEREAS, the specific applicable Codes to be amended are listed as follows: Section 125-758 Purpose and authority, Section 125-759 Definitions, Section 125-760 Tiny Home Neighborhood, Section 125-761 Plan Elements, Section 125-762 Ownership and Maintenance, Section 125-763 Maintenance of Common Open Space, Section 125-764 Preliminary Plans Section 125-765 Revisions to Approved Plans, Section 125-766 Final Plats, Section 125-767 General.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF DUNCAN, SOUTH CAROLINA, DULY ASSEMBLED THAT:

1. The section of the Codes enumerated and listed above are hereby adopted by reference as though copied and included herein fully.
2. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict or inconsistency.
3. This ordinance shall take effect immediately upon its adoption by the Mayor and Council of the Town of Duncan.

Sec. 125-758 Purpose and Authority.

- (a) *Purpose.* The purpose of this Ordinance is to ensure that new development for dwelling units known as “tiny homes” are meeting minimum standards that protect the life, health and safety of the residents. Moreover, Town Council finds a community benefit in design rules that include, but are not limited to, regulations promoting proper spacing, lot requirements, setbacks, access and parking, and adequate public infrastructure.
- (b) *Authority.* The Legislature of the State of South Carolina has in Title 4 of the Code of Laws of South Carolina, 1976, as amended, delegated the responsibility to local governmental units to adopt regulations and policies for the public health, safety, convenience, order, prosperity and general welfare of its citizenry. Further, the responsibility of general planning functions is delegated to the Duncan Zoning Board.
- (c) *General Requirements/Applicability.* Any “tiny home” community desiring to be developed in or annexed into the Town of Duncan must meet the following regulations. These regulations shall apply to the incorporated areas in the Town of Duncan. However, where sections conflict or overlap, whichever imposes the most stringent restrictions shall prevail.

Sec. 125-759 DEFINITIONS.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning]

Accessory Dwelling Unit (ADU): A secondary dwelling unit that is accessory to a primary dwelling on the same lot.

Accessory Structure: A Structure that is accessory to and incidental to that of the dwelling(s) and that is located on the same lot.

Building: Any one- or two-family dwelling or portion thereof, including townhouses, used or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof, or any accessory structure.

Dwelling Unit: A Single Unit providing complete and independent facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Tiny Home Neighborhood: A pocket neighborhood is a type of planned community that consists of a grouping of smaller residences, often around a courtyard or common garden, designed to promote a close-knit sense of community and neighborliness with an increased level of contact.

Structure: That which is built, or constructed.

Tiny Houses: A dwelling that is no more than 800 square feet or no less than 200 square feet in floor area excluding lofts. All tiny houses must meet the latest edition of the International Residential Code adopted by the State of South Carolina.

Sec. 125-760 Tiny Home Neighborhood.

- (a) **Application** - Tiny houses are permitted within a planned residential development in a tiny home neighborhood setting with individually owned (fee simple) lots in zoned areas. Tiny house subdivision in the zoned areas shall follow the guidelines and requirements of the Zoning Ordinance. This ordinance is not inclusive of recreational vehicles, park models, campers or other seasonal use designs that are regulated by the Recreational Vehicle Industry Association (RVIA).
- (b) **Review Process** - A Preliminary Plan shall be submitted to Zoning Administrator, following the requirements and process described in the Application. The Zoning Administrator shall be the lead town representative in processing and approval. The Preliminary Plan shall be taken to Zoning Administrator for review and comments. The Preliminary Plan shall be taken to the Planning Commission for review and approval. The Zoning Administrator shall sign off on approved Preliminary Plans after consideration by the Planning Commission.
- (c) **Design Standards** - The following design standards apply to all tiny house developments:
 - (1) A minimum of 10 tiny houses and maximum of 40 tiny houses per neighborhood on a minimum of 5 usable acres.
 - (2) Centralized common area. The common open space area shall include usable public spaces such as lawn, gardens, patios, plazas or scenic viewing area. Common tables, chairs and benches are encouraged, with all houses having access to it.
 - a. Four hundred square feet of common open space is required per unit.
 - b. Fifty percent of units must have their main entry on the common open space.
 - c. All units must be within five feet of common open space(s). Setbacks cannot be counted towards the common open space calculation.
 - d. The principal common open space must be located centrally to the project. Additional common open space can only account for twenty-five percent of the total requirement with trails and pathways connecting the total development. Passive

- trails are allowed and may count towards the common open space requirement.
- e. Community buildings or clubhouses can be counted towards the common open space calculation.
 - f. Tiny Houses must surround the common open space on a minimum of two sides of the green.
 - g. Common open space shall be located outside of stormwater/detention ponds, wetlands, streams, lakes, and critical area buffers, and cannot be located on slopes greater than ten percent.

(3) All houses must have both front and rear porches.

- a. Front porches shall be oriented towards common open space or street and designed to provide a sense of privacy between units.
- b. Secondary entrances facing the parking and sidewalk are required to have a minimum five- by-five-foot porch.
- c. The exterior siding shall consist of wood, hardboard, or vinyl comparable in composition, appearance and durability to the exterior siding commonly used in conventional residential site-built dwellings.
- d. Skirting or a curtain wall, unpierced except for required ventilation and access door, must be installed and maintained so that it encloses the area under manufactured multi-section homes and modular porches, decks, or other additions to ground level. The foundation skirting or curtain wall may be of brick, masonry, or vinyl or similar materials designed and manufactured for permanent outdoor installation. Materials used for skirting should be erected so as not to create a fire hazard and shall be maintained in a state of good repair. The skirting or curtain wall must be installed before a certificate of occupancy may be issued. An access opening of Eighteen (18) by Twenty-Four (24) inches shall be provided to under floor space.

(4) Lot and Pad Requirements.

- a. Lot Area. Where public sewer is available, the minimum area lot size shall be (1,950) one thousand nine hundred and fifty square feet.
- b. Pad Area. Each pad shall have an area of no less than eight hundred (800) square feet and not greater than one thousand (1,000) square feet.
- c. Width. Each pad shall not be less than twenty feet (20) wide and not greater than thirty feet (30) wide.
- d. Depth. Each pad shall not be less than forty feet (40) in depth and not greater than one hundred feet (100) in depth.

(5) Setbacks.

- a. Front setback: shall be twenty feet to be used for front porch and parking.
- b. Rear or next to common area the setback shall be five feet for the construction of a rear porch.
- c. Side Setbacks: five feet.
- d. No portion of a building or appurtenance shall be constructed as to project into any commonly owned open space. No structure or portion thereof shall be closer than five feet to any structure on an adjacent lot.
- e. No structure shall be erected within 25 feet from any external lot line; however,

where land uses are the same as uses permitted in the adjoining properties outside the development, a lesser setback that is consistent with the required setback of the adjoining properties may be permitted by the Zoning Administrator.

(6) Access & Parking. No lot shall have direct access to an existing public street or highway. All lots shall have a minimum of 20 feet of access to and frontage on an approved access to a public street or on a private road constructed to current road standards or private drive. A private drive shall have an improved surface width of 20 feet and drainage for private roads. The use of any public road, sidewalk, or right-of-way for the purpose of parking or maneuvering vehicles is prohibited. A minimum of 4 two parking spaces per lot is required. Visitor parking shall be provided in a ratio of ten percent of the total required parking for the development.

(7) Roads. All roads shall be twenty feet (20') wide, and shall be located at least fifty (50) feet from any street intersection. All interior streets shall be private and not public, and shall be constructed using a minimum standard of 6 inches crush and run stone and 2 inches of asphalt binder. Street grades shall not exceed twelve percent (12%) (note: max 15% in county road standards, but 12% is standard). All roads are to be paved.

(8) Screening & Buffering. A wall, fence, compact evergreen hedge or other type of evergreen foliage, or a combination of fence and shrubbery at least 6 feet in height alongside and rear exterior lot lines where located adjacent to a non-residential use (and/or district) shall be provided for screening and privacy purposes. A 20-foot landscaped buffer along the exterior property lines adjacent to residential uses and districts and along public roads shall be maintained.

(9) Lighting. All streets within the Tiny House Development shall be lighted at night. For lighting of horizontal tasks such as roadways, sidewalks, entrances and parking areas, fixtures shall meet IESNA "full-cutoff" (no light output above 90 degrees at any lateral angle around the fixture). Fixtures shall not be mounted in excess of 25 feet above finished grade. All other outdoor lighting such as floodlights and spotlights shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light skyward, onto a neighboring property or onto a public roadway.

(10) Signage. All signage shall be in accordance with the provisions set forth in the Town Sign Ordinances.

Sec. 125-761 Plan Elements.

The plan shall be designed by a registered engineer/surveyor/landscape architect (with the State of South Carolina) to scale of not less than 100 feet to 1 inch and shall contain the following information:

- (a) A vicinity map, title block, scale, north arrow, site size, and property line survey;
- (b) The location of any utility easements;

- (c) The land use for every part of the site and the number of acres devoted to each use including common areas;
- (d) The site's traffic circulation plan, including the location of curb cuts and points of 5 ingress/egress. It shall also include the location and width of all streets, drives, medians, service areas, dumpster pads, entrances to parking areas, etc.;
- (e) The site's parking plan, including the location, height, and type of all exterior light fixtures;
- (f) the location of all proposed buildings or structures, their use, general exterior dimensions, and gross square footage;
- (g) The location of all proposed residential structures, their general exterior dimensions, the number of residential dwelling units by type, and the number of the bedrooms in each unit;
- (h) The site's pedestrian circulation plan, including the location of all sidewalks, paths, trails, etc. and the dimensions thereof;
- (i) The screening and landscape plan for the site; including the location, size, and type of plant materials;
- (j) The Location of fire hydrants must be no further than 500 feet to all structures;
- (k) The location of street signs and free-standing signs.
- (l) Elevations of proposed development;
- (m) Topographic survey

Sec. 125-762 Ownership and Maintenance.

All land dedicated as common open space shall have land development restrictions. The easement shall run with the land, provide for protection in perpetuity, and be granted to the owning entity. The owner and developer or subdivider shall select land dedicated for common open space purposes and type of ownership. Type of ownership may include, but is not necessarily limited to, the following:

- (a) Shared, undivided interest by all property owners within the subdivision.
- (b) Homeowners Association (HOA), or cooperative associations or organizations;
- (c) Non-profit or quasi-public organizations committed to the protection and conservation of open space, subject to their acceptance;
- (d) Other public jurisdictions or agencies, subject to their acceptance;

Sec. 125-763 Maintenance of Common Open Space.

The person(s) or entity identified above, as having the right to ownership or control over open space, shall be responsible for its continuing upkeep and proper maintenance.

Sec. 125-764 Preliminary Plans.

In addition to the requirements, the following information must be provided at the time of submittal for preliminary approval:

All property designated for required open space shall be delineated on the preliminary plan. The open space on the preliminary plan should have meaningful dimensions, proportions, and placement. Only the required acreage to meet the Tiny House Common Open Space Requirements shall be identified as "Open Space". All other areas that will be owned and maintained by the HOA shall be identified as Common Area. Areas to be wholly preserved, such as wetlands, endangered species habitat, or cemeteries, shall be identified as "Preserved Area - No Access" on the plans. Limited access will be provided to cemeteries for maintenance and family visitation.

Sec. 125-765 Revisions to Approved Plans.

Revisions that alter the basic concept and general characteristics of the development as to substantially affect the project functionality as approved may be required to resubmit for review as determined by the Zoning Administrator.

Sec. 125-766 Final Plats.

For Tiny House Developments, when recording a Final Plat, the following apply:

(a) The recorded required acreage for common open space on each final plat must be proportional or greater to the total acreage being platted. Subsequent final plats must also meet the proportional requirements for the overall platted acreage.

(b) The following information must be shown on the final plat at the time of submittal:

1. Open space table, using the same format as on the preliminary plan, and shall include the proportional acreage being recorded. As shown in the exhibit below.

Tiny House Development	Entire Development	This Plat	Cumulative (to date)
Number of Lots Proposed	30	20	20

Required Open Space 800 square feet per Unit	12,000	8,000	8,000
Open Space Provided (square feet)	13,600	8,000	8,000
Total Acres	5	5	5

2. Notations indicating the delineated open space, including metes and bounds, are to be shown on the Final Plat;

3. Open Space Easements.

Prior to the recording of a subdivision final plat, an easement shall be placed on all lands used to satisfy the open space requirements of Tiny House development. The easement shall be solely for the purpose of ensuring the land remains undeveloped and shall not, in any way, imply the right of public access or any other right or duty not expressly set forth by the terms of the easement. The easement shall run with the land, provide for protection in perpetuity and be granted to a Homeowners Association, a Town-approved non-profit land trust, other qualified organization approved by the Town, or granted to the Town, subject to acceptance. The easement shall include a complete metes and bounds of the property being designated as open space.

4. Notes to be included on the Final Plat:

a. This development has been approved by the Planning Commission as a Tiny House Development and has provided certain acreage of open space.

b. The open space for this development is protected by an easement that has been recorded at the Spartanburg County Register of Deeds Office (Instrument #) and as outlined in the Subdivision Covenants (Instrument #).

5. Subdivision Covenants. The covenants for the subdivision shall include provisions for the maintenance of common areas and open space. A copy of the covenants is to be provided prior to the recording of a final plat.

Sec. 125-767 GENERAL.

(a) Should any portion, section or subsection of this Ordinance be declared null and void, all remaining portions, sections or subsections shall remain in full force and effect.

(b) This Ordinance may be amended or modified from time to time, provided, however, such amendments or modifications shall be accomplished in the same manner as the original enactment to this Ordinance.

(c) This Ordinance shall become effective and enforceable upon two (2) readings and a public hearing.

ORDAINED in meeting, duly assembled, this _____ day of _____, 2023.

ATTEST:

Clerk, Town of Duncan

Mayor, Town of Duncan

First Reading: _____

Second Reading: _____

Public Hearing: _____