

AN ORDINANCE TO AMEND CHAPTER 153, ZONING CODE, SECTION 153.010 OF THE CODE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, IMPOSING A TEMPORARY MORATORIUM ON THE ISSUANCE OF ALL RESIDENTIAL AND COMMERCIAL ZONE CHANGE PROPOSALS (REZONINGS) AND SUBDIVISIONS OF RESIDENTIALLY ZONED LAND (SUBDIVISION PLAT APPROVALS) COMPRISING MORE THAN FIVE PARCELS OF LAND FOR THE PURPOSE OF PROVIDING TOWN COUNCIL WITH TIME TO ADOPT THE PENDING COMPREHENSIVE PLAN UPDATE AND TO IMPLEMENT ANY NECESSARY CHANGES TO THE ZONING ORDINANCE, LAND USE REGULATIONS, AND/OR COMPREHENSIVE PLAN NOW UNDER REVIEW.

WHEREAS, this ordinance is adopted to comply with the provisions of South Carolina Code sections 5-7-30 and 6-29-710, *et seq.*, the South Carolina 1975 Home Rule Act and Chapter 153, section 153.010 of the Ordinance Book of the Town of Awendaw, South Carolina; and,

WHEREAS, pursuant to prior appellate case precedents, a moratorium may be upheld where there is a demonstrated need for the moratorium and the moratorium is enacted in good faith, is non-discriminatory, is set for a clearly defined limited duration, and has a clearly defined scope; and,

WHEREAS, on \_\_\_\_\_, 2024, the Town Council of the Town of Awendaw enacted, via a positive vote on the second reading, a temporary moratorium on the issuance of approvals for all zone change proposals and for subdivisions comprising more than five parcels of land subject to the conditions provided herein; and,

WHEREAS, in reaching the decision to impose a moratorium, Council made the following findings of fact:

1. Over the last several years, the Town of Awendaw has experienced a significant increase in the development of large-scale residential developments within its boundaries. The Town is experiencing and anticipates that there will continue to be demand for large-scale residential development growth, particularly with the ongoing growth in Planned Developments and large-scale subdivisions. The Town provides municipal planning and land use services, including, but not limited to land development regulation, zoning permits, and land use planning.

2. Appropriate and effective services of this nature are vital to the public health, safety, welfare, and quality of life in Awendaw.

3. Town Council finds that the increase in the number and size of large-scale residential developments in the Town pose a risk to public health, safety, welfare, and quality of life in Awendaw, via the impact that such development has on Town services, infrastructure, and resources, including, but not limited to, creating increased strain and negative impact on roads, fire, and emergency services, police services, traffic density, pedestrian safety, aesthetics, sensitive habitats, and traditional rural development.

4. The pace of growth and the impact of large-scale residential developments in the Town created the need to review, revise, and update the Town's Comprehensive Plan and associated ordinances and regulations related to land development, zoning, and land use permitting.

5. In sum, Town Council hereby finds that there is a demonstrated and immediate need for a moratorium on the allowance of any new zone change proposals (Rezoning) or subdivisions of residentially zoned land (Subdivision Plat Approvals) comprising more than five parcels of land, as provided herein.

WHEREAS, pursuant to the adopted moratorium ordinance, Council proposes to take the following actions: Review, with the assistance of Planning Commission, the Town's vision and mission, as well as codes, ordinances, and procedures related to zoning district classifications, housing density and residential lot sizes, and land development and subdivision regulations; and

WHEREAS, the town has acted purposefully towards accomplishing the elements of the required Comprehensive Plan update and the Council's appointed Steering Committee has met regularly and worked diligently toward this end; and

WHEREAS, Town Council deems it necessary and proper to enact the moratorium described herein.

Be it Ordered and Ordained by the Council of the Town of Awendaw, S. C. and it is ordained by the authority of said Council that Chapter 153, Zoning Code, paragraph (B) of section 153.010 of the Code of the Town of Awendaw, South Carolina, shall be and is hereby amended to specify as follows:

Section 1. Moratorium.

Town Council hereby implements a temporary moratorium on the allowance of any new residential and commercial zoning district changes, including those under the PD, Planned Development zoning district classification and subdivisions proposing more than five parcels of land in order to provide time for the Town Council to strategically evaluate the Town's capability to serve the increased demands such future developments might place on Town services and infrastructure and to identify suitable locations for any such future developments. The moratorium shall not affect other types of permits, including, but not limited to, demolition permits, construction permits for single-family homes, small subdivisions of five or fewer parcels, business licenses, or business up-fit or new construction permits.

### Section 2. Limited Duration

The provisions of this ordinance shall be effective immediately upon enactment, and shall remain in effect for one calendar year thereafter, or until Council acts to adopt the Comprehensive Plan and recommended town code amendments or ends this temporary moratorium, whichever occurs first.

### Section 3. Council Action Plan

During the moratorium, Council shall act promptly to:

- a. Review, discuss, consider, amend, revise, and/or adopt the Comprehensive Plan and recommendations delivered by the Steering Committee and Planning Commission;
- b. Determine whether there are necessary amendments to the Town zoning ordinance, land use regulations, and/or Comprehensive Plan resulting from the report and recommendations of the Steering Committee and the Planning Commission;
- c. Hold itself, or direct the Planning Commission to hold, such public hearings as Council desires or as may be required by law; and,
- d. Propose and set for public hearing any amendments to the Town zoning ordinance, land use regulations, and/or Comprehensive Plan as may be deemed necessary and proper by Council.

### Section 4. Inconsistent Ordinances.

All ordinances or parts of ordinances inconsistent with this moratorium ordinance are hereby suspended to the extent of such inconsistency for the pendency of the moratorium.

### Section 5. Exemptions

- a. The provisions of this moratorium ordinance do not apply to property subject to a development agreement as provided in South Carolina Code section 6-31-10, *et seq.*, to the extent that such property is protected by the development agreement from application of the moratorium provisions.
- b. The provisions of this moratorium ordinance do not apply to property protected by vested rights as provided in South Carolina Code section 6-29-1520, *et seq.*, as applicable. The burden of providing sufficient proof of the vested rights claimed as an exemption rests upon the claimant and must be verified in writing by the Town Attorney.

Section 6. Land Subdivision Exceptions

The provisions of this moratorium ordinance do not apply to the subdivision of property into five (5) or less lots, divided from a parent parcel that was a legal lot of record as of the date of enactment of this ordinance, provided all subdivision and land development regulations applicable to such subdivision have been met. No more than five lots may be subdivided from the parent parcel for the duration of this ordinance.

Section 7. Severability.

The provisions of this moratorium ordinance are intended to be severable, and if a court of competent jurisdiction should hold any part of this ordinance invalid, unconstitutional, or otherwise unlawful, such ruling shall not affect the remainder of the ordinance, which shall remain in full force and effect.

Be it further ordained that the Town Council declares its intention that the "Pending Ordinance Doctrine" be effective upon first reading of this ordinance.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

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 Miriam C. Green, Mayor  
 Town of Awendaw

Introduced: \_\_\_\_\_, 2024

Final reading: \_\_\_\_\_, 2024

Donna F. Steed, Clerk of Council