

8/16/11

Ratification

Number _____

AN ORDINANCE

TO AMEND THE CODE OF THE CITY OF CHARLESTON, SOUTH CAROLINA, CHAPTER 54 TO ADD PROVISIONS TO THE CITY'S ZONING ORDINANCE TO ADDRESS PROPOSED CRUISE PASSENGER TERMINALS IN THE CITY AND TO MITIGATE THE IMPACTS OF CRUISE PASSENGER TERMINALS WITHIN AND ADJACENT TO THE CITY'S OLD CITY DISTRICT AND OLD AND HISTORIC DISTRICT, RESPECTIVELY, IN ORDER TO PRESERVE THE CITY'S HISTORIC AND CULTURAL RESOURCES AND TO PROTECT THE QUALITY OF LIFE OF THOSE LIVING IN, WORKING IN, AND VISITING THE CITY.

TO AMEND THE CODE OF THE CITY OF CHARLESTON, SOUTH CAROLINA, CHAPTER 21 TO ADD PROVISIONS LIMITING THE AMPLIFICATION OF SOUNDS FROM DOCKED CRUISE SHIPS.

WHEREAS, Since its founding in 1670, the City of Charleston has been a working port city that has been positively influenced both economically and culturally by marine commerce; and

WHEREAS, The Port of Charleston plays a key economic role in the City of Charleston and the State of South Carolina by facilitating waterborne commerce, including passenger transportation; and

WHEREAS, On September 14th, 2010 the City of Charleston passed a resolution in support of the South Carolina State Ports Authority's plans to redevelop Union Pier and to reestablish a Cruise Passenger Terminal at the northern end of Union Pier; and

WHEREAS, In June 2011 the South Carolina General Assembly passed a Concurrent Resolution recognizing the cruise industry's significant economic contributions to the state, declaring that Charleston "is a museum in and of itself, a treasure that should be shared, not sheltered;" and

WHEREAS, The City of Charleston seeks to maintain Cruise Ship operations as a key part of the Port of Charleston's operations and tourism economy while striking a reasonable balance with other economic, historic preservation, and quality of life values; and

WHEREAS, The City of Charleston has invoked its zoning/land-use planning authority and general police powers to balance tourism with historic preservation; and

WHEREAS, Since 1983, the City of Charleston has engaged in tourism management by addressing and mitigating impacts associated with various industries including, but not limited to, tour boats, horse-drawn carriages, small buses, and vendors; and

WHEREAS, The 1999 Charleston Downtown Plan was based on principles including nurturing inclusive, vibrant neighborhoods, respecting the grain, scale, and mix of the peninsula's urban fabric, fostering sustainability, and using growth strategically; and

WHEREAS, The City Council finds that Cruise Ship impacts and the quality of life of Charleston residents, workers, and visitors can and should be balanced through zoning regulations; and

WHEREAS, The City Council finds that Cruise Ship impacts should be avoided when other significant visitor events are scheduled within or adjacent to the Old City District and Old and Historic District, in order to avoid overcrowding, excessive vehicular, and pedestrian congestion; and

WHEREAS, The City Council finds that the yearly monitoring of Cruise Ship operations is necessary to ensure the continued reasonable balancing of Cruise Ship impacts on the Old City District and Old and Historic District; and

WHEREAS, The City Council finds that the establishment of a public process for proposed increases to existing impact levels supplies flexibility for owners of Cruise Passenger Terminals as well as the general public.

NOW, THEREFORE, BE IT ORDANINED BY THE MAYOR AND COUNCILMEMBERS IN CITY COUNCIL ASSEMBLED THAT:

Section 1. Chapter 54 of the Code of the City of Charleston (the "Zoning Code") is hereby amended by adding the following defined terms to section 54-120:

1. **"Cruise Ship"** shall mean a deep sea worthy vessel with overnight accommodations for more than one hundred and fifty (150) passengers. Cruise Ships do not include tour boats, water taxis, car ferries, or marine cargo vessels, as those terms are used in this Chapter.
2. **"Cruise Ship Berth"** shall mean the use of land, including docks, wharfs, bollards, and other such attachments thereto and structures thereon, for the purpose of docking a Cruise Ship at a Cruise Passenger Terminal.
3. **"Cruise Passenger Terminal"** shall mean a facility for the use of a separately subdivided tract of land, including docks, wharfs, and other such attachments thereto and structures thereon, for the purpose of facilitating, processing, and managing port of call and embarkation and debarkation of Cruise Ship passengers.
4. **"Cruise Ship Visit"** shall mean port of call and embarkation and debarkation of Cruise Ship passengers from a Cruise Ship through the Cruise Passenger Terminal.

5. **“Visitor Impact Events”** shall mean those events held in the City, which have or are anticipated to bring at least *<insert number based on CVB data>* visitors into the City over a twenty-four hour period.

Section 2. Chapter 54, Article 2, Part 3, of the Code of the City of Charleston, is hereby amended by:

1. adding to Division E of the “Table of Permitted Uses:”

4481. “Deep Sea Transportation of Passengers, Except by Ferry”

; and

2. indicating in the “Table of Permitted Uses,” as hereby amended, that “Deep Sea Transportation of Passengers, Except by Ferry” is a use allowed within Light Industrial and Heavy Industrial zoning districts, subject to the special exception requirements of section 54-227 for land within the “Cruise CR Overlay Zone.”

Section 3. Chapter 54 of the Code of the City of Charleston, the Zoning Code, is hereby amended by adding thereto the following Section, which shall read as follows:

Sec. 54-227 Cruise CR Overlay Zone

- a. **Intent.** The intent of the Cruise CR Overlay Zone is to limit the number of Cruise Passenger Terminals allowed within the Zone to one (1) and to balance the landside impacts of such a Cruise Passenger Terminal with the historic character of the Old City District and Old and Historic District and the quality of life of Charleston residents, workers, and visitors. The Cruise CR Overlay Zone identifies those areas on the peninsula where a single Cruise Passenger Terminal may be permitted as a special exception so that the development and expansion of such a use occurs only in a manner compatible with adjacent and nearby land uses according to the goals and objectives of the Zoning Code.
- b. **Zoning Restrictions.** Based on the findings of the City Council made prior to adoption of this section and in order to effectuate the intent of the Cruise CR Overlay Zone, the City Council hereby adopts the following zoning restrictions for the single Cruise Passenger Terminal allowed within the CR Overlay Zone:
 1. That Cruise Ship Visits to the Cruise Passenger Terminal not exceed one hundred four (104) per calendar year;
 2. That not more than one (1) Cruise Ship Visit to the Cruise Passenger Terminal occur per calendar day;
 3. That the Cruise Passenger Terminal shall not be used for the embarking and debarking of passengers during any Cruise Ship Visit in excess of three thousand five hundred (3,500).

c. ***Establishment.***

The Cruise CR Overlay Zone is hereby established to include all areas designated as such on the zoning grid maps of the City of Charleston and concomitant with the Old City District.

d. ***Definitions.***

Terms used in this section shall have the meanings set forth in section 54-120.

e. ***Uses allowed in the Cruise CR Overlay Zone.***

1. In addition to the uses allowed by the underlying zoning district, as listed in Article 2, Part 3 of this Chapter, land within the Cruise CR Overlay Zone may be used, and buildings or structures may be erected, altered, or used, as a single Cruise Passenger Terminal only as provided in this section.
2. Within the Cruise CR Overlay Zone, a single Cruise Passenger Terminal may be approved by the Board of Zoning Appeals – Zoning as a special exception, based on the standards and procedures set forth in subsection (f) below and subject to the Zoning Regulations in subsection (b) above. A special exception approved by the Board of Zoning Appeals – Zoning may include conditions on the approval of a Cruise Passenger Terminal, as provided herein.
3. The requirements of this section do not apply to any Cruise Passenger Terminal proposed on land outside the Cruise CR Overlay Zone.
4. An applicant seeking approval of a proposed Cruise Passenger Terminal in the Cruise CR Overlay Zone, must submit a written assessment report, along with an application on a form provided by the City, demonstrating compliance with the requirements of this section and all other applicable provisions of the Zoning Code.

f. ***Cruise CR Overlay Zone.***

1. Within the Cruise CR Overlay Zone, the following standards apply:

(a) ***Land Use Compatibility:***

- (1) Coordination with Visitor Impact Events: No Cruise Ship Visit may occur on days when other Visitor Impact Events are scheduled by staff and written notification is given to the owner of the Cruise Passenger Terminal at least two (2) years in advance.
- (2) Cruise Ship Berths:
 - a. The Cruise Passenger Terminal may not have more than one (1) Cruise Ship Berth.
 - b. No more than one (1) Cruise Ship may be docked at the Cruise Ship Berth of the Cruise Passenger Terminal at the same time.

(3) Embarkation and Debarkation Periods:

- c. The Cruise Passenger Terminal shall allow at least a five (5) hour embarkation period and a three (3) hour debarkation period for each Cruise Ship Visit; and
- d. Embarkation and debarkation periods, as set forth above, may not be between 7 a.m. and 9 a.m. or 4 p.m. and 6 p.m. on business days.

(4) Zoning Restrictions: The Cruise Passenger Terminal must comply with the zoning restrictions set forth in section 54-227(b), above.

(b) ***On-site Parking Standards:*** No more than one hundred and twenty-five (125) parking spaces may be surface parking. All additional spaces must be structured.

NO MAXIMUMS

(c) ***On-site circulation and passenger loading requirements.***

- (1) The site plan for the Cruise Passenger Terminal must accommodate all vehicular and pedestrian queues and processing on the tract; and
 - (2) Plans for ingress and egress and the embarkation and debarkation of passengers must be approved for safety by the City Department of Traffic and Transportation and any other appropriate city department(s) prior to consideration by the Board of Zoning Appeals – Zoning.
2. In determining whether to approve, deny, or approve with conditions a proposed Cruise Passenger Terminal as a special exception, the Board of Zoning Appeals – Zoning must make a finding that the standards in subsection (f)(1) and all other applicable provisions of the Zoning Code must be met.
3. In determining whether the standards in subsection (f)1 have been met and before making any finding under subsection (f)2, the Board of Zoning Appeals – Zoning, shall consider, in addition to any other information timely submitted by the applicant, the following:

Traffic study and management plan.

- (a) The applicant must submit and have approved by the City Department of Traffic and Transportation a traffic study and management plan that:
 - (1) identifies the main entrance and parking entrances of the proposed Cruise Passenger Terminal;
 - (2) identifies critical roadways and intersections impacted by the proposed Cruise Passenger Terminal;
 - (3) identifies the anticipated arrival and departure pattern for vehicle trips generated by the proposed Cruise Passenger Terminal for the study area defined by the City Department of Traffic and Transportation.
 - (4) distributes traffic throughout the study area, based on arrival/departure pattern of passengers arriving by vehicle;

- (5) estimates the projected number of daily and peak hour vehicle trips to be generated by the proposed Cruise Passenger Terminal and its accessory uses;
 - (6) describes the effect on existing traffic levels and the existing level of service (LOS) standards of roadways within the study area;
 - (7) describes the on-site and off-site traffic circulation patterns serving the proposed Cruise Passenger Terminal; and
 - (8) recommends any on-site or off-site improvements needed to maintain existing LOS standards within the study area or to comply with the requirements of this section.
- (b) The Board of Zoning Appeals – Zoning may not approve a Cruise Passenger Terminal unless any on-site or off-site improvements recommended by the City Department of Traffic and Transportation have been completed or have been contractually agreed to by the applicant, including any performance guarantees required by the City.

g. City Review.

1. The owner of the Cruise Passenger Terminal may petition the City Council to amend its zoning restrictions, as set forth in section 54-227(b) above, pursuant to the following procedure:
 - (a) At least one year prior to any proposed change being adopted by City Council, the petitioner must submit an application to the Director of Planning, that includes the following impact reports or studies:
 - (1) A traffic study and management plan, as required by section 54-227(e)(3)(a);
 - (2) An economic impact report, assessing the benefits and costs of the proposal on the City of Charleston;
 - (3) A fiscal impact report, assessing the revenues and costs of the proposal on the public facilities, resources, and finances of the City;
 - (4) An evaluation of the impacts of the proposal on the historic and cultural amenities of the City, including changes in vehicular and passenger impacts within the CR Overlay Zone;
 - (5) A land use study evaluating the impact of the Cruise Passenger Terminal, if the proposal were approved, on the character of the City's retail, accommodations, and tourism industry within the CR Overlay Zone; and
 - (6) An evaluation of the proposal's consistency with the Charleston Century V Plan, the Charleston Downtown Plan, and other City planning policies affecting lands within the CR Overlay Zone.
 - (b) Within thirty (30) days of the receipt of a complete application, the Director of Planning shall provide written notification of the application and the date of the Planning Commission's workshop, as provided below, to the following groups:

- (1) the Cruise Neighbors Advisory Council;
 - (2) the Historic Charleston Foundation; and
 - (3) the Preservation Society.
- (c) The Director of Planning will prepare a staff report evaluating the petition and its consistency with the Charleston Century V Plan, the Charleston Downtown Plan, and other City planning policies affecting lands within the CR Overlay Zone.
- (d) Upon receipt of an application, the Planning Commission will hold a publically-noticed workshop at which the petitioner and the public are given an opportunity to be heard.
- vok?* (e) Following the workshop, the Planning Commission will submit a recommendation to the City Council whether, or in what manner, the zoning restrictions set forth in section 54-227(b) should be amended.
- (f) Following receipt of the recommendations of the Planning Commission, the City Council will hold a publically-noticed hearing at which the petitioner and the public may be heard and, thereafter, will decide whether to amend the zoning restrictions set forth in section 54-227(b).
- (g) If the City Council decides to amend its zoning restrictions, it will direct the City Attorney to prepare an amendment to section 54-227(b) for introduction at the first regular meeting of the City Council scheduled at least one (1) year following submission of a complete application, as provided above.

Section 4. Section 54-102(c)(1) of the Code of the City of Charleston is hereby amended by deleting text in this section shown below with a ~~strikethrough~~ and adding text shown below with a double-underline:

c. Special zoning districts

1. **Overlay Zones.** These include the Accommodations Overlay Zone, Tour Boat Overlay Zone, Johns Island Overlay Zone, Savannah Highway Overlay Zone, School Overlay Zone, Landmark Overlay Zone, ~~and Amusement and Recreation Services Overlay Zone,~~ and Cruise CR Overlay Zone and are delineated on the zoning maps. In addition to the regulations and requirements of each overlaid zoning district, properties within the Overlay Zones shall be subject to regulations of the applicable Overlay Zone.

Section 5. Section 54-202 of the Code of the City of Charleston is hereby amended by adding the following subsection:

- h. **Cruise CR Overlay Zone.** The Cruise CR Overlay Zone identifies those areas that are most impacted by the operation of Cruise Passenger Terminals and for which additional compatibility standards are necessary to protect the Old City District and Old and Historic District.

Section 6. Chapter 21, Article II (“Noise”) of the Code of the City of Charleston is hereby amended by adding thereto the following Division 3 (“Cruise Ships”), which shall read as follows:

Sec. 21-60.- Definitions

- (a) “Amplifying device” means public announcement systems, stereos, or other technology for the enhancement of sound.
- (b) “Cruise Ship” shall mean a deep sea worthy vessel with overnight accommodations for more than one hundred and fifty (150) passengers. Cruise Ships do not include tour boats, water taxis, car ferries, or marine cargo vessels.

Sec. 21-61.- Sound Amplification Limitations

In the Cruise CR Overlay Zone, the use of amplifying devices to broadcast music or announcements from a docked Cruise Ship is prohibited, except in cases of emergency or as otherwise required by applicable law, to the extent that such music or announcements can be heard in adjacent residential districts.

Sec. 21-62 to 29-69. – Reserved.

Section 7. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions herein.

Section 8. All ordinances or parts of ordinances in conflict with this Ordinance, to the extent of such conflict, are hereby repealed.

Section 9. This Ordinance shall become effective upon ratification.

Ratified in City Council this ___ day of _____ in the Year of Our Lord, 2011, in the 236th Year of Independence of the United States of America.

By: _____

Joseph P. Riley, Jr.
Mayor, City of Charleston

ATTEST:

Vanessa Turner-Maybank
Clerk of Council

(c://worddata/Historic Charleston/3339.Cruise Ship Ordinance.080911.clean.docx)