

# Planning Commission



## Agenda for the Thursday, February 21, 2019, Study Session

### *Members of the Planning Commission*

Britton Williams  
*Acting Chairman*

Leonard Carter, Jr.  
Timothy V. Key  
Larry Watts

Bob Clark  
JoAnn McKie  
Dr. Christine Crawford

*CITIZEN ASSISTANCE: Individuals requiring special assistance or a sign interpreter to participate in the meeting are asked to please notify the Department of Planning and Development 48 hours prior to the meeting at 803-441-4221.*

1. Call to Order – 6:00 p.m.
2. Welcome to Members (Chair) – 15 minutes
  - a. PC Function and Duties
  - b. Meeting Ground Rules
  - c. Use of Study Sessions
3. 2019 Work Plan – Upcoming Code Changes – 15 minutes
  - a. Signs
  - b. Downtown/Hammond's Ferry
  - c. Assignment of Work Method – work groups or group effort
4. Discussion of Agenda Items, as needed
5. Adjourn

# Chapter 1 - Planning

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## Planning Legislation in South Carolina

The authority for local governments to undertake planning and to adopt zoning and land development regulations is granted by the General Assembly.

The General Assembly authorized municipal planning and zoning in 1924 and county planning in 1942.

The Local Government Comprehensive Planning Enabling Act of 1994 replaced the 1967 Act, repealed all of the above statutes and required all local comprehensive plans, zoning and land development ordinances conform to the 1994 Act by December 31, 1994. The 1994 Act, with subsequent amendments, is codified at S.C. Code Title 6, Chapter 29.

## Local Planning Organizational Structures

Local governments must establish a local planning commission to begin comprehensive planning. Several types of planning commissions may be created by ordinance. S.C. Code § 6-29-310 through § 6-29-380. See Appendix B for model ordinances.

### Municipal Planning Commission

A municipal council can create a municipal planning commission of five to 12 members. The commission's authority is limited to the corporate limits of the municipality.

### County Planning Commission

A county council can create a county planning commission of five to 12 members. The commission's authority is limited to the unincorporated area of the county.

### Joint Municipal-County Planning Commission

A municipal council (or multiple municipal councils) and a county council can create a joint planning commission by ordinance adopted by each participating municipality and the county council. A planning commission which serves two political subdivisions can have five to 12 members. If a commission serves three or more political subdivisions (e.g., two municipalities and the unincorporated county), its size cannot be greater than four times the number of jurisdictions it serves. For example, a commission serving three municipalities and a county can have a maximum of 16 members. Membership of the joint commission must be proportional to the population inside and outside municipal limits. Authority of the joint planning commission is limited to the geographic area of the participating municipalities and the unincorporated area of the county. The ordinance must specify the number of members to be appointed by each participating municipal council and the county council.

### **Municipal Planning Commission with Extraterritorial Jurisdiction**

If approved by the county and municipality, a municipal planning commission can exercise planning authority outside the corporate limits of a municipality in areas adjacent to the municipality. The two councils must adopt an ordinance setting forth (1) the affected geographic area; (2) the number or proportion of commission members to be appointed from that area; (3) any limitations on the authority of the municipality in that area; and (4) representation on the municipality's boards and commissions which affect the unincorporated area.

The ordinance may provide for appointment of members of the planning commission from the area outside the municipal limits by either the municipal council or county council. The commission must have five to 12 members.

### **County Planning Commission Designated as Municipal Commission**

A municipal council may designate by ordinance the county planning commission as the official planning commission of the municipality. The municipal and county councils each must adopt an ordinance setting out their agreement on the specific powers and duties of the commission and addressing the issues of equitable representation of the municipality and county on the planning commission and other boards and commissions resulting from ordinances adopted by the county council that affect the municipal area.

### **Planning Commission Serving Multiple Municipalities**

Two or more municipal councils may create a joint planning commission to serve them. This could be especially useful for contiguous municipalities. The ordinance creating the joint planning commission should address, among other things, the number of members each council appoints. The size of a joint planning commission serving two municipalities is limited to five to 12 members. If a commission serves three or more municipalities, its size is limited to four times the number of participating municipalities.

### **Consolidated Political Subdivision Planning Commission**

Consolidation of a county, municipalities and special purpose districts into a new local government was authorized by Act 319 of 1992 in response to a 1972 constitutional mandate. The legislation has not been used. The Act provides for creating a planning commission of five to 12 members to serve a consolidated local government.

## **Jurisdiction of Municipalities and Counties**

A municipality may exercise the powers in the 1994 Act in the entire area within its corporate limits. A county has the flexibility to exercise those powers in the total unincorporated area or in specifically designated parts. S.C. Code § 6-29-330(A).

## Local Planning Commission Functions and Duties

A local planning commission has a duty to engage in a continuous planning program for the physical, social and economic growth, development and redevelopment of the area within its authority. The minimum nine elements of the comprehensive plan and any other elements prepared for the particular jurisdiction must be designed to promote public health, safety, morals, convenience, prosperity or the general welfare as well as the efficiency and economy of its area of concern. Each element must be based on careful and comprehensive surveys and studies of existing conditions and probable future development and include recommendations for implementing the plans. S.C. Code § 6-29-340.

### Specific Planning Activities

In carrying out its responsibilities, the local planning commission has authority to do all of the following things. The local governing body or the planning commission may add activities. S.C. Code § 6-29-340.

1. **Comprehensive plan.** Prepare and periodically revise plans and programs for development and redevelopment of its area.
2. **Implementation.** Prepare and recommend measures for implementing the plan by the appropriate governing bodies, including the following measures.
  - a. **Zoning ordinances,** including zoning district maps and necessary revisions.
  - b. **Regulations for the subdivision or development of land.** The planning commission is responsible for overseeing the administration of land development regulations adopted by the local governing body. See Chapter 5.
  - c. **An official map** and appropriate revisions showing the exact location of existing or proposed public streets, highways, utility rights of way and public building sites, with regulations and procedures for administering the official map ordinance. See Chapter 6.
  - d. **A landscaping ordinance** providing required planting, tree preservation and other aesthetic considerations.
  - e. **A capital improvements program** listing projects required to implement adopted plans. The planning commission must submit an annual list of priority projects to the appropriate governmental bodies for consideration when they prepare annual capital budgets.
  - f. **Policies and procedures** to implement adopted comprehensive plan elements. These policies and procedures could cover such things as expanding corporate limits, extending public water and sewer systems, dedicating streets and drainage easements, and offering economic development incentive packages.

## **Zoning Functions**

In the past, some local governments allowed their planning commission to perform zoning functions delegated by law to the board of zoning appeals. The 1994 Act makes it clear the planning commission does not have authority to administer the zoning ordinance. It cannot grant variances, use variances or special exceptions. The Act does not allow the planning commission or the governing body to grant "special uses," "conditional uses" or "uses upon review." Appeals, variances and special exceptions all come within the exclusive jurisdiction of the board of zoning appeals. Conditional uses require no review because they must be described in the text of the zoning ordinance.

### **Planning commission functions related to zoning**

- 1. Comprehensive plan.** Adopt, recommend, review and update at least the land use element of the comprehensive plan. S.C. Code §§ 6-29-510 -- 530, § 6-29-720. All zoning ordinances and amendments must conform to the comprehensive plan.
- 2. Zoning ordinance.** After adopting the land use element of the comprehensive plan, prepare and recommend to the governing body a zoning ordinance text and maps. S.C. Code § 6-29-340, § 6-29-720. Review and make recommendations concerning amendments. Hold public hearings on amendments when authorized by the governing body. S.C. Code § 6-29-760. See Chapter 2.

There are no provisions for zoning appeals to or from the planning commission. The commission makes no final decisions regarding zoning.

## **Land Development Functions**

The planning commission administers land development regulations. See Chapter 5. The board of zoning appeals is not involved. In some jurisdictions, the zoning administrator serves as planning commission secretary and provides staff support for administering land development regulations.

## **Landscaping and Aesthetics**

Landscaping regulations, which can be included in the zoning ordinance, are important in protecting aesthetics of the community. Landscaping regulations can apply to particular sections, zoning districts or entrance corridors instead of the entire planning jurisdiction. Regulations might limit curb cuts, require parallel frontage drives, require landscaping plans for strips of property adjacent to street rights of way, and requirements for landscaping areas within off-street parking slots.

In addition, the landscaping ordinance can be used to prevent the cutting of specimen trees on private property within a specified distance of the street rights of way. A landscaping ordinance imposing requirements on private developments is much easier to promote in communities that have made tangible commitments to landscaping of public sites and street rights of way. S.C. Code § 6-29-340(B)(2)(d).

## **Capital Improvements Program**

Capital improvements programming has virtually become a lost art. During this period, public capital improvements priorities were often determined by available federal grants rather than a systematic evaluation of community needs. The comprehensive plan elements will identify and propose many projects and programs requiring public funds. The commission must catalog and rank the projects. Only those proposals that are feasible should be included. S.C. Code § 6-29-340(B)(2)(e).

The planning commission may appoint an advisory committee with representatives from all the affected agencies to assist in developing the capital improvements program and the annual list of priority projects recommended to the governmental bodies. Limited resources will always be an issue; however, involvement of the competing agencies in developing the annual list should help hold down competition for the limited dollars. It is also an excellent vehicle for coordinating bond issues proposed by various public entities such as the school board, library board and other autonomous or semiautonomous groups. This coordination should help eliminate public confusion when several groups propose bond issues at the same time.

## **Development Impact Fees**

The South Carolina Development Impact Fee Act (S.C. Code § 6-1-910, et seq.), enacted in 1999, assigns a significant role to the local planning commission in recommending to the governing body an impact fee ordinance. This Act, broadly stated, allows counties and municipalities to impose by ordinance a requirement for payment of "development impact fees" (as defined) by a land developer as a condition of development approval.

The Act defines "development impact fees" as payment for "a proportionate share of the cost of system improvements needed to serve the people utilizing the improvements." S.C. Code § 6-1-920(8). "System improvements" are defined as "capital improvements to public facilities which are designed to provide service to a service area." S.C. Code § 6-1-920(21). "Public facilities" are defined to include such things as water, wastewater, solid waste and stormwater services, roads, public safety, street lighting, capital equipment, and parks and recreation. S.C. Code § 6-1-920(18). The amount of impact fees must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies and generally accepted accounting principles. S.C. Code § 6-1-930, § 6-1-940, § 6-1-980.

The Impact Fee Act requires that the process for adopting an impact fee ordinance begin with a resolution of the council directing the local planning commission to conduct the necessary studies and recommend an impact fee ordinance developed in accordance with the Act. S.C. Code § 6-1-950(A). Upon receipt of the resolution, the local planning commission must develop and make recommendations for a capital improvements plan (or its update) and for impact fees by the "service unit" (a defined term). In preparing and making its recommendations, the planning commission is to use the same procedures as those used in developing the comprehensive plan, unless other procedures are specified in the Impact Fee Act. S.C. Code § 6-1-950. The Impact Fee Act sets out detailed descriptions of the capital

improvements plan (S.C. Code § 6-1-960), as well as detailed descriptions of the calculation of impact fees based on service units and the calculations for maximum impact fees and the developer's proportionate share. See S.C. Code § 6-1-980, § 6-1-990. See *Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville*, 369 S.C. 498, 632 S.E.2d 864 (2006), for the first appellate court review of a development impact fee ordinance under this Act. The court upheld the ordinance and found "substantial compliance" with the Act's requirements for a capital improvement plan and for the calculation of impact fees.

## **Planning Commission Membership, Organization and Operation**

The 1994 Act has specific requirements for creating a planning commission.

### **Membership**

Types and sizes of planning commissions were covered earlier in this publication. The 1994 Act provides the following additional specific provisions. S.C. Code § 6-29-350.

1. **Other office.** A planning commission member cannot hold an elected public office in the municipality or county making the appointment.
2. **Terms.** The governing body must appoint members for staggered terms. Members serve until their successors are appointed and qualified.
3. **Compensation.** Compensation of planning commission members, if any, is determined by the local government creating the commission. Usually, members serve without pay. However, they may be reimbursed for authorized expenses incurred in the performance of their duties.
4. **Vacancy.** The local government making the original appointment must fill any vacancy for the unexpired term.
5. **Removal.** The local government governing body may remove for cause any member it appoints.
6. **Appointments.** When making appointments, the local governing body must consider professional expertise, knowledge about the community and concern for the future welfare of the total community and its citizens.
7. **Community interest.** Commission members must represent a broad cross section of the interests and concerns within the jurisdiction.

### **Officers**

The local planning commission must elect one of its members as chairman and one as vice chairman for one-year terms. It must also appoint a secretary. The secretary is usually the planning director if the planning commission has a staff or some other employee of the local

government. The secretary prepares and maintains meeting minutes and other records. S.C. Code § 6-29-360.

### **Rules of Procedure**

A planning commission must adopt rules of procedure. S.C. Code § 6-29-360. As a minimum, the rules should cover the following:

1. Election of a chairperson and vice chairperson and duties
2. Appointment of a secretary and duties
3. Procedures for calling meetings
4. Place and time for meetings
5. Posting notice of meetings to comply with Freedom of Information Act
6. Setting agenda
7. Quorum and attendance requirements
8. Rules and procedure for conducting meetings
9. Public hearing procedure
10. Procedure for making and keeping records of actions
11. Procedure for plan and plat review
12. Delegation of authority to staff
13. Procedure for purchase of equipment and supplies
14. Procedure for employment of staff and/or consultants
15. Preparation and presentation of annual budget
16. Procedure for authorizing members or staff to incur expenses and secure reimbursement

It is essential for the commission to adopt and follow clear, adequate rules of procedure. Sample rules of procedure are provided in Appendix C.

### **Freedom of Information Act**

The Freedom of Information Act (S.C. Code § 30-4-10, et seq.) requires all public bodies to conduct their meetings in public. Public bodies may go into executive session only for matters specified by the FOI Act, such as receipt of legal advice, employment matters and contract negotiations. S.C. Code § 30-4-70. The commission must give written public notice of regular meetings at the beginning of each calendar year. An agenda for regularly scheduled or special meetings must be posted at the meeting place and on a public website maintained by the body, if any, at least 24 hours prior to a meeting. Notice of a called, special or rescheduled meeting must be posted with an agenda at least 24 hours prior to the meeting. Notice also must be given to individuals, organizations and news media requesting meeting notification. S.C. Code § 30-4-80.

### **Records**

The local planning commission must keep a public record of its resolutions, findings and determinations. S.C. Code § 6-29-360(B). Public records must be made available for inspection and copying as provided in the Freedom of Information Act. S.C. Code § 30-4-30.



## **Financing**

Usually, the local planning commission will request annual appropriations from the local government creating it. The commission may cooperate with, contract with or accept funds from federal government agencies; state government agencies; local general purpose governments; school districts; special purpose districts, including those of other states; public or eleemosynary agencies; or private individuals or corporations. The planning commission can spend the funds and carry out cooperative undertakings and contracts it considers necessary and consistent with appropriated funds. S.C. Code § 6-29-360(B), § 6-29-380.

## **Educational Requirements for Planning Commission**

Amendments in 2003 to the Comprehensive Planning Act added mandatory orientation and continuing educational requirements for local planning commission members, as well as for other appointed officials and professional employees involved with local zoning and planning entities. These requirements are set out in Article 9 of the Act (S.C. Code § 6-29-1310, et seq.).

The educational requirements apply to “appointed officials” (defined as planning commissioners, board of zoning appeals members and board of architectural review members) and “professional employees” (defined as a planning professional, zoning administrator, zoning official, or a deputy or assistant of a planning professional, zoning administrator or zoning official). S.C. Code § 6-29-1310. Exemptions from the educational requirements are allowed for individuals who have (1) a certification by the American Institute of Certified Planners; (2) a master’s or doctorate degree in planning from an accredited college or university; (3) a master’s or doctorate degree or specialized training or experience in a field related to planning (as determined by the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees); or (4) a license to practice law in the state. S.C. Code § 6-29-1350. Exempted individuals are required to file a certification form and documentation of the exemption as required by Section 6-29-1360.

The 2003 amendments created a State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees. The Committee consists of five members appointed by the governor. The Committee approves the education programs then compiles and distributes a list of approved education programs. S.C. Code § 6-29-1330.

The educational requirements consist of (1) a minimum of six hours of orientation training, and (2) a minimum of three hours of annual training after the first year of service or employment. Individuals must complete the orientation training six months prior to or one year after the initial date of appointment or employment. A person who attended six hours of orientation training for a prior appointment or employment is not required to re-take the orientation training for a subsequent appointment or employment after a break in service but is required to comply with the annual requirement. The training program must be approved by the Advisory Committee.

The training program may include such subjects as land use planning, zoning, floodplains, transportation, community facilities, ethics, public utilities, wireless telecommunication facilities, parliamentary procedure, public hearing procedure, administrative law, economic development, housing, public buildings, building construction, land subdivision, and powers and duties of the planning commission, board of zoning appeals or board of architectural review. S.C. Code § 6-29-1340.

By December 31 of each year, the local governing body must provide its clerk with a list of appointed officials and professional employees involved with a planning or zoning entity. The local governing body also must annually inform each planning or zoning entity in its jurisdiction of the requirements of Article 9. S.C. Code § 6-29-1320. The local governing body is responsible for providing approved education programs or funding approved education courses provided by others. S.C. Code § 6-29-1370.

Annual certification of compliance with the educational requirements must be filed with the clerk of the local governing body on a form prescribed by S.C. Code § 6-29-1360. Filing the certification is the responsibility of the appointed official or professional employee. The yearly filing is due no later than the anniversary date of appointment or employment. The form is a public record.

Failure to complete the requisite education requirements or to file the certification form and documentation may result in removal of an appointed official from office for cause. Failure of a professional employee to complete the requirements or file the certification may result in suspension or removal from employment relating to planning or zoning. Falsification of the certification or documentation bars subsequent appointment as an appointed official or employment as a professional employee. S.C. Code § 6-29-1380.

## **The Comprehensive Planning Process**

This section deals with the work of the local planning commission as it develops a planning process to prepare and periodically revise the comprehensive plan. The 1994 Act retained the comprehensive plan as the essential first step in the planning process. The scope and substance of the comprehensive plan were expanded.

### **Planning Process**

The planning commission must establish and maintain a planning process that will result in the systematic preparation and continual evaluation and updating of the elements of the comprehensive plan. S.C. Code § 6-29-510(A). Surveys and studies on which the planning elements are based must consider potential conflicts with other jurisdictions and the effect of any regional plans or issues. S.C. Code § 6-29-510(B).

The planning process for each comprehensive plan element must include but is not limited to the following items:

1. **Inventory of existing conditions.** The inventory could include a description of existing conditions as they relate to the particular planning element under consideration.
2. **A statement of needs and goals.** A vision statement establishes where the community wants to go. It should include long- and short-range goals for achieving the vision. It is important to involve the community in identifying needs and goals to create community support for the plan and minimize future objections to specific programs. When preparing or updating plan elements, the planning commission may appoint advisory committees with membership from the planning commission, neighborhoods or other groups, and individuals in the community. If the local government maintains a list of groups that have registered an interest in being informed of proceedings, it must mail meeting notices relating to the planning process to them.
3. **Implementation strategies with time frames.** Implementation strategies for each element should include specific objectives, steps and strategies for accomplishing the objectives. The strategies should specify time frames for actions and persons or organizations who will take the actions.

### **Comprehensive Plan Elements**

There should be broad-based citizen participation for developing of comprehensive plan elements. An element must address all relevant factors listed in the 1994 Act; however, the Act does not dictate how extensively they must be covered. The extent should be based on community needs. The plan must include at least the following elements. S.C. Code § 6-29-510(D).

1. **Population element.** The population element includes information related to historic trends and projections; the number, size and characteristics of households; educational levels and trends; income characteristics and trends; race; sex; age; and other information relevant to a clear understanding of how the population affects the existing situation and future potential of the area.
2. **Economic development element.** The economic element includes historic trends and projections on the numbers and characteristics of the labor force, where the people who live in the community work, where people who work in the community reside, available employment characteristics and trends, an economic base analysis and any other matters affecting the local economy. Tourism, manufacturing and revitalization efforts may be appropriate factors to consider.
3. **Natural resources element.** This element could include information on coastal resources, slope characteristics, prime agricultural and forest land, plant and animal habitats, unique park and recreation areas, unique scenic views and sites, wetlands and soil types. This element could also include information on flood plain and flood way areas, mineral deposits, air quality and any other matter related to the natural environment of the area.

If there is a separate community board addressing any aspects of this element, that board may be made responsible for preparing this element. The planning commission could incorporate the element into the local comprehensive plan by reference. S.C. Code § 6-29-510 (D)(3).

4. **Cultural resources element.** This element could include historic buildings and structures, unique commercial or residential areas, unique natural or scenic resources, archeological sites, educational, religious or entertainment areas or institutions, and any other feature or facility relating to the cultural aspects of the community. As with the natural resources element, a separate board may prepare this element. The planning commission can incorporate the work of a separate board into the comprehensive plan by reference.
  
5. **Community facilities element.** This element includes many activities essential to the growth, development or redevelopment of the community. The commission should give separate consideration to the following plans:
  - a. water supply, treatment and distribution plan;
  - b. sewage system and wastewater treatment plan;
  - c. solid waste collection and disposal plan;
  - d. fire protection plan;
  - e. emergency medical services plan;
  - f. plan for any necessary expansion of general government facilities (e.g., administrative, court or other facilities);
  - g. plan for educational facilities; and
  - h. plan for libraries and other cultural facilities.

Preparing of the community facilities element may require involving special purpose district boards and other governmental and quasi-governmental entities such as the library board, historic preservation society and public utilities board.

**Note:** *The local government must adopt the community facilities element before adopting subdivision or other land development regulations. S.C. Code § 6-29-1130(A).*

6. **Housing element.** This element includes an analysis of existing housing by location, type, age, condition, owner and renter occupancy, affordability, and projections of housing needs to accommodate existing and future population as identified in the population and economic elements. The housing element requires an analysis of local regulations to determine if there are regulations that may hinder development of affordable housing. It includes an analysis of market-based incentives that may be made available to encourage the development of affordable housing. Incentives may include density bonuses, design flexibility and a streamlined permitting process.

**Note:** *A 2007 amendment to the Comprehensive Planning Act entitled the "South Carolina Priority Investment Act" amended the housing element. S.C. Code § 6-29-510(D)*

7. **Land use element.** This element deals with the development characteristics of the land. It considers existing and future land use by categories including residential, commercial, industrial, agricultural, forestry, mining, public and quasi-public, recreation, parks, open space, and vacant or undeveloped land. This element is influenced by all previously described plan elements. The findings, projections and conclusions from each of the previous six elements will influence the amount of land needed for various uses.

**Note:** *The local government must adopt the land use element before adopting a zoning ordinance. S.C. Code § 6-29-720 (A).*

**Note:** *A 2007 amendment to the Comprehensive Planning Act entitled the "South Carolina Priority Investment Act" added two new elements – transportation and priority investment. S.C. Code § 6-29-510(D); 6-29-720(C); 6-29-1110; 6-29-1130(A)*

8. **Transportation element.** This element was originally included in the community facilities element. The transportation element considers transportation facilities including major road improvements, new road construction, and pedestrian and bicycle projects. This element must be developed in coordination with the land use element to ensure transportation efficiency for existing and planned development.
9. **Priority investment element.** This element requires an analysis of projected federal, state and local funds available for public infrastructure and facilities during the next 10 years and recommends the projects for those funds. These recommendations must be coordinated with adjacent and relevant jurisdictions and agencies (counties, other municipalities, school districts, public and private utilities, transportation agencies, and any other public group that may be affected by the projects). Coordination simply means written notification by the local planning commission or its staff to those groups of proposed projects and opportunities to provide comment.

### **Comprehensive Plan**

The required nine planning elements plus any other element determined to be needed in the local community, whether done as a package or in separate increments, together comprise the comprehensive plan. All planning elements represent the planning commission's recommendations to the local governing body regarding wise and efficient use of public funds, future growth, development, redevelopment and the fiscal impact of the planning elements on property owners. S.C. Code § 6-29-510(E).

The planning commission must review and consider, and may recommend by reference, plans prepared by other agencies which in the opinion of the planning commission meet the requirements of the 1994 Act. S.C. Code § 6-29-520(C).

### **Periodic Revision Required**

The planning commission must review the comprehensive plan or particular elements of the comprehensive plan as often as necessary. Changes in the growth or direction of

development taking place in the community dictate when a review is necessary. Economic setbacks resulting in an unanticipated loss of jobs could also trigger a need to re-evaluate the comprehensive plan. As the plan or elements are revised, it is important to amend the capital improvements program and any ordinances based on the plan to conform to the most current comprehensive plan. S.C. Code § 6-29-510(E) requires the following plan updates:

1. The planning commission must re-evaluate the comprehensive plan elements at least every **five years**. There is no requirement to rezone the entire city or county at one time. The land use element could be reviewed and updated in stages or by neighborhoods. See *Momeier v. John McAlister, Inc.*, 231 S.C. 526, 99 S.E.2d 177 (1957).
2. The comprehensive plan, including all the elements of the plan, must be updated at least every **10 years**. The planning commission must prepare and recommend a new plan and the governing body must adopt a new comprehensive plan every 10 years.

### **Procedure for Adopting Plan or Amendments**

When the plan, any element, amendment, extension or addition is completed, the following steps must be taken in accord with S.C. Code § 6-29-520 and § 6-29-530.

1. **Resolution.** By affirmative vote of at least a majority of the entire membership, the planning commission must adopt a resolution recommending the plan or element to the governing body for adoption. The resolution must refer explicitly to maps and other descriptive material intended by the commission to form the recommended plan.
2. **Minutes.** The resolution must be recorded in the planning commission's official minutes.
3. **Recommendation.** A copy of the recommended comprehensive plan or element must be sent to the local governing body being requested to adopt the plan. In addition, a copy must be sent to all other legislative or administrative agencies affected by the plan.
4. **Hearing.** Before adopting the recommended plan, the governing body must hold a public hearing after publishing at least 30 days notice of the time and place of the hearing in a general circulation newspaper in the community. See Notice Form in Appendix G.
5. **Ordinance.** The governing body must adopt the comprehensive plan or element by ordinance. S.C. Code § 6-29-530. The governing body cannot approve the plan on final reading of the ordinance until the planning commission has recommended the plan. *McClanahan v. Richland County Council*, 350 S.C. 433, 567 S.E.2d 240(2002).

### **Review of Public Project**

After the comprehensive plan or an element relating to proposed development is adopted, a public agency or any entity proposing a public project must submit its

development to the planning commission. The planning commission must review and comment on the compatibility of the proposed development with the comprehensive plan.

No new street, structure, utility, square, park or other public way, grounds, open space or public buildings for any use, whether publicly or privately owned, may be constructed or authorized in the geographic area within the jurisdiction of the planning commission until the location, character and extent of such activities have been submitted to the local planning commission. S.C. Code § 6-29-540.

If the planning commission finds the proposal to be in conflict with the comprehensive plan, it sends its findings and the particulars of the nonconformity to the entity proposing the facility. The governing or policymaking body of the entity proposing the project must consider the planning commission's findings and decide whether to bring the project into conformity with the comprehensive plan or proceed in conflict with the plan. If the decision is made to proceed in conflict with the plan, the entity must publicly state its intention to proceed and the reasons for the action. A copy of these findings must be sent to the local governing body and the local planning commission. In addition, it must be published as a public notice in a general circulation newspaper in the community at least 30 days before awarding a contract or beginning construction.

*Note: Telephone, sewer and gas utilities, or electric suppliers, utilities and providers, whether publicly or privately owned, are exempt from this provision if plans have been approved by the local governing body or a state or federal regulatory agency. Electric suppliers, utilities and providers who are acting in accordance with a legislatively delegated right pursuant to Chapter 27 or 31 of Title 58 or Chapter 49 of Title 33 are also exempt. These utilities must submit construction information to the appropriate local planning commission.*

S.C. Code § 6-29-540 requires everyone involved in creating the built environment pay attention to the adopted comprehensive planning elements. The process for commission review is a major tool to help ensure investments move the community toward implementing the comprehensive plan.

To minimize potential conflicts, the planning commission should involve individuals and representatives of agencies and groups in the community on advisory committees as the various comprehensive planning elements are being developed.

## Appendix C

### Planning Commission Rules of Procedure

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#### Article I Organization

**Section 1. Rules.** These rules of procedure are adopted pursuant to S.C. Code § 6-29-360 for the \_\_\_\_\_ (City/Town/County) Planning Commission which consists of \_\_\_\_\_ members appointed by council.

**Section 2. Officers.** The officers of the commission shall be a chairman and vice chairman elected for one-year terms at the first meeting of the commission in each calendar year. The commission shall appoint a member of the staff as secretary of the commission.

**Section 3. Chairman.** The chairman shall be a voting member of the commission and shall:

- a. Call meetings of the commission;
- b. Preside at meetings and hearings;
- c. Act as spokesperson for the commission;
- d. Sign documents for the Commission;
- e. Transmit reports and recommendations to council; and
- f. Perform other duties approved by the commission.

**Section 4. Vice Chairman.** The vice chairman shall exercise the duties of the chairman in the absence, disability or disqualification of the chairman. In the absence of the chairman and vice chairman, an acting chairman shall be elected by the members present.

**Section 5. Secretary.** The secretary shall

- a. provide notice of meetings;
- b. assist the chairman in preparation of agenda;
- c. keep minutes of meetings and hearings;
- d. maintain commission records as public records;
- e. attend to commission correspondence; and
- f. perform other duties normally carried out by a secretary.

#### Article II Meetings

**Section 1. Time and Place.** An annual schedule of regular meetings shall be adopted, published and posted at the designated city/town/county office in December of each



year. Special meetings may be called by the chairman upon 24 hours notice, posted, and delivered to all members and local news media. Meetings shall be held at the place stated in the notices and shall be open to the public.

**Section 2. Agenda.** A written agenda shall be furnished by the secretary to each member of the commission and the news media, and shall be posted at least five days prior to each regular meeting, and at least 24 hours prior to a special meeting. Items may be added to the agenda at a meeting by majority vote.

**Section 3. Quorum.** A majority of the members of the commission shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting.

**Section 4. Rules of Order.** Robert's Rules of Order Newly Revised, 10<sup>th</sup> Edition, shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

**Section 5. Voting.** A member must be present to vote. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member affected, who shall announce the reason for disqualification, give it to the chairman in writing, have it placed in the minutes, and refrain from deliberating or voting on the question.

**Section 6. Conduct.** Except for public hearings, no person shall speak at a commission meeting unless invited to do so by the commission.

### **Article III Public Hearings**

**Section 1. Notice.** The secretary shall give the notice required by statute or ordinance for all public hearings conducted by the commission. Members of the public desiring to be heard shall give written notice to the secretary prior to commencement of the hearing.

**Section 2. Procedure.** In matters brought before the commission for public hearing which were initiated by an applicant, the applicant, his agent or attorney shall be heard first, members of the public next and staff next. The applicant shall have the right to reply last. No person may speak for more than five minutes without consent of the commission. No person speaking at a public hearing shall be subject to cross-examination. All questions shall be posed by members of the commission. In matters not initiated by an applicant, members of the public shall speak in the order in which requests were received or in such order as the commission shall determine.

## **Article IV Records**

**Section 1. Minutes.** The secretary shall record all meetings and hearings of the commission on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the commission at the next regular meeting. Minutes shall be maintained as public records.

**Section 2. Reports.** The secretary shall assist in the preparation and forwarding of all reports and recommendations of the commission in appropriate form. Copies of all notices, correspondence, reports and forms shall be maintained as public records.

**Section 3. Attendance.** The minutes shall show the members in attendance at each meeting and the reason for absence submitted by any member. The commission shall recommend to the governing body the removal for cause of any member who is absent from three consecutive meetings without adequate reason.

## **Article V Review Procedure**

**Section 1. Zoning Amendments.** Proposed zoning text and district amendments shall be considered and recommendations shall be forwarded to the governing body within 30 days after receipt of the proposed amendments, unless additional time is given by the governing body. When so authorized, the planning commission shall conduct any required public hearing prior to making a recommendation.

**Section 2. Plats.** Plats submitted for review pursuant to land development regulations shall be reviewed by designated staff members who may approve for recording plats of existing lots of record, minor subdivisions of land which meet all zoning requirements, and subdivisions which are exempt from regulation pursuant to S.C. Code § 6-29-1110(2). The commission shall be informed in writing of all staff approvals at the next regular meeting, and a public record of such actions shall be maintained. All other plats shall be subject to review and approval by the commission. [NOTE: *This process may be included in the land development ordinance provisions.*]

**Section 3. Comprehensive Plan.** All zoning and land development regulation amendments shall be reviewed first for conformity with the comprehensive plan. Conflicts with the comprehensive plan shall be noted in any report to the governing body on a proposed amendment. The elements of the comprehensive plan shall be reviewed and updated on a schedule adopted by the commission, meeting the requirements of S.C. Code § 6-29-510(E).

**Section 4. Reconsideration.** The commission may reconsider any review when so requested by the governing body, or when an applicant brings to the attention of the

commission new facts, a mistake of fact in the original review, correction of clerical error, or matters not the fault of the applicant which affect the result of the review.

## **Article VI Finances**

**Section 1. Budget.** The commission shall submit written recommendations to the governing body for funding in the annual budget. The recommendations shall include an explanation and justification for proposed expenditures.

**Section 2. Expenditures.** Budgeted funds shall be expended only for approved purposes in accordance with financial policies and procedures set by the governing body, including procurement rules. Upon adoption of a budget by the governing body, the commission may adopt an authorization for specified expenditures by designated staff members within the limits provided. Reimbursement for actual expenses incurred in the performance of official duties approved in advance by the commission shall be made to members of the commission and staff upon submission of vouchers supported by receipts.

**Section 3. Personnel.** The commission shall employ such staff and consultants as may be authorized and funded by budget or make recommendations for staff members to be employed by the city/town/county. Consultants shall be engaged by majority vote of the commission after review of proposals invited by public notice and mail, and personal interviews with applicants by the commission, or a committee of commission members and staff.

## **Article VII Adoption and Amendment**

**Section 1. Amendment.** These rules may be amended at any regular meeting of the commission by majority vote of the members of the commission at least seven days after the written amendment is delivered to all members.

**Section 2. Adoption.** These rules were adopted by vote of a majority of the members of the commission at a regular public meeting on \_\_\_\_\_.

Attest \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

# 10 Ground Rules for Meetings

## 1 Show up on time and come prepared

Be prompt in arriving to the meeting and in returning from breaks.  
Be prepared to contribute to achieving the meeting goals.  
Come to the meeting with a positive attitude.



## 2 Stay mentally and physically present

Be present, and don't attend to non-meeting business.  
Listen attentively to others and don't interrupt or have side conversations.  
Treat all meeting participants with the same respect you would want from them.

## 3 Contribute to meeting goals

Participate 100% by sharing ideas, asking questions, and contributing to discussions.  
Share your unique perspectives and experience, and speak honestly.  
If you state a problem or disagree with a proposal, try to offer a solution.

## 4 Let everyone participate

Share time so that all can participate.  
Be patient when listening to others speak and do not interrupt them.  
Respect each other's thinking and value everyone's contributions.



## 5 Listen with an open mind

Value the learning from different inputs, and listen to get smarter.  
Stay open to new ways of doing things, and listen for the future to emerge.  
You can respect another person's point of view without agreeing with them.

## 6 Think before speaking

Seek first to understand, then to be understood.  
Avoid using idioms, three letter acronyms, and phrases that can be misunderstood.  
It's OK to disagree, respectfully and openly, and without being disagreeable.

## 7 Stay on point and on time

Respect the groups' time and keep comments brief and to the point.  
When a topic has been discussed fully, do not bring it back up.  
Do not waste everyone's time by repeating what others have said.

## 8 Attack the problem, not the person

Respectfully challenge the idea, not the person.  
Blame or judgment will get you further from a solution, not closer.  
Honest and constructive discussions are necessary to get the best results.



## 9 Close decisions and identify action items

Make sure decisions are supported by the group, otherwise they won't be acted on.  
Note pending issues and schedule follow up meetings as needed.  
Identify actions based on decisions made, and follow up actions assigned to you.

## 10 Record outcomes and follow up

Record issues discussed, decisions made, and tasks assigned.  
Share meeting reports with meeting participants.  
Share meeting outcomes with other stakeholders that should be kept in the loop.

