TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA

APPLICATION TO SERVE ON A TOWN BOARD/COMMISSION

DEADLINE: 12NOON, Tuesday, August 16, 2016

PLEASE COMPLETE ALL OF THE FOLLOWING FOR POSSIBLE PARTICIPATION

1. **NAME: _____**

2. **MAILING ADDRESS: _____**

   _____

3. **TELEPHONE NUMBER(S):**
   Home: _____ Work: _____ Cell: _____

4. **E-MAIL ADDRESS: _____**

5. **Are you a registered voter on Sullivan's Island? Yes _____ No _____**

6. Have you ever plead guilty, no contest or been convicted of a crime? If yes, please provide additional information:_____

The Town reserves the right to conduct a background check and additional information may be requested from you.

7. Indicate the real properties on Sullivan's Island in which you have a proprietary interest, identifying your primary residence:

_____

_____

8. Please disclose any circumstances which might pose a conflict of interest in executing your responsibilities as a member of any Board or Commission for which you are applying:

_____

9. Please indicate that you wish to be considered for selection to a Board or Commission and, if selected, you are prepared to serve through the term below. Indicate 1 for first choice; 2 for second choice:

Planning Commission	**_____**	**3 seats (3 yr term expiring 8/31/2019)**
Board of Zoning Appeals	**_____**	**2 seats (3 yr. term expiring 8/31/2019)**
Design Review Board	**_____**	**4 seats (3 yr. term expiring 8/31/2019)**
Municipal Election Commission	**_____**	**1 seat (6 yr. term expiring 8/31/2022)**
Tree Commission	**_____**	**2 seats (3 yr. term expiring 8/31/2019)**

NOTE:
No member of a Town Board or Commission may hold an elected office in the Town of Sullivan's Island or County of Charleston.

If appointed, you must successfully complete a minimum of six (6) hours State mandated planning and zoning training as soon as possible, plus required continued education thereafter. (S.C. Code §§ 6-29-1340-6-29-1370; §5-15-90 (for Municipal Election Commission) Failure to complete required training will result in discontinuation of service and ineligibility for re-appointment (§6-29-1380)
_____ **(Initial)**

You must return a completed Town questionnaire for your desired Board/Commission(s) for consideration and a personal resume is encouraged.

By signing herein, I have read and understand the requirements for serving as a member of the Commission &/or Board requested and attest the information provided is accurate.

_____ _____
Applicant signature **Date**

Questions: Lisa Darrow (843-883-5744; ldarrow@sullivansisland-sc.com) at Town Hall (2050-B Middle Street) or Administrator Andy Benke (843-883-5726; abenke@sullivansisland-sc.com)

TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA

PLANNING COMMISSION
QUESTIONNAIRE

1. Why do you wish to serve on the Planning Commission?

2. The Planning Commission meets on average one evening per month. Are you able to attend meetings at this frequency?

3. Please read the attached information regarding the role of the Planning Commission and review the Town's Code regarding this Commission (Chapter 17).

   A. In your opinion, what should be the priorities of the Planning Commission?

   B. How does your knowledge, expertise and experience qualify you to serve on this Commission?

4. The Commission primarily addresses issues by recommending to Town Council changes in the Zoning Ordinance. Such changes inevitably entail controlling what a property owner may do with his/her property to achieve a greater good for the community. What is your philosophy about this trade-off between individual and community goals?

5. Are there any provisions of the Zoning Ordinance with which you disagree?

6. What are your thoughts on the following ordinance topics:
   a.) Town's Comprehensive Plan;
   b.) Protected (Accreted) Land and Management Plan
   c.) Historic Preservation Overlay District
   d.) Neighborhood Compatibility
   e.) Zoning Ordinances which restrict house size and lot size
   f.) Town Commercial District

7. How would you handle having to make decisions that might be unfavorable to a neighbor, friend, business associate, client or family member?

Thank you for taking the time to respond to these questions. Please submit your answers along with the application and your resume to Lisa Darrow (843-883-5744; ldarrow@sullivansisland-sc.com) or Administrator Andy Benke (843-883-5726; abenke@sullivansisland-sc.com) at Town Hall (2050-B Middle Street/mail to PO Box 427**) by 12NOON on Tuesday, August 16, 2016**.

July 28, 2016

CHAPTER 17

PLANNING COMMISSION

Sec. 17-1 Planning Commission created.
Sec. 17-2 Function of Commission.
Sec. 17.3 Membership; terms; vacancies.
Sec. 17.4 Appointment of members; removal.
Sec. 17.5 Officers of Commission; meetings; records.
Sec. 17.6 Staff and expenditures.
Sec. 17.7 Duties; responsibilities; powers.
Sec. 17.8 Preparation of proposed zoning ordinance and map.
Sec. 17.9 Approval of subdivision, re-subdivision and lot line changes.
Sec. 17.10 Endorsement of plats before recordation.

Sec. 17-1. Planning Commission created.[1]

A Municipal Planning Commission is hereby established to exercise jurisdiction over the entire area within the corporate limits of the Town of Sullivan's Island (9-16-74, S1)

Sec. 17-2. Function of Commission.

It shall be the function of this Commission to prepare a comprehensive plan and program for the physical, social and economic growth of the Town of Sullivan's Island in order to promote the public health, morals, convenience, prosperity, or the general welfare as well as efficiency and economy of the Town of Sullivan's Island. (9-16-74, S2)

Sec. 17-3. Membership; terms; vacancies.

The Commission shall consist of seven (7) persons, none of which may hold an elected public office in this municipality or the County of Charleston. The terms of the membership shall be three (3) years and until their successors are appointed and qualified. The initially appointed Commission members served two-year staggered terms. All subsequent members will serve three-year staggered terms. All terms runs from September 1st to August 31st. Members may be re-appointed at the expiration of their terms. Any vacancy in the membership shall be filled for the unexpired term in the same manner of the original appointments (9-16-74, S3) (11-16-99) (11-20-01) (6-21-2016)

[1] For State law authorizing Planning Commission, see S6-7-320 et seq.

Sec. 17-4. Appointment of members; removal.

The Town Council shall appoint the members of the Commission and may remove any member of the Commission for cause after written notice and public hearing. (9-16-74, S4)

Sec. 17-5. Officers of Commission; meetings; records.

The Commission shall organize by electing one (1) of its members as chairman, one (1) as secretary. The terms of these officers shall be for one (1) year each. The Commission shall meet at the call of the chairman or of any three (3) members. It shall adopt rules for the transaction of business and shall keep a record of its transactions, findings and determinations. Records shall be open to the public. (9-16-74, S5)

Sec. 17-6. Staff and expenditures.

The Commission may employ such staff and consult with and retain such experts as it deems necessary consistent with funds which it may have available on hand. Its expenditures, exclusive of gifts to the Commission or contract receipts, shall be within the amounts appropriated to the Commission by the Town Council (9-16-74, S5)

Application and Fees. Requests for subdivision, re-subdivision, lot line changes, plat approvals, zoning and/or re-zoning shall be submitted on forms provided by the Zoning Administrator with an application fee the amount of which shall be established by resolution of the Town Council. (9-18-07).

Sec. 17-7. Duties, responsibilities, powers.

The Planning Commission shall have the duties, responsibilities and powers as provided in SC Code Title 6, Chapter 29, 6-29-310, et. seq. (9-16-74; 4-20-99)

Sec. 17-8. Preparation of proposed zoning ordinance and map.

The Planning Commission shall make and certify to the Town Council for Sullivan's Island the text of the recommended zoning ordinance and zoning map for Sullivan's Island. The text and the zoning map shall be prepared with all due dispatch of the Planning Commission and it shall hold a public hearing on the text and the map which shall be advertised and conducted according to South Carolina Local Government Comprehensive Enabling Act of 1994 Section 6-29-310, et al, Code of Laws of South Carolina. (9-16-74, S7; 4-20-99)

Sec. 17-9. Approval of subdivision, re-subdivision and lot line changes.

No land shall be subdivided or re-subdivided, no lot shall be laid out and no boundary lines of a lot or parcel of land shall be changed except with prior written approval of the Planning Commission. Prior to the submission of a plat to the Planning Commission, the plat must first be submitted to the Zoning Administrator for his review and recommendations. The Zoning

Administrator's recommendations must be submitted to the Planning Commission along with the proposed plat. Any division of land made without said Planning Commission approval after the effective date of this amendment is unlawful; provided, however, that subdivisions made and recorded prior to the effective date of this amendment that met prior requirements are hereby declared to be legal. (4-20-99; 1-18-2000)

Sec. 17-10. Endorsement of plats before recordation.[2]

No plat of a subdivision of land within the limits of the Town shall be filed or recorded in the Office of the Register of Mesne Conveyance until the approval of the Planning Commission shall have been endorsed thereon by the Planning Commission Chairman, or in his/her absence the Vice-Chairman. (4-20-99, 1-19-2000).

Sec. 17-11. Exceptions (9/15/09)

1. In the case of any proposed plat or survey of a lot or lots of land is presented to the Zoning Administrator for the Town, the Zoning Administrator may review and give his/her endorsement of approval thereon provided the following requirements are met:

    a. The plat or survey is a re-survey of an existing lot or lots and does not create a subdivision or re-subdivision of land and no significant lot line changes are shown; (9/15/09)

    b. The plat or survey is prepared by a surveyor licensed by the State of South Carolina and has placed his certification thereon; (9/15/09)

    c. The appropriate tax map numbers are placed on the adjacent property, and any adjacent right-of-ways are designated; (9-15-09)

    d. Each lot sold, platted or surveyed shall show and designated the street address, the lot number, tax map identification number and all metes, bounds, courses and distances; (9/15/09);

    e. All marsh lands are shown and designated and in the event the DHEC/OCRM critical line within any lot boundary, the critical line shall be so designated; and (9/15/09)

    f. The survey has such notes and conditions as required by the Zoning Administrator. (9/15/09)

2. The Zoning Administrator's endorsement of approval shall be made with the notation that his plat or survey is exempt from the subdivision regulation and is hereby approved. (9/15/09)

[2] This section is consistent with Section 5-23-190 of State Code.

3. Should any part of this Ordinance be held invalid by a Court of competent jurisdiction, the remaining part shall be severable and shall continue to be in full force and effect. (9/15/09)

4. This Ordinance shall take effect and be in full force immediately upon ratification. (9/15/09)

2014 Comprehensive Planning Guide for Local Governments

MASC Municipal Association of South Carolina℠

Local Planning Commission Functions and Duties

A local planning commission has a duty to engage in a continous 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 which 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 semi-autonomous 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 chairperson and one as vice-chairperson 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 regular meetings must be posted at the meeting place 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 persons, 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 within 15 days (excluding Saturdays, Sundays and legal public holidays) after receiving a written Freedom of Information Act request. 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 with the advice and consent of the Senate. 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 which 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
   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.

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 requirements of the 1994 Act.

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 majority vote, 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.

CHAPTER 17

PLANNING COMMISSION

Sec. 17-1 Planning Commission created.
Sec. 17-2 Function of Commission.
Sec. 17.3 Membership; terms; vacancies.
Sec. 17.4 Appointment of members; removal.
Sec. 17.5 Officers of Commission; meetings; records.
Sec. 17.6 Staff and expenditures.
Sec. 17.7 Duties; responsibilities; powers.
Sec. 17.8 Preparation of proposed zoning ordinance and map.
Sec. 17.9 Approval of subdivision, re-subdivision and lot line changes.
Sec. 17.10 Endorsement of plats before recordation.

Sec. 17-1. Planning Commission created.[1]

A Municipal Planning Commission is hereby established to exercise jurisdiction over the entire area within the corporate limits of the Town of Sullivan's Island (9-16-74, S1)

Sec. 17-2. Function of Commission.

It shall be the function of this Commission to prepare a comprehensive plan and program for the physical, social and economic growth of the Town of Sullivan's Island in order to promote the public health, morals, convenience, prosperity, or the general welfare as well as efficiency and economy of the Town of Sullivan's Island. (9-16-74, S2)

Sec. 17-3. Membership; terms; vacancies.

The Commission shall consist of seven (7) persons, none of which may hold an elected public office in this municipality or the County of Charleston. The terms of the membership shall be three (3) years and until their successors are appointed and qualified. The initially appointed Commission members served two-year staggered terms. All subsequent members will serve three-year staggered terms. All terms runs from September 1st to August 31st. Members may be re-appointed at the expiration of their terms. Any vacancy in the membership shall be filled for the unexpired term in the same manner of the original appointments (9-16-74, S3) (11-16-99) (11-20-01) (6-21-2016)

[1] For State law authorizing Planning Commission, see S6-7-320 et seq.

Sec. 17-4. Appointment of members; removal.

The Town Council shall appoint the members of the Commission and may remove any member of the Commission for cause after written notice and public hearing. (9-16-74, S4)

Sec. 17-5. Officers of Commission; meetings; records.

The Commission shall organize by electing one (1) of its members as chairman, one (1) as secretary. The terms of these officers shall be for one (1) year each. The Commission shall meet at the call of the chairman or of any three (3) members. It shall adopt rules for the transaction of business and shall keep a record of its transactions, findings and determinations. Records shall be open to the public. (9-16-74, S5)

Sec. 17-6. Staff and expenditures.

The Commission may employ such staff and consult with and retain such experts as it deems necessary consistent with funds which it may have available on hand. Its expenditures, exclusive of gifts to the Commission or contract receipts, shall be within the amounts appropriated to the Commission by the Town Council (9-16-74, S5)

Application and Fees. Requests for subdivision, re-subdivision, lot line changes, plat approvals, zoning and/or re-zoning shall be submitted on forms provided by the Zoning Administrator with an application fee the amount of which shall be established by resolution of the Town Council. (9-18-07).

Sec. 17-7. Duties, responsibilities, powers.

The Planning Commission shall have the duties, responsibilities and powers as provided in SC Code Title 6, Chapter 29, 6-29-310, et. seq. (9-16-74; 4-20-99)

Sec. 17-8. Preparation of proposed zoning ordinance and map.

The Planning Commission shall make and certify to the Town Council for Sullivan's Island the text of the recommended zoning ordinance and zoning map for Sullivan's Island. The text and the zoning map shall be prepared with all due dispatch of the Planning Commission and it shall hold a public hearing on the text and the map which shall be advertised and conducted according to South Carolina Local Government Comprehensive Enabling Act of 1994 Section 6-29-310, et al, Code of Laws of South Carolina. (9-16-74, S7; 4-20-99)

Sec. 17-9. Approval of subdivision, re-subdivision and lot line changes.

No land shall be subdivided or re-subdivided, no lot shall be laid out and no boundary lines of a lot or parcel of land shall be changed except with prior written approval of the Planning Commission. Prior to the submission of a plat to the Planning Commission, the plat must first be submitted to the Zoning Administrator for his review and recommendations. The Zoning

Administrator's recommendations must be submitted to the Planning Commission along with the proposed plat. Any division of land made without said Planning Commission approval after the effective date of this amendment is unlawful; provided, however, that subdivisions made and recorded prior to the effective date of this amendment that met prior requirements are hereby declared to be legal. (4-20-99; 1-18-2000)

Sec. 17-10. Endorsement of plats before recordation.[2]

No plat of a subdivision of land within the limits of the Town shall be filed or recorded in the Office of the Register of Mesne Conveyance until the approval of the Planning Commission shall have been endorsed thereon by the Planning Commission Chairman, or in his/her absence the Vice-Chairman. (4-20-99, 1-19-2000).

Sec. 17-11. Exceptions (9/15/09)

1. In the case of any proposed plat or survey of a lot or lots of land is presented to the Zoning Administrator for the Town, the Zoning Administrator may review and give his/her endorsement of approval thereon provided the following requirements are met:

    a. The plat or survey is a re-survey of an existing lot or lots and does not create a subdivision or re-subdivision of land and no significant lot line changes are shown; (9/15/09)

    b. The plat or survey is prepared by a surveyor licensed by the State of South Carolina and has placed his certification thereon; (9/15/09)

    c. The appropriate tax map numbers are placed on the adjacent property, and any adjacent right-of-ways are designated; (9-15-09)

    d. Each lot sold, platted or surveyed shall show and designated the street address, the lot number, tax map identification number and all metes, bounds, courses and distances; (9/15/09);

    e. All marsh lands are shown and designated and in the event the DHEC/OCRM critical line within any lot boundary, the critical line shall be so designated; and (9/15/09)

    f. The survey has such notes and conditions as required by the Zoning Administrator. (9/15/09)

2. The Zoning Administrator's endorsement of approval shall be made with the notation that his plat or survey is exempt from the subdivision regulation and is hereby approved. (9/15/09)

[2] This section is consistent with Section 5-23-190 of State Code.

3. Should any part of this Ordinance be held invalid by a Court of competent jurisdiction, the remaining part shall be severable and shall continue to be in full force and effect. (9/15/09)

4. This Ordinance shall take effect and be in full force immediately upon ratification. (9/15/09)

2014 Comprehensive Planning Guide for Local Governments

MASC Municipal Association of South Carolina℠

Local Planning Commission Functions and Duties

A local planning commission has a duty to engage in a continous 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 which 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 semi-autonomous 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 chairperson and one as vice-chairperson 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 regular meetings must be posted at the meeting place 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 persons, 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 within 15 days (excluding Saturdays, Sundays and legal public holidays) after receiving a written Freedom of Information Act request. 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 with the advice and consent of the Senate. 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 which 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
   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.

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 requirements of the 1994 Act.

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 majority vote, 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.