

SCAPA FALL CONFERENCE
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**LEGAL UPDATE: PROCEDURAL
CONSISTENCY WITH THE
S.C. COMPREHENSIVE PLANNING ACT**

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Planning Commission:

§6-29-360 - Rules of Procedure/Officers/Meetings/Notice/Records:

[See MASC (pg. 116) and Association of Counties (pg. 83) for Recommended Procedures]

Comprehensive Plan:

§6-29-510, 520 - Process and Adoption of Elements:

Planning Commission must pass a Resolution in order to recommend any and all of the ten elements to City/Town/County Council.

§6-29-540 - Review of Proposals Following Adoption of Plan; Projects in Conflict with Plan:

Public projects, including parks, public buildings, streets, etc., need to be submitted to the Planning Commission for Plan compliance review. If in conflict with the Plan, and the applicant wants to go forward, there is a process involving notification to the governing body, and publishing in a newspaper 30 days prior to proceeding.

Comprehensive Plans (cont.)

§6-29-720 - Land Use Element of the Comprehensive Plan must be adopted before adopting Zoning Ordinance.

§6-29-510(E) - Revisions to Comprehensive Plans may be made every five years; updates “must be made” every 10 years.

§6-29-530 - Adoption of elements/public hearing required:
Elements can be adopted as a whole or piecemeal, provided a public hearing, with at least 30 days notice is held and and an Ordinance is adopted for each element.

Zoning Ordinances/Purpose:

§6-29-710(A) Zoning ordinances must be for the general purpose of guiding development in accordance with existing and future needs of the community and to “promote public health, safety, morals, convenience, order, appearance, prosperity and general welfare.”

Zoning Ordinances must be made with reasonable consideration to the following purposes, where applicable:

- (1) to provide for adequate light air and open space;
- (2) to prevent the overcrowding of land, avoid undue concentration of population, and lessen congestion in the streets;
- (3) to facilitate the creation of a convenient, attractive and harmonious community;
- (4) to protect and preserve scenic, historic or ecologically sensitive areas;
- (5) to regulate the density and distribution of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities and other purposes;
- (6) to facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements. “Other public requirements” which the local governing body intends to address by a particular ordinance or action must be specified in the preamble or some other part of the ordinance or action;
- (7) secure safety from fire, flood and other dangers; and
- (8) to further the public welfare in any other regard specified by a local governing body.

Zoning Amendments:

§6-29-760

(A) Notice of Public Hearing must be at least 15 days; signs posted need to be **“conspicuous”**; if jurisdictions keep lists of interested parties/groups, notice must be sent to those groups; Planning Commission recommendation and report is to be sent to Council **no longer than 30 days after recommendation is made, “or the request is deemed approved.”**

(B) If owner/applicant plans to present oral or written comments, **“at least 10 days notice and an opportunity to comment in the same manner must be given to interested members of the public, including owners of adjoining land.**

Board of Zoning Appeals

§6-29-790 - Rules of Procedure/Officers/Meetings/Notice/Records:

[See MASC (pg. 120) and Association of Counties (pg. 88) for Recommended Procedures]

Requirements for Granting Administrative Appeals:

§6-29-800(A)(1)

An appeal may be requested if there is an error in an order, requirement, decision, or determination by an administrative official in the enforcement of the zoning ordinance.

Requirements for Granting Variances:

§6-29-800(A)(2)

A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

- (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (b) these conditions do not generally apply to other property in the vicinity;
- (c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

Requirements for Granting Special Exceptions:

§6-29-800(A)(3) to permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the zoning ordinance.

Requirements for Remanding a Case:

§6-29-800(A)(4) allows remand to the administrative official if the record is insufficient; a new hearing must be within 60 days, unless agreed upon by the parties. Parties of interest must be notified.

Decisions - Findings of Fact/Conclusions of Law:

§6-29-800(F) All final decisions of the board must be in writing, delivered to parties in interest by certified mail and permanently filed in the office of the board as public records. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest by Certified Mail.

Appeals Of Zoning Board Decisions To Circuit Court. [[§6-29-820](#) through [860](#)]

§6-29-820. Appeal from zoning board of appeals to circuit court; pre-litigation mediation; filing requirements. Appellant must have substantial interest; and must file within 30 days. From the date that the orders was mailed.

§6-29-825. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

Important to know that any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and **a settlement agreement sets no precedent as to other parcels of real property.**

Land Development Regulations

§6-29-1120: Legislative Intent; Purposes

The public health, safety, economy, good order, appearance, convenience, morals, and general welfare require harmonious, orderly and progressive development of land within municipalities and counties is authorized for the following purposes, among others:

1. to encourage the development of economically sound and stable municipalities and counties;
2. to assure the timely provision of required streets, utilities, and other facilities and services to new land developments;
3. to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;
4. to assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, transportation and other public purposes; and
5. to assure, in general, the wise and timely development of new areas and redevelopment of previously developed areas in harmony with the comprehensive plans of municipalities and counties.

§6-29-1130 Community Facilities, Housing, and Priority Investment must be adopted before adopting Land Development Regulations.

Land Development Regulations (cont.)

SECTION 6-29-1150. Submission of plan or plat to planning commission

(A) The land development regulations adopted by the governing authority must include a specific procedure for the submission and approval or disapproval by the planning commission or designated staff. These procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval. Time limits, **not to exceed sixty days**, must be set forth for action on plans or plats, or both, submitted for approval or disapproval. Failure of the designated authority to act within sixty days of the receipt of development plans or subdivision plats with all documentation required by the land development regulations is considered to constitute approval, and the developer must be issued a letter of approval and authorization to proceed based on the plans or plats and supporting documentation presented. **The sixty-day time limit may be extended by mutual agreement.**

RECOMMENDED RESOURCES:

- **SC Comprehensive Planning Act: Title 6-29-310 et seq.**
- **MASC Planning Guide for Local Governments**
- **SC Association of Counties Planning Guide:**

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