

**STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE 2009-010**

AN ORDINANCE TO AMEND SECTION 32-4 OF THE OCONEE COUNTY CODE OF ORDINANCES PERTAINING TO THE OCONEE COUNTY PLANNING COMMISSION, IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, AS TO MEMBERSHIP REQUIREMENTS AND STANDARDS, TERMS OF MEMBERS, PROCEDURES FOR REMOVAL OF MEMBERS, AND SALARIES AND FUNDING STANDARDS; AND TO RATIFY AND AFFIRM ALL OTHER PROVISIONS OF SUCH SECTION 32-4 NOT AMENDED OR MODIFIED HEREBY; AND OTHER MATTERS RELATED THERETO.

WHEREAS, pursuant to the requirements established in Title 6, Chapter 29 (the “Act”) of the South Carolina Code of Laws, 1976, as amended (the “Code”), the Oconee County Council (the “County Council”) adopted an Ordinance creating the Oconee County Planning Commission (Ordinance 95-2) on April 4, 1995 (the “Ordinance”) and later proposed to amend the Ordinance by Oconee County Ordinance 1999-14 (the “Amending Ordinance”), all of which is currently codified at Section 32-4 (the “Section”) of the Oconee County Code of Ordinances (the “Oconee County Code”); and,

WHEREAS, the adoption of the Section not only created the Oconee County Planning Commission, but defined the duties and authorities identified in state law as appropriate and necessary for a local planning commission to act in an advisory capacity for the governing body, as well as carrying out certain land use and planning-related functions; and,

WHEREAS, subsequent to adoption of Ordinance 95-2, Oconee County changed from a Council-Supervisor form of government to a Council-Administrator form of government, resulting in certain inconsistencies and ambiguities in some sections of the adopted Ordinance, and even the Section, necessitating review and amendment to clarify and ensure that responsible individuals, entities, duties, powers, and offices are properly identified; and,

WHEREAS, reappointments of the membership of the Oconee County Planning Commission (the “Planning Commission”) have, at times in the past, been accomplished so as to alter the system of staggered terms originally established, thereby resulting in a majority of the commissioners’ terms ending at the same time, which may unintentionally result in lessening the Planning Commission’s collective experience and institutional knowledge; and,

WHEREAS, County Council approved an increase in Planning Commission members’ compensation under a separate document on June 30, 2003; and,

WHEREAS, Oconee County, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council, desires to restate and reaffirm the Section, so as to clear up all ambiguities, reestablish fully staggered terms, provide for removal and replacement of members, provide for salaries and funding of the Planning Commission, and address other matters related thereto and to the Act.

NOW, THEREFORE, it is hereby ordained by Oconee County Council, in meeting duly assembled, that

1. Section 32-4 of the Oconee County Code of Ordinances is hereby amended to read, in its entirety, as follows:

“Sec. 32-4. County planning commission.

- (a) ***Authority to establish.*** The county planning commission (referred to as the “planning commission”) is established pursuant to S.C. Code 1976, § 6-29-310 *et seq.*
- (b) ***Functions, powers and duties.*** It is the function and duty of the county planning commission to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the county. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy of the county. Specific planning elements must be based upon careful and comprehensive surveys and studies of existing conditions and probable future development and include recommended means of implementation. The county planning commission may make, publish, and distribute maps, plans, and reports and recommendations relating to the plans and programs and the development of the county to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members and employees, in the performance of its functions, may enter upon any land with consent of the property owner or after ten days’ written notification to the owner of record, make examinations and surveys, and place and maintain necessary monuments and marks on them, provided, however, that the planning commission shall be liable for any injury or damage to property resulting therefrom. In general, the planning commission has the powers as may be necessary to enable it to perform its functions and promote the planning of the county.

In the discharge of its responsibilities, the county planning commission has the power and duty to:

- (1) Prepare and revise periodically plans and programs for the development and redevelopment of the county as provided in S.C. Code 1976, § 6-29-310 *et seq.*; and
- (2) Prepare and recommend for adoption to the county council as a means for implementing the plans and programs:
 - a. Performance (performance zoning) standards and zoning ordinances to include zoning district maps and appropriate revisions thereof;
 - b. Regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that may be adopted;
 - c. An official map and appropriate revisions on it showing the exact location of existing or proposed public street, highway, and utility rights-of-way, and public building sites, together with regulations to control the erection

of buildings or other structures or changes in land use within the rights-of-way, building sites, or open spaces;

- d. A landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;
- e. A capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the county council prior to preparation of its capital budget;
- f. Policies or procedures to facilitate implementation of planning elements; and

Appeals regarding alleged errors by the planning director concerning a decision on a land development plan or subdivision may be heard by the planning commission. The planning commission shall act on the appeal within 60 days and the action of the planning commission is final. An appeal from the decision of the planning commission may be taken to circuit court within 30 days after actual notice.

(c) ***Membership.***

1. The membership of the county planning commission shall be seven (7) in number, selected and appointed by a majority vote of the membership of the county council voting in any meeting of county council, duly assembled, with five (5) members being selected from each of the five (5) county council districts in existence and as delineated at the time of the adoption of this section, nominated by the respective member of county council from each district, together with two (2) members from the county at large, who shall be designated and appointed by the entire membership of the county council.
2. If after an appointment of a member to represent a particular council district of the county to the planning commission, such district is altered, then such commission member shall continue to serve thereon for the remainder of the term to which said member is appointed, regardless of his/her place of residence within the county.
3. In the event the county is further divided into additional county council districts, additional appointments of members to the commission to represent the newly created district(s) may be made by county council through amendment of this section.
4. Should any member of this commission move and establish residence outside of the county or the district where such member was residing at the time of the appointment to this commission, such move shall constitute a resignation by the member, and a replacement member shall be appointed to fill the unexpired term of such resigned member, in the same manner as the original appointment.
5. No member of the planning commission may hold an elected public office within the boundaries of the county.

(d) ***Terms of Members.***

1. The length of the regular term served by each member shall be four (4) years, beginning on January 1 of the year of appointment.
2. For the purposes of implementing the standards of this section, and thereby returning the reappointment/replacement schedule of the membership of the commission to staggered lengths in as fair and equitable manner as possible, the following shall apply:
 - (a) All members appointed by county council district shall serve for the same term as the length of the remaining term of the council member who appointed them, after which the term of such district members shall be equal to and coincidental with the term of the council member appointing or reappointing them, with all terms or parts thereof starting as of January 1 of the year of appointment or reappointment.
 - (b) The first at-large member appointed by county council after adoption of the restatement of this section shall serve for four (4) years and the second such at-large member shall serve for two (2) years, after which the term of each such at-large member shall be four (4) years following appointment/reappointment, with all terms or parts thereof starting as of January 1 of the year of appointment or reappointment.
3. In the event the regular term of a member in good standing expires prior to reappointment or replacement by County Council, said member shall continue to serve until his/her replacement is appointed and qualified. The date of reappointment or replacement, however, in no way alters the scheduled length of the term.

(e) ***Removal of Members.*** Members of the county planning commission may be removed at any time by a majority vote of the county council, for cause (defined herein as dereliction of duty, as duties are defined herein, conviction of any felony or any crime of moral turpitude, or violation of the S.C. Ethics Act, all as determined by county council). If, or in the event, any member of the commission shall fail to attend fifty percent (50%) or more of the regularly scheduled meetings of the commission within any period of twelve (12) calendar months without excuse of the commission chairman, such member may be replaced without notice by action of the county council.

(f) ***Organization, Meetings, Procedural Rules, Records, and Purchases.*** The county planning commission shall organize itself, electing one of its members as chairman and one as vice-chairman, whose terms must each be for one (1) year. The chairman and vice-chairman shall have the right to vote. The commission shall appoint a secretary, who may be a member or an employee of the county council or of the commission. If the secretary is a member of the commission, he/she shall also have the right to vote. The commission shall meet at the call of the chairman, and at such times as the chairman or commission may determine. Vacancies in such offices by reason of death, resignation or replacement shall be filled for the unexpired term of the officer whose position becomes vacant, in the same manner as the original election or appointment.

The commission shall adopt rules of organizational procedure, and maintain a record of its resolutions, findings, determinations, recommendations, and other actions as required by state and federal requirements.

Typical operational expenses of the commission shall be provided for in the budget of the planning department; however, the commission may from time to time employ or contract for professional services with funds appropriated by county council.

- (g) **Powers and Duties.** The county planning commission shall have those powers and duties provided for in Title 6, Chapter 29 of the South Carolina Code of Laws, 1976, as amended, to be exercised with respect to the total unincorporated area of Oconee County, South Carolina, and to include the function to undertake a continuing planning program for the physical, social, and economic growth and development, and redevelopment, throughout its area of responsibility. The commission shall, within the bounds of standards established in state law, draft and periodically review a comprehensive plan for the county, which shall be the basis for a planning process consisting of those elements considered critical, necessary, and desirable to guide the development and redevelopment for the county. It shall also be the duty of the planning commission to provide advice to the county council on any and all matters related to growth and development within the unincorporated areas of the county.
- (h) **Salaries and Funding.** Each member of the county planning commission shall be paid the sum of twenty-five (25) dollars per meeting of the commission attended, or as county council shall subsequently direct by ordinance or resolution. Additionally, members shall be compensated at the same rate, and in the same manner, as county employees for expenses incurred as a result of attending schools, seminars, meetings, and other normal activities associated with membership, provided said trips and activities are approved in advance by the Chairman of County Council.”
2. All other parts and provisions of the Oconee County Code of Ordinances not amended hereby, either explicitly or by implication, remain in full force and effect. The Section, including as amended hereby, is ratified and affirmed, *ab initio*.
 3. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.
 4. All ordinances, orders, resolutions, and actions of Oconee County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.
 5. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by Oconee County Council.

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ORDAINED in meeting, duly assembled, this ____ day of _____, 2009.

ATTEST:

FOR OCONEE COUNTY:

Dale Surrett
Oconee County Administrator

Reg Dexter, Chairman, District V

Elizabeth G. Hulse
Oconee County Clerk to Council

George Blanchard, District I

APPROVED AS TO FORM:

Wayne McCall, District II

Thomas L. Martin
Oconee County Attorney

Mario Suarez, District III

Joel Thrift, District IV

First Reading: _____
Second Reading: _____
Third Reading: _____
Public Hearing: _____