

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE 2009-03

AN ORDINANCE TO AMEND THE OCONEE COUNTY ZONING ENABLING ORDINANCE, ORDINANCE 2007-18, IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, AS TO THE PROCEDURES AND STANDARDS FOR ZONING AND REZONING PROPERTY, AS TO THE METHODS AND STANDARDS REQUIRED FOR ENACTING OR IMPOSING OVERLAY DISTRICTS, AND AS TO THE METHOD FOR FUNDING ZONING ADMINISTRATION IN OCONEE COUNTY; TO REFER THE AMENDMENTS AND MATTERS PROPOSED BY THIS ORDINANCE TO THE OCONEE COUNTY PLANNING COMMISSION IN ACCORDANCE WITH SOUTH CAROLINA LAW FOR REVIEW, COMMENT, AND RECOMMENDATION; TO REVIEW AND CONSIDER THE RECOMMENDATIONS OF THE OCONEE COUNTY PLANNING COMMISSION; TO RATIFY AND AFFIRM ALL OTHER PROVISIONS OF ORDINANCE 2007-18 NOT AMENDED OR MODIFIED HEREBY; AND OTHER MATTERS RELATING THERETO

WHEREAS, Oconee County, South Carolina (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the "County Council"), is authorized by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (the "Act"), codified in Title 6, Chapter 29 of the South Carolina Code of Laws, 1976, as amended (the "Code") to adopt zoning regulations and districts; and,

WHEREAS, Oconee County Council has heretofore, by and through its Zoning Enabling Ordinance, 2007-18, finally adopted on November 6, 2008 (the "Zoning Enabling Ordinance", or "ZEO"), codified at Chapter 38 of the Oconee Code of Ordinances (the "Oconee County Code"), adopted such zoning regulations and districts in accordance with and consistent with the Oconee County comprehensive land use plan; and,

WHEREAS, subsequent to the adoption of the new Zoning Enabling Ordinance, certain issues, inconsistencies, and needs for amendment of the Zoning Enabling Ordinance have become known to Oconee County Council; and,

WHEREAS, in accordance with the Act and the Zoning Enabling Ordinance, Oconee County Council has referred such matters to the Oconee County Planning Commission for their review, comment, and recommendation. The Oconee County Planning Commission has, in fact, reviewed all such matters and offered its comments and recommendations as to such matters, and to certain others considered by the planning commission, to the Oconee County Council. The Oconee County Council has considered the comments and recommendations of the Oconee County Planning Commission, held a public hearing, duly noticed and advertised, as required by law, to receive the comments of the public, finds that such comments and recommendations are correct and necessary, and desires to amend the Zoning Enabling Ordinance, as codified at Chapter 38 of the Oconee County Code of Ordinances, in certain limited particulars only, based on the review, comments, and recommendations of the Oconee County Planning Commission and the public, and to

otherwise ratify and reaffirm the Zoning Enabling Ordinance and other provisions of Chapter 38 of the Oconee County Code of Ordinances not specifically or by implication amended hereby.

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

1. Chapter 38 of the Oconee County Code of Ordinances is hereby amended, as follows, and in the following details, only:

A. Section 38-2.7 of the Code is hereby amended to read as follows:

Sec. 38-2.7. Complaints.

All complaints of violations shall be submitted in writing on a form provided by the zoning official. The complaint shall include a detailed description of the alleged violation, as well as the complainant's name, address and signature. Complainants must reside within the same planning district in which the potential violation lies. All complaints shall be acted on within ten (10) days of submission. Anonymous reports of alleged violations will not be considered valid.

B. Sec. 38-4.0 of the Code is hereby amended to read as follows:

Sec. 38-4.0. Use

Any usage of a parcel or structure lawful at the time these regulations become effective shall be allowed to continue as a non-conforming usage, subject to the restrictions listed herein. For purposes of this Article usage shall be construed to include, without limitation and in addition to the usual meaning of the word, usage expressly and explicitly approved, indicated and stated in a deed restriction, restrictive covenant, or other form of land use restriction imposed or obtained in a private, arms length, contractual transaction which is reduced to a matter of public record, and actually recorded as a public record, at the time of enactment of Ordinance 2007-18.

C. Sec. 38-8.5(1) b. (7, 8, 9, 10) are hereby amended to read as follows:

Sec. 38-8.5(1)

7. *Planning Commission review of proposed Zoning Map.* When completed, the Committee shall present their draft map to the planning commission for review. The planning commission shall review the changes to ensure that they are compatible with the comprehensive plan. During this time, the planning department shall mail a survey to all district property owners soliciting their opinion of the proposed changes, with a deadline to respond of thirty (30) days. At the end of the survey period, the commission shall forward a recommendation regarding the proposed changes to county council. A positive recommendation of the commission shall require both a finding of compliance with the comprehensive plan, and a minimum of 51% of the returned responses to the survey favoring the proposed changes.

8. *Consideration of Recommendation.* County council shall consider the proposed zoning map amendments and may take second reading on the ordinance at this time.
9. *Comment Period.* A comment period of no less than thirty (30) days shall be held at this time.
10. *Council Action.* Upon the completion of the comment period, county council may hold a public hearing on the proposed amendments. Once the public hearing has been completed, County Council may take third and final hearing of an ordinance to amend the planning districts portions of the official zoning map.

D. Sec. 38-8.5 (2) of the Code is hereby amended to read as follows:

- (2) *Method 2 – Small Area Rezoning.* Any property owner, or group of property owners, may petition for initial rezoning, provided the parcels proposed for rezoning are contiguous and comprise no less than two hundred (200) acres in area, or shall constitute a platted subdivision with a total area of fifty (50) acres, or a minimum of forty (40) lots, recorded in the office of the Oconee County Register of Deeds. For the purposes of this regulation, in addition to standard definitions, parcels separated by a perennial stream or body of water shall be considered contiguous. This method of rezoning shall be initiated by a signed petition containing the signatures of a minimum of 51% of the affected property owners. Proposed changes to any part of these regulations shall be subject to review by the planning commission, as set forth in Section 8.1 (above), and public notice requirements contained in Section 8.2 (above), as well as other applicable standards established by the South Carolina Code of Laws.

E. Sec. 38-8.5 (3) of the Code is hereby amended to read as follows:

- (3) *Method 3 – County Initiated.* The governing body may at any time after adoption of these standards rezone any parcel or parcels owned or maintained by Oconee County. Additionally, County Council may at any time rezone any parcel or group of parcels to bring them into compliance with the goals established in the Oconee County Comprehensive Plan. Proposed changes to any part of these regulations shall be subject to review by the planning commission, as set forth in Section 8.1 (above), and public notice requirements contained in Section 8.2 (above), as well as other applicable standards established by the South Carolina Code of Laws.

F. Sec. 38-9.5 of the Code is hereby amended to read as follows:

Sec. 38-9.5. *Other requirements.* In addition to zoning district regulations see the following sections for other requirements:

- (1) See Article 5 for “Conditional Lease”
- (2) See Article 7 for “Special Exceptions”

- (3) See Appendix A for specifications on “Landscaping”, Buffering”, “Parking”, “Lighting”, and “Signage”. Standards contained on Appendix A shall apply only to those zoning districts or overlay districts specifically identified in Section 10, “Zoning Districts”, and Section 11, “Overlay Districts”, as being subject to Appendix A, each of which may be subject to all or part of the entire appendix, but only as specified. In no instance shall standards contained in Appendix A apply to any zoning district or overlay district unless so specified in such sections.
- (4) Notwithstanding any other provision herein to the contrary, proposed utility facilities and structures needed by regional and local utility providers for production, transmission, and distribution, as well as any facility or structure necessary to comply with any federal or state license requirements related to such production, transmission, and distribution, shall be permitted in any district, provided the Planning Commission approves a plan, in each such instance, to mitigate potential negative impacts on neighboring uses.

G. Sec. 38.11.1(e)(1) is hereby amended, as follows.

The first sentence of Sec. 38-11.1(e)(1) is hereby amended to read as follows:

- (1) *Keowee/Jocassee Overlay (Lakes Keowee and Jocassee)*. The following standards shall apply within seven hundred and fifty feet (750’) of the full-pond contour of Lakes Keowee and Lake Jocassee, to be measured along a perpendicular line from the full-pond contour:

H. Sec. 38-11.1(e)(1)(c) is hereby amended to read as follows:

- c. A natural vegetative buffer shall be established on all lakefront parcels within the boundaries of the Lake Keowee/Jocassee Overlay
 - A. At the time of sale or transfer of any such parcel. The owners of parcels subject to this requirement shall be notified in writing of the required vegetative buffer by the Planning Director or his/her designee upon receipt of notice by the Planning Department of said sale or transfer. The required buffer shall be recorded on a plat in the office of the Oconee County Register of Deeds as a dedication to follow the parcel in perpetuity; and
 - B. At the time of the first inspection by Building Codes personnel of any new permitted structure, or dimensional expansion of existing structure, located on such parcel. A plat containing the boundaries of the required buffer shall be recorded in the office of the Oconee County Register of Deeds and be submitted to Oconee County as part of the documents required for any County-issued permit.

Any structures or any other objects that are impediments to the establishment of the required buffer shall be moved unless the total square footage they contain is added to the buffer at another location, resulting in a buffer area equal to the required buffer area.

A map indicating those parcels to which the standards of this section apply, as well as the status of the establishment of the required buffer, shall be created and maintained as a layer in the county's Geographic Information System (GIS), and shall be available to the public.

The buffer shall extend to a depth of twenty-five (25) feet measured along a perpendicular line from the full-pond contour, and shall meet all standards established for natural buffers contained in the Subdivision Regulations Chapter of the Unified Performance Standards, as amended.

In the event that a property owner is unable to establish the said buffer, they may request a variance, to be considered at a hearing before the Board of Zoning Appeals, stating the reasons why a buffer cannot be established. The Board of Zoning Appeals may, in its sole discretion, grant or not grant such variance, for good cause shown.

I. Sec. 38-11.2 of the Code is hereby amended to read as follows:

Sec. 38-11.2 I-85 Overlay District.

- (a) **Title:** I-85 Overlay District
- (b) **Definition:** The I-85 Overlay District is not intended to be a separate zoning district, but shall be assigned to those areas County Council has determined to be essential to the future economic prosperity and general well being of all Oconee citizens.
- (c) **Intent:** The Overlay is intended to promote development that reflects the best building and site design practices in a manner that will maintain the greatest marketability of the area over time, while limiting any negative effects that may impact the existing lifestyle of the area's citizens.
- (d) **Boundary:** The boundaries of the I-85 Overlay District shall be shown on the Official Oconee County Zoning Map:
 - (i) The I-85 Overlay District shall be divided into the following sub-districts:
 - a. Carolina Gateway (Interstate 85)
 - b. Fair Play Village
 - c. Cleveland Creek
- (e) **Standards:**
 - (1) No new residential subdivision development consisting of more than ten (10) residential housing units proposed for any sub-district of the I-85 Overlay District shall have a gross density greater than one (1) dwelling unit per five (5) acres.
 - (2) The regulations contained within Appendix A of this Ordinance shall apply in their entirety to all non-residential uses within the Carolina Gateway (Interstate 85) overlay, excluding agriculture uses.

- (3) All new residential and non-residential buildings, accessory buildings, and other permanent structures proposed to be located within the boundaries of the Fair Play Village Sub-district shall be subject to the following standards:
 - a. Maximum Density: Two (2) Dwelling Units per acre
 - b. Minimum Lot Width on Road Frontage: One Hundred (100) feet
 - c. Minimum Yard Setbacks:
 - Front – Twenty Five (25) Feet
 - Side – Five (5) Feet
 - Rear – Ten (10) Feet

Recommended Boundaries of I-85 Overlay
Proposed as Amendment to Official Zoning Map
(Map attached to original ordinance)

J. Sec. 38-12.2, Appendix A (a)(4) of the Code is hereby amended to read as follows:

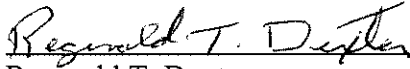
4. Exterior building materials visible from the traffic lanes shall not consist of unadorned concrete masonry units (concrete blocks), corrugated metal, and/or sheet metal. Pre-cast concrete panels and pre-engineered metal wall units, and 'split-faced' and other rusticated masonry walls are permitted.

K. Sec. 38-12.2, Appendix A (a)(8) of the Code is hereby amended to read as follows:

8. Roof-mounted mechanical equipment shall be enclosed or screened to ensure such features are not visible to the extent possible. Enclosures and Screens shall be compatible with the architectural style of the building.
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 Zoning Enabling Ordinance, Ordinance 2007-18, and Chapter 38 of the Oconee County Code of Ordinances as amended hereby, are hereby 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.

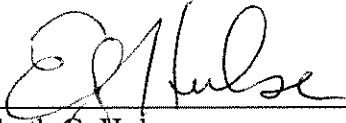
ORDAINED in meeting, duly assembled, this 19th day of May, 2009.

FOR OCONEE COUNTY:



Reginald T. Dexter
Chairman, District V

ATTEST:



Elizabeth G. Hulse
Oconee County Clerk to Council

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| First Reading: | February 3, 2009 |
| Second Reading: | April 14, 2009 |
| Public Hearing: | April 21, 2009 |
| Third Reading: | May 19, 2009 |