
OVERVIEW OF THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING ENABLING ACT

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**Orientation Training for
Local Planning/Zoning Officials and Employees**

Part I: Let's Get Started!

Thursday, May 12, 2005

9:00 a.m. – 12:30 p.m.

S. C. ETV Public Services Network

Sponsored by the South Carolina Association of Counties

SCAC Planning/Zoning Orientation Training

Overview of the Local Government Comprehensive Planning Enabling Act

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Foundations

Home Rule Act -- S.C. Code Section 4-9-25

- ✦ Sets out the Police Power to regulate
- ✦ Health, Safety, and General Welfare
- ✦ Consistent with the General Laws of the State

Foundations

Local Government Comprehensive
Planning Act of 1994

- ✦ Enabling legislation for basic Planning, Zoning, and Land Development Regulations
- ✦ Sets forth Requirements for adoption and update to covered activities
- ✦ Establishes the Scope and Manner of Enforcement

No Mandate to Plan

- ✦ Counties are free to set their own pace
- ✦ Undertake as much or little as desired
- ✦ But . . . local ordinances and regulations must be consistent with state law

Planning Act Breakdown

- ✦ Planning Commission
- ✦ Comprehensive Plan
- ✦ Zoning Ordinance
- ✦ Board of Zoning Appeals
- ✦ Board of Architectural Review
- ✦ Land Development Regulations
- ✦ Additions Since 1994

Planning Commission

- ✦ First step in initiating a comprehensive planning process under the Planning Act is establishment of a Planning Commission
- ✦ Members appointed by County Council
- ✦ Planning Commission primary role as advisory body on planning matters to County Council

Planning Commission

- ✦ Jurisdiction
- ✦ Duties
 - ✦ Comprehensive Plan
 - ✦ Zoning Ordinance
 - ✦ Land Development Regulations/Subdivisions
 - ✦ Capital Improvement Plans and Other Tasks
 - ✦ Public Facilities Review
(location/character/extent)

Comprehensive Plan

- ✦ Planning Act mandates for zoning
- ✦ Zoning not a mirror -- but should avoid large-scale inconsistencies
- ✦ PC has no zoning power
- ✦ Plans approved by ordinance

Comprehensive Plans

Seven Elements

- ✦ Economic Development
- ✦ Population
- ✦ Natural Resources
- ✦ Cultural Resources
- ✦ Community Facilities
- ✦ Housing
- ✦ Land Use

Plan Update Requirements

- ✦ Not less than every Five Years -- Planning Commission must "review" Plan Elements
 - ✦ To determine whether changes in the amount, kind, or direction of development of the area or other reasons make it desirable to seek additions or amendments to the plan
- ✦ The Plan and all its elements must be updated at least every ten years

Undertaking Updates

- ✦ Establish Continuous Program for Review
 - ✦ The basic planning process required for each of the planning elements must include at a minimum:
 - ✦ 1) Inventory of existing conditions;
 - ✦ 2) Statement of needs and goals; and
 - ✦ 3) Implementation strategies with time frames
- ✦ Reflect changes in Ordinances and Regulations

Plan Adoption

- ✦ Planning Commission recommends a plan/element/update and then transmits its recommendation to the governing body
- ✦ County Council has the final word on adoption of the plan or any element of the plan; any actions to adopt must be done by ordinance
- ✦ Prior to adoption of the plan, element, or update, County Council must hold a public hearing and give thirty days' notice

Zoning Ordinance

- ✦ Zoning ordinance retains its role as popular tool for land use regulation
- ✦ The Planning Act added goals and techniques to existing zoning enabling laws
- ✦ After adoption of at least the land use element of the comprehensive plan, the governing body may adopt a zoning ordinance to help implement the plan

New Zoning/Planning Techniques

- ✦ Planning Act made specific techniques available
 - ✦ Cluster Development
 - ✦ Floating Zones
 - ✦ Performance Zoning
 - ✦ Planned Development Districts
 - ✦ Overlay Zones
 - ✦ Conditional Uses
 - ✦ Planned Development Districts

Amending the Zoning Ordinance

- ✦ Prior to the enactment or amendment of the zoning ordinance, a public hearing must be held, with at least fifteen days' public notice given
- ✦ In rezoning, conspicuous notice must be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare abutting the property

Board of Zoning Appeals

- ✦ Established to hear appeals on zoning decisions as part of the administrative mechanism designed to enforce the zoning ordinance
- ✦ County Council appoints the members of the Board, which may have a membership ranging from three to nine members with terms of three to five

BZA Powers

- ✦ Board has the power to hear and decide appeals where it is alleged there is error made by an administrative official in the enforcement of the zoning ordinance
- ✦ Board may grant variances from zoning ordinance requirements under certain circumstances, and may permit uses by special exception subject to the terms and conditions for the uses set forth in the zoning ordinance

Variance Standards

- ✦ Board may grant a variance when strict application of the ordinance results in unnecessary hardship, if Board explains in writing certain findings:

Variance Findings

- ⊗ Extraordinary and exceptional conditions pertaining to a particular piece of property;
- ⊗ These conditions do not generally apply to other property in the vicinity;
- ⊗ Because of these conditions, application of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property; and
- ⊗ 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

Appeals Process

- ⊗ Any person aggrieved, or any officer, department, board, or bureau of the County, may bring an appeal to the Board within a "reasonable time"
- ⊗ If no time limit provided by ordinance or Board rules, appeals must be taken within thirty days from the date the appealing party received actual notice
- ⊗ Board must set a reasonable time for an appeal hearing and give at least fifteen days' public notice of it in a newspaper of general circulation
- ⊗ Next step – Mediation and/or Circuit Court. Upon notice of appeal to Circuit Court, Board must file findings of fact and conclusions

Board of Architectural Review

- ⊗ Counties may appoint a BOAR when a zoning ordinance is adopted that which makes specific provisions for historic and architecturally valuable districts and neighborhoods or significant or natural scenic areas, or protects or provides, or both, for the unique, special, or desired character of a defined district, corridor, or development area or any combination

Land Development Regulations

- ⊗ Planning Act utilizes the term, "land development", to give a broader definition of the types of building activities that are potentially subject to regulation such as: "the changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, [or] lease...."
- ⊗ "Subdivisions" remain subject to regulatory control under the Land Development Regulations

Land Development Regulations

- ⊗ County Council can undertake when at least the community facilities element of the comprehensive plan has been adopted
- ⊗ "Appearance" is a regulation purpose
- ⊗ Planning Commission prepares and recommends regulations to County Council -- public hearing must be held prior to adoption or amendment of the regulations with thirty days' prior public notice of the hearing.
- ⊗ Planning Commission administers

Additional Issues

- ⊗ Additions Since 1994
- ⊗ Roles
- ⊗ Legal

Since 1994

- ⊛ Alternative Dispute Resolution Process put in place for appeals from planning and zoning decisions
- ⊛ Educational Requirements
- ⊛ Vested Rights

Roles

- ⊛ Separation of Powers
 - ⊛ Legislative
 - ⊛ Administrative
 - ⊛ Quasi-Judicial
- ⊛ Working together toward common objectives

Legal

- ⊛ Statutory obligations
- ⊛ Due process
 - ⊛ Notice -- Balance
 - ⊛ Takings
- ⊛ Appeals to Circuit Court

Conclusion