

**ARTICLE 5
REESTABLISHMENT, POWERS AND DUTIES OF
SPARTANBURG COUNTY PLANNING COMMISSION
AND BOARD OF APPEALS**

Section 5.01 Spartanburg County Planning Commission

Section 5.01-1 Reestablishment of Planning Commission

The Spartanburg County Planning Commission is hereby reestablished under the provisions of the S.C. Code, §6-29-320.

Section 5.01-2 Powers and Duties of the Planning Commission

It is the function and duty of the Planning Commission to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the unincorporated areas of Spartanburg County. The Planning Commission may make, publish, and distribute maps, plans, and reports and recommendations relating to the development of its area of jurisdiction to County officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. 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 there-from. In general, the Planning Commission has the powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction.

In the discharge of its responsibilities, the Spartanburg County Planning Commission has the power and duty to:

1. Prepare and revise periodically plans and programs for the development and redevelopment of its area of jurisdiction; and
2. Prepare and recommend for adoption to the County Council as a means for implementing the plans and programs in its area:
 - a. Landuse (Zoning) ordinances to include district maps and appropriate revisions thereof;

- b. An official map and appropriate revision 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 within its political jurisdiction or a specified portion of it;
- c. A landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;
- d. 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 County Council for implementation prior to preparation of the capital budget;
- e. Policies or procedures to facilitate implementation of planning elements; and
- f. Regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that may be adopted. In overseeing the administration of subdivisions and major land developments, the Planning Commission has the authority to:
 - 1. To Hear and Decide Appeals from staff decisions where it is alleged there is error in any order, requirement, decision, or determination made by the staff in the administration of subdivision and/or major land development applications.
 - 2. To grant variances in specific cases from the regulations pertaining to subdivisions and major land developments as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will, in an individual case, result in the unnecessary hardship so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship if the Commission finds:

- 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 granting of the variance will not harm the character of the area.

The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

Section 5.01-3 Composition of the Commission

The Planning Commission shall consist of nine members appointed by County Council for overlapping terms of four (4) years. Three (3) members first appointed shall serve two (2) years, three (3) members first appointed shall serve three (3) years, and three (3) members first appointed shall serve four (4) years.

Of the nine (9) members, six (6) shall be appointed from council districts, one (1) from each district. Three members shall be appointed at large.

To the extent possible, membership shall represent a broad cross section of the interests and concerns of the Spartanburg Community, and shall be representative of the racial and gender composition of the County. No member shall be the holder of an elected public officer in Spartanburg County.

Members shall serve until their successors are appointed and qualified.

Section 5.01-4 Compensation

Compensation will be provided to members of the Planning Commission at an amount of compensation determined by Spartanburg County Council.

Reimbursement for actual expenses incurred in the performance of official duties may be paid from budgeted funds pursuant to reimbursement policies and procedures for employees of the County. Spartanburg County will also provide training and workshop training for Commissioners.

Section 5.01-5 Removal of Members

County Council may remove members of the Planning Commission at any time for cause. The existence of cause shall be discussed by the Council in executive session as permitted by the Freedom of Information Act, South Carolina Code, §30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of Council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.

Section 5.01-6 Organization and Rules of Procedure

The Planning Commission shall organize, elect officers, and adopt rules of procedure as required by South Carolina Code, §6-29-360.

Section 5.02 Spartanburg County Board of Appeals

Section 5.02-1 Reestablishment of Board of Appeals

The Spartanburg County board of Appeals is hereby reestablished under the provisions of the South Carolina Code, §6-29-780.

Section 5.02-2 Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers and duties:

- 1 **To Hear and Decide Appeals, Generally.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the enforcement officer of this Ordinance.
- 2 **To Grant Variances, Generally.** To authorize upon appeal in specific cases a variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will, in an individual case, result in the unnecessary hardship so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be

granted in such 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 area will not be harmed by the granting of the variance.

The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

Section 5.02-3 Decisions of the Board of Appeals

In exercising the above powers, the concurring vote of two-thirds of the members present and voting shall be required to reverse, wholly or in part, or modify any order, requirement, decision, or determination of the County Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, and to that end, shall have the powers of the officer from whom the appeal is taken and may direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and, in case of contempt may certify such fact to the Circuit Court having jurisdiction. (Amended 5/15/2000)

All final decisions and orders of the Board shall be in writing and be permanently filed in the office of the Board as public record. 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.

Section 5.02-4 Composition of the Board of Appeals

The Board of Appeals shall consist of nine members appointed by the County Council for overlapping terms of four (4) years. Three (3) members first appointed shall serve for two (2) years, three (3) members first appointed shall serve for three (3) years, and three (3) members first appointed shall serve for four (4) years.

Of the nine (9) members, six (6) shall be appointed from County Council Districts, one (1) from each district. Three (3) members shall be appointed at large. To the extent possible, membership shall represent a broad cross section of the interests and concerns of the Spartanburg Community, and shall be representative of the racial and gender composition of the County.

No member shall be the holder of an elected public officer in Spartanburg County. Members shall serve until their successors are appointed and qualified.

Section 5.02-5 Compensation

Compensation will be provided to members of the Board of Appeals at an amount of compensation determined by Spartanburg County Council. Reimbursement for actual expenses incurred in the performance of official duties may be reimbursed from budgeted funds pursuant to reimbursement policies and procedures for employees of the County. Spartanburg County will also provide, wherever appropriate, training and workshop training for Board of Appeals members.

Section 5.02-6 Removal of Members

Members of the Board of Appeals may be removed at any time by County Council for cause. The existence of cause shall be discussed by the Council in executive session as permitted by the Freedom of Information Act, South Carolina Code, §30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of Council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.

Section 5.02-7 Organization and Rules of Procedure

The Board of Appeals shall organize, elect officers, and adopt rules of procedure as required by South Carolina Code, §6-29-790.