

Chapter 62

PLANNING AND ZONING ADMINISTRATION***Article I. In General**

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***Cross references**-Restrictions on new developments regarding the protection of sea turtles, § 10-63; buildings and building regulations, ch. 14; flood damage prevention, § 14-111 et seq.; streets and sidewalks, ch. 70; utilities, ch. 82; zoning, ch. 86.

State law reference-South Carolina Local Government Comprehensive Planning and Enabling Act of 1994, S.C. Code 1976, § 6-29-310 et seq.

ARTICLE I. IN GENERAL

Sec. 62-1. - Comprehensive plan adopted.

The 2010 Comprehensive Plan of the Town of Edisto Beach, South Carolina, a copy of which is attached to Ord. No. 2010-03 as Exhibit A, is hereby adopted pursuant to the provisions of the South Carolina Local Government Comprehensive Planning and Enabling Act of 1994 (the "Enabling Act") (S.C. Code §§ 6-29-310, et seq.) and all prior editions of the Comprehensive Plan are hereby repealed.

(Ord. of 3-14-96, § 1; Ord. No. 2010-03, 2-11-10)

Secs. 62-2—62-30. - Reserved.

ARTICLE II. PLANNING COMMISSION*

Sec. 62-31. - Created.

In order to guide and accomplish a coordinated and harmonious development of the Town that will, in accordance with existing and future needs, best promote the public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, the Town Planning Commission is hereby created and established as authorized by S.C. Code 1976, § 6-29-310; and the Planning Commission shall be organized, empowered and governed by the provisions of this article.

(Ord. of 5-1-79)

Sec. 62-32. - Membership.

The Planning Commission shall consist of seven (7) members who shall be citizens of the Town and shall be appointed by the Town Council. The terms of office of the members shall be for four (4) years, except that, of the seven (7) members first appointed, one shall be appointed for a term of one year, two (2) for two (2) years, two (2) for three (3) years and two (2) for four (4) years. Any vacancy in membership shall be filled for the unexpired term by the Town Council, who shall also have the authority to remove any member for cause. A member of the Planning Commission is limited to two (2) consecutive terms of service, including the appointment to fill the vacancy in an unexpired term as one complete term for purposes of this limitation. After the completion of two (2) consecutive terms, a member may be eligible for re-appointment upon the expiration of a period of one year from the date of last service. Provided, however, that the one-year period may be waived and the member deemed immediately eligible for re-

appointment if there are no applicants for the position or, in the considered opinion of Town Council, there is no properly qualified applicant. There is no limit to the number of re-appointments a member may receive pursuant to these provisions. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties. Planning Commission members may hold no other elected public office in the Town.

(Ord. of 5-1-79, § 1; Ord. of 11-14-96(1), § 1; Ord. No. 2010-15, 5-13-10)

***Cross reference**-Administration, ch. 2.

State law reference-Creation of local Planning Commission, S.C. Code 1976, § 6-29-310 et seq.

Sec. 62-33. - Organization, meetings, rules, staff and finances.

(a) The Planning Commission shall elect a chairperson and vice-chairperson from among its members, who shall serve for one year or until reelected, or until their successors are elected. The Planning Commission shall appoint a secretary, who may be an officer or an employee of the Town or of the Planning Commission.

(b) The Planning Commission shall keep a record of its recommendations, transactions, findings and determinations, and shall meet at the call of the chairperson and at such times as the chairperson or Commission may determine. All meetings of the Planning Commission shall be open to the public, and all records of the Commission shall be a public record. The Commission may appoint such employees and staff as it may deem necessary for its work and may make expenditures for salaries of any employees and staff, contracts with consultants, and for the purchase of required equipment and supplies. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Council.

(c) An annual schedule of regular meetings of the Planning Commission shall be adopted and posted at Town Hall in December of each year. Special meetings shall be called by the chairperson, or at the request of at least two (2) Commission members, or by the Town Building Code Administrator upon at least 24 hours' notice posted at Town Hall, and delivered to all members, with notification to the press in accordance with the state Freedom of Information Act.

(d) The Planning Commission shall adopt the Planning Commission's rules of procedure for the implementation of the requirements of the Enabling Act, this Chapter, Chapters 71 and 86.

(Ord. of 5-1-79, § 2)

Sec. 62-34. - General powers and duties.

(a) From and after the time the Planning Commission shall have organized and selected its officers and shall have adopted its rules of procedure, the Commission shall have all the powers, duties and responsibilities set forth in S.C. Code 1976, § 6-29-340.

(b) In general, the Planning Commission shall have the power to:

- (1) Prepare and revise periodically a Comprehensive Plan and program for the development of its jurisdiction.

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- (2) Prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plan and program:
 - a. Zoning ordinances or resolutions, and maps and appropriate revisions thereof for its jurisdiction.
 - b. Regulations for the subdivision of land and appropriate revisions thereof within its jurisdiction, and to administer the regulations that may be adopted.
 - c. An official map and appropriate revision thereof 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 such rights-of-way, building sites or open spaces within its political jurisdiction or a specified portion thereof.
 - d. A capital program for its jurisdiction based on the Comprehensive Plan and the capital improvements necessary to implement the plan. Such a capital program shall include an annual capital budget based on estimates of the cost of proposed projects and the means of financing them. The Commission shall submit the capital program, including the capital budget, to the Town as directed.
- (3) Establishing principles and policies for guiding action in the development of the area.
- (4) Preparing and recommending to the Council for adoption ordinances promoting orderly development in accordance with the Comprehensive Plan, other than those previously mentioned.
- (5) Determining whether specific proposed developments conform to the principles and requirements of the Comprehensive Plan for the growth and improvement of the area.
- (6) Reviewing and recommending to the Council any needed changes in the zoning ordinance and the map of the Town, as well as the subdivision regulations, official maps, and other codes, ordinances and controls related to the Town's development.
- (7) Keeping the Council and the general public informed and advised as to these matters.

(Ord. of 5-1-79, § 3)

State Law Reference – Functions, powers and duties of local planning commissions, S.C. Code 1976 § 6-29-340.

Sec. 62-35. Specific powers and duties.

The Planning Commission has the following powers and duties:

- (a) The Planning Commission shall review all zoning and land development regulation amendments for conformity with the Comprehensive Plan. Conflicts with the Comprehensive Plan shall be noted in any report to the Town Council on a proposed amendment. The elements of the Comprehensive Plan shall be reviewed and updated on a schedule adopted by the Planning Commission meeting the requirements of Section 6-29-510(E) of the Code of Laws of South Carolina;

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- (b) Review and make recommendations to the Town Council for amendments to regulations in regard to planting, tree preservation, and other aesthetic consideration for land and structures;
- (c) Review and take action on street names;
- (d) Review and make recommendations on Planned Unit Development (PUD) Master Land Use Plans and amendments thereto;
- (e) Review and make recommendations on public improvement projects;
- (f) Review and make recommendations to the Town Council in regard to amendments to the text of Chapter 62, Chapter 71, *Subdivision and Land Development Regulations*, and Chapter 86, *Zoning Regulations*.
- (g) Review and make recommendations to the Town Council in regard to amendments to the Official Zoning Map.

(Ord. of 5-1-79, § 3)

Sec 62-36. – Reserved

ARTICLE III. ZONING BOARD OF APPEALS

Sec. 62-37. - Created.

A Zoning Board of Appeals as authorized by the Code of Laws of S.C. Code 1976 § 6-29-780, et seq., is hereby established. The board shall have these powers devolved on it by S.C. Code 1976 § 6-29-780, et seq., with the qualifications and additions set forth in this division.

Sec. 62-38. - Membership.

The Zoning Board of Appeals shall consist of seven (7) members, who shall be citizens of the Town and shall be appointed by the Town Council for overlapping terms of three (3) years. The Town Council shall also have the authority to remove any member for cause. Members shall continue to serve until their successors are appointed. Initial appointment shall be as follows: three (3) members for a term of three (3) years, two (2) members for a term of two (2) years and two (2) members for a term of one year. Any vacancy in membership shall be filled for the unexpired term in the same manner as the initial appointment. A member of the Zoning Board of Appeals is limited to two (2) consecutive terms of service, including the appointment to fill the vacancy in an unexpired term as one complete term for purposes of this limitation. After the completion of two (2) consecutive terms, a member may be eligible for re-appointment upon the expiration of a period of one year from the date of last service. Provided, however, that the one-year period may be waived and the member deemed immediately eligible for re-appointment if there are no applicants for the position or, in the considered opinion of Town Council, there is no properly qualified applicant. There is no limit to the number of re-appointments a member may receive pursuant to these provisions. Members shall serve without pay, but may be reimbursed for any authorized travel expenses while representing the board. None of the members shall hold any other public office or be an employee of the municipality or county.

(Ord. of 11-8-07(3), § 1)

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Sec. 62-39. – Organization and staff.

(a) The Zoning Board of Appeals shall elect a chairperson and a vice chairperson from its members, who shall serve for one year or until re-elected or until their successors are elected. The board shall appoint a secretary, who may be a town officer, an employee of the Town, a member of the Planning Commission or a member of the Zoning Board of Appeals.

(Ord. of 11-8-07(3), § 1)

Sec. 62-40. - Rules of procedure.

The Zoning Board of Appeals shall adopt rules and bylaws in accordance with the provisions of this chapter and of S.C. Code 1976, § 6-29-310 et seq. Furthermore, the board shall adopt rules of procedure in accordance with the provisions of this chapter and S.C. Code 1976, § 6-29-790. Such rules of procedure shall address the following elements as a minimum:

- (1) Election of a chairperson and his duties.
- (2) Procedure for electing an acting chairperson.
- (3) Appointment of a secretary and his duties.
- (4) Procedures for calling meetings.
- (5) Time and place for meetings.
- (6) Posting of meeting notices in compliance with the Freedom of Information Act and S.C. Code 1976, § 6-29-70 for variances and special exceptions.
- (7) Setting agenda.
- (8) Quorum and attendance requirements consistent with S.C. Code 1976, § 6-29-780.
- (9) Rules of procedure for conducting meetings.
- (10) Time for appeal from decision of zoning official.
- (11) Time and procedure for hearing appeals, variances and special exceptions.
- (12) Time and procedure for rendering and serving decisions.
- (13) Procedure for making and keeping records of actions.
- (14) Procedure for granting rehearings.
- (15) The oath administered to witnesses.

(Ord. of 11-8-07(3), § 1)

Sec. 62-41. – Decisions.

(a) The affirmative vote of a majority of the members of the Zoning Board of Appeals present and voting shall be necessary to reverse any order, requirement, decision determination of the Building Code

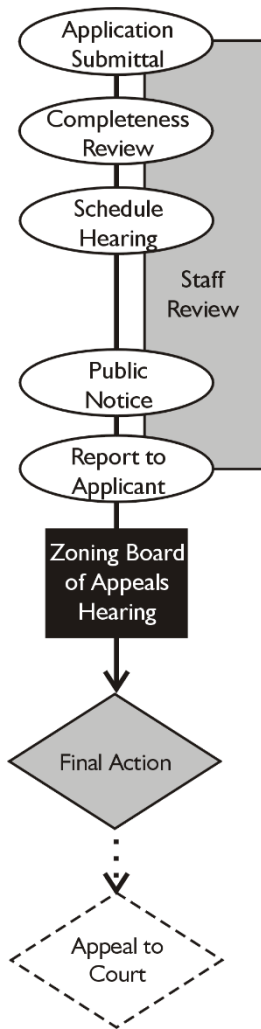
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Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(b) Any variance granted by the board requires the affirmative vote of the majority of the members of the board members present and voting.

(c) On all appeals, applications and matters brought before the Zoning Board of Appeals, the Board shall inform in writing all the parties involved of its decision and the reasons thereof.

Sec. 62-42 – Appeals, hearings and notices.



(a) Appeals to the Zoning Board of Appeals may be taken from any person aggrieved or from any officer, department, board or bureau of the Town or County. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Building Code Administrator and with the Zoning Board of Appeals notice of such appeal, specifying the grounds thereof. The Building Codes Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(b) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Code Administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion cause imminent peril to life and property.

(c) In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record on application, on notices to the officer from whom the appeal is taken, and on due cause shown.

(d) The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to, and give public notice thereof, as well as due notice to the parties in interest, and decide the appeal within a reasonable time. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least 15 days in advance of the scheduled hearing date. If no time limit is provided, the appeal must be taken within 30 days from the date the appealing party has received actual notice of the action from which the appeal is taken. The officer from whom the appeal is taken immediately must transmit to the Board all the papers constituting the record upon which the action appealed from was taken. At the hearing, any party may appear in person

or by agent or by attorney.

Sec. 62-43. - General powers and duties.

(a) The Zoning Board of Appeals has the following powers:

(1) To hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

(2) To hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of this division would result in unnecessary hardship. 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.

1. The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

2. In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare;

(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; and

(4) To remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review. A party's motion for remand may be denied if the board determines that the record is sufficient for review. The board must set a rehearing on the remanded matter without further public notice for a time certain within 60 days unless otherwise agreed to by the parties. The board must maintain a list of persons who express an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

(b) In exercising the above powers, the Zoning Board of Appeals may, in conformity with the provisions

of this division, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end, has all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The board, in the execution of the duties specified in this division, may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.

(c) All final decisions and orders of the board must be in writing and be permanently filed in the office of the board as a 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. (Ord. of 11-8-07(3), § 1)

Sec. 62-44. – Appeals.

(a) A person who may have a substantial interest in any decision of the Zoning Board of Appeals or an officer or agent of the Town may appeal from a decision of the Board to the Circuit Court in and for Colleton County, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Board is mailed.

(b) A property owner whose land is the subject of a decision of the Zoning Board of Appeals may appeal either:

(1) As provided in subsection (a); or

(2) By filing a notice of appeal with the Circuit Court accompanied by a request for pre-litigation mediation in accordance with S.C. Code 1976 § 6-29-825. Any notice of appeal and request for pre-litigation mediation must be filed within 30 days after the decision of the Board is postmarked.

(Ord. of 6-11-81, § 905; Ord. of 10-9-03(1), § 2; Ord. of 11-8-07(3), § (1)

Secs. 62-45—62-50. - Reserved.

ARTICLE IV. BUILDING CODE ADMINISTRATOR

Sec. 62-51. – Created.

(a) The Town Council shall appoint the Building Code Administrator who, as such, will be assigned the duty and authority to administer and enforce the provisions of this chapter, chapter 71, and chapter 86.

Sec. 62-52. – Powers and duties.

The Building Code Administrator shall be responsible for issuance of Building Permits and other matters that reference the building code under Chapter 14.

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(a) Powers and Duties under Chapter 14.

(1) The Building Code Administrator has the following powers and duties:

- a. To administer and enforce the provisions of the Building and Building Regulations chapters;
- b. To conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of the Buildings and Building Regulations;
- c. To issue stop work permits;
- d. To issue building permits;
- e. To issue certificates of occupancy
- f. To issue certificates of completion of improvements; and
- g. To adopt, with the concurrence of the Town Administrator, such forms, applications and guidelines as they may deem appropriate to implement Chapter 14.

(b) Powers and duties under chapter 62, chapter 71, and chapter 86.

(1) The Building Code Administrator has the following powers and duties:

- a. To administer and enforce the provisions of chapter 62, chapter 71, and chapter 86;
- b. To make written interpretations of chapter 62, chapter 71, and chapter 86;
- c. To review and issue sign permits;
- d. To process, review and make reports to the Zoning Board of Appeals on applications for variances and special exceptions;
- e. To issue certificates of compliance (zoning permits);
- f. To issue certificates of construction completion;
- g. To review and take action on development names;
- h. To review and make recommendations to the Planning Commission on all preliminary and final development and subdivision plans;
- i. To review and take action on exempt subdivision and land development plans;
- j. To investigate and take such other actions as are authorized regarding violations of chapter 71 and chapter 86; and

k. To adopt, with the concurrence of the Town Administrator, such forms, applications and guidelines as they may deem appropriate to implement chapters 62, 71, and 86.

l. To review and approve all plats of the subdivision of land within the incorporated area of the Town submitted to the Building Department.

Secs. 62-53—62-60. - Reserved.

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