

Chapter 16

Planning

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AMENDMENT 2005-03, CHAPTER 16 OF THE CODE OF ORDINANCES,
PLANNING GUIDELINES

HEREBY TODAY THE 11th DAY OF July 2005, THE
ATTACHED PLANNING GUIDELINE WILL BECOME THE OFFICIAL
PLANNING GUIDELINES FOR THE TOWN OF SWANSEA.

Ray Spires
MAYOR

W. Vanessa Huchabee

Linda M. Butler
Woodward Davis Jr.

FIRST READING: June 13, 2005

SECOND READING: July 11, 2005

ATTESTED BY:

Lorraine W. Abell
LORRAINE W. ABELL, TOWN CLERK

Article I, Establishment of Planning Commission

Sec. 16.1. Planning Commission Established.

There is hereby established a planning commission for the Town, which shall have the powers and duties as provided in S.C. Code Title 6, Chapter 29, §6-29-310, et seq.

Sec. 16.2. Composition of Commission.

The planning commission shall consist of five (5) members appointed by the town council for terms of three (3) years, staggered so that one-third of the members shall have terms expiring in each year. Members shall serve until their successors are appointed and qualified. No member of the planning commission shall be the holder of an elected public office in the town or county.

Sec. 16.3. Compensation.

Members of the planning commission shall serve without compensation. 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 town.

Sec. 16.4. Removal of Members.

Members of the planning commission may be removed at any time by the town council. The existence of cause shall be discussed by the council in executive session as permitted by the Freedom of Information Act, S.C. 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.

Sec. 16.5. Organization and Rules of Procedure.

The planning commission shall organize, elect officers, and adopt rules of procedure as required by S.C. Code §6-29-360. (Suggested rules are contained in Article II of this chapter.)

Sec. 16.6. Public Hearings.

The planning commission shall hold all public hearings on amendments to the zoning ordinance and map pursuant to S.C. Code §6-29-760(A).

Article II, Planning Commission Rules of Procedure

Sec. 16.7. Rules.

These rules of procedure are adopted pursuant to S.C. Code § 6-29-360 for the town planning commission which consists of members appointed by council.

Sec. 16.8. Officers.

The officers of the commission shall be a chairman and vice-chairman elected for one year terms at the first meeting of the commission in each calendar year. The commission shall appoint a member of the staff of the Town as secretary of the commission.

Sec. 16.9. Chairman.

The chairman shall be a voting member of the commission and shall:

- a. call meetings of the commission;
- b. preside at meetings and hearings;
- c. act as spokesperson for the commission;
- d. sign documents for the commission;
- e. transmit reports and recommendations to council; and
- f. perform other duties approved by the commission.

Sec. 16.10. Vice-Chairman.

The vice chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the absence of the chairman and vice chairman, an acting chairman shall be elected by the members present.

Sec. 16.11. Secretary.

The secretary shall:

- a. provide notice of meetings;
- b. assist the chairman in preparation of agenda;
- c. keep minutes of meetings and hearings;
- d. maintain commission records as public records;
- e. attend to commission correspondence; and
- f. perform other duties normally carried out by a secretary.

Sec. 16.12. Time and Place.

An annual schedule of regular meetings shall be adopted, published and posted at the designated Town office in December of each year. Special meetings may be called by the chairman upon 24 hours notice, posted and delivered to all members and local news media. Meetings shall be held at the place stated in the notices, and shall be open to the public.

Sec. 16.13. Agenda.

A written agenda shall be furnished by the secretary to each member of the commission and the news media, and shall be posted at least five (5) days prior to each regular meeting, and at least twenty four (24) hours prior to a special meeting. Items may be added to the agenda at a meeting by majority vote.

Sec. 16.14. Quorum.

A majority of the members of the commission shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting.

Sec. 16.15. Rules of Order.

Robert's Rules of Order shall govern the conduct of meetings except as otherwise provided by these rules of procedure.

Sec. 16.16. Voting.

A member must be present to vote. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member affected, who shall announce the reason for disqualification, give it to the chairman in writing, have it placed in the minutes, and refrain from deliberating or voting on the question.

Sec. 16.17. Conduct.

Except for public hearings, no person shall speak at a commission meeting unless invited to do so by the commission.

Sec. 16.18. Notice.

The secretary shall give the notice required by statute or ordinance for all public hearings conducted by the commission. Members of the public desiring to be heard shall give written notice to the secretary prior to commencement of the hearing.

Sec. 16.19. Procedure.

In matters brought before the commission for public hearing which were initiated by an applicant, the applicant, his agent or attorney shall be heard first, members of the public next, and staff next. The applicant shall have the right to reply last. No person may speak for more than five (5) minutes without consent of the commission. No person speaking at a public hearing shall be subject to cross-examination. All questions shall be posed by members of the commission. In matters not initiated by an applicant, members of the public shall speak in the order in which requests were received, or in such order as the commission shall determine.

Sec. 16.20. Minutes.

The secretary shall record all meetings and hearings of the commission on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the commission at the next regular meeting. Minutes shall be maintained as public records.

Sec. 16.21. Reports.

The secretary shall assist in the preparation and forwarding of all reports and recommendations of the commission in appropriate form. Copies of all notices, correspondence, reports and forms shall be maintained as public records.

Sec. 16.22. Attendance.

The minutes shall show the members in attendance at each meeting and the reason for absence submitted by any member. The commission shall recommend to the governing body the removal for cause of any member who is absent from three (3) consecutive meetings without adequate reason.

Sec. 16.23. Zoning Amendments.

Proposed zoning text and district amendments shall be considered and recommendations shall be forwarded to the governing body within thirty (30) days after receipt of the proposed amendments, unless additional time is given by the governing body. When so authorized, the planning commission shall conduct any required public hearing prior to making a recommendation.

Sec. 16.24. Plats.

Plats submitted for review pursuant to land development regulations shall be reviewed by designated staff members who may approve for recording plats of existing lots of record, minor subdivisions of land which meet all zoning requirements, and subdivisions which are exempt from regulation pursuant to S.C. Code § 6-29-1110(2). The commission shall be informed in writing of all staff approvals at the next regular meeting, and a public record of such actions shall be maintained. All other plats shall be subject to review and approval by the commission. NOTE: This

process may be included in the land development ordinance provisions.

Sec. 16.25. Comprehensive Plan.

All zoning and land development regulation amendments shall be reviewed first for conformity with the comprehensive plan. Conflicts with the comprehensive plan shall be noted in any report to the governing body on a proposed amendment. The elements of the comprehensive plan shall be reviewed and updated on a schedule adopted by the commission meeting the requirements of S.C. Code § 6-29-510(E).

Sec. 16.26. Reconsideration.

The Commission may reconsider any review when so requested by the governing body, or when an applicant brings to the attention of the commission new facts, a mistake of fact in the original review, correction of clerical error, or matters not the fault of the applicant which affect the result of the review.

Sec. 16.27. Budget.

The commission shall submit written recommendations to the governing body for funding in the annual budget. The recommendations shall include an explanation and justification for proposed expenditures.

Sec. 16.28. Expenditures.

Budgeted funds shall be expended only for approved purposes in accordance with financial policies and procedures set by the governing body, including procurement rules. Upon adoption of a budget by the governing body, the commission, may adopt an authorization for specified expenditures by designated staff members within the limits provided. Reimbursement for actual expenses incurred in the performance of official duties approved in advance by the commission shall be made to members of the commission and staff upon submission of vouchers supported by receipts.

Sec. 16.29. Personnel.

The commission shall employ such staff and consultants as may be authorized and funded by budget or make recommendations for staff members to be employed by the Town. Consultants shall be engaged by majority vote of the commission after review of proposals invited by public notice and mail, and personal interviews with applicants by the commission, or a committee of commission members and staff.

Sec. 16.30. Adoption.

These rules were adopted by vote of a majority of the members of the commission at a regular public meeting. (See enactment for date.)

Sec. 16.31. Amendment.

These rules may be amended at any regular meeting of the commission by majority vote of the members of the commission at least seven (7) days after the written amendment is delivered to all members.

Sec. 16.32 Other Duties as Assigned by Town Council.

From time to time, the town receives grants that require the establishment of special committees to assist in the implementation of the grant. In cases where the special committee required by any federal, state or local grant require a special committee and the function of that committee falls under the purview of the Planning Commission, it is hereby established that the Planning Commission shall function as that committee.

Article III, Board of Zoning Appeals

Sec. 16.32. Rules

These rules of procedure are adopted pursuant to S.C. Code § 6-29-790 for the Town board of zoning appeals which consists of three members appointed by the town council.

Sec. 16.33. Officers

The zoning board of appeal shall consist of three (3) members. The officers of the board shall be a chairman and vice chairman elected for one year terms at the first meeting of the board in each calendar year. The board shall appoint a member of the staff of the Town as secretary of the board.

Sec. 16.34. Chairman

The chairman shall be a voting member of the board and shall:

- a. call meetings of the board;
- b. preside at meetings and hearings; and swear in witnesses;
- c. act as spokesperson for the board;
- d. sign documents for the board;
- e. have orders of the board served on parties; and
- f. perform other duties approved by the Board.

Sec. 16.35. Vice Chairman

The vice chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the absence of the chairman and vice chairman, an acting chairman shall be elected by the members present.

Sec. 16.36. Secretary

The secretary shall:

- a. provide and publish notice of appeals and meetings;
- b. assist the chairman in preparation of agenda;
- c. see that property involved in appeals for variances or special exceptions is properly posted;
- d. keep recordings and minutes of meetings and hearings;
- e. maintain board records as public records;
- f. serve board decisions on parties;
- g. attend to board correspondence; and
- h. perform other duties normally carried out by a secretary.

Sec. 16.37. Time and Place

An annual schedule of regular meetings shall be adopted, published and posted at the designated town office in December of each year. Special meetings may be called by the chairman upon 24 hours notice, posted and delivered to all members and local news media. Meetings shall be held at the place stated in the notices, and shall be open to the public.

Sec. 16.38. Agenda

A written agenda shall be furnished by the secretary to each member of the board and the news media, and shall be posted at least five (5) days prior to each regular meeting, and at least twenty four (24) hours prior to a special meeting. Items may be removed from the agenda or postponed at a meeting by majority vote.

Sec. 16.39. Quorum

A majority of the members of the board shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting.

Sec. 16.40. Rules of Order

Robert's Rules of Order shall govern the conduct of meetings except as otherwise provided by these rules of procedure.

Sec. 16.41. Form of Appeal

Appeals from administrative decisions, applications for variances, and applications for special exceptions shall be filed on forms approved by the board and provided to applicants by the secretary.

The board may require additional information deemed necessary. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.

Sec. 16.42. Time for Appeal

An appeal from an administrative decision must be filed within fifteen (15) days after actual notice of the decision by delivery of the approved appeal form to the secretary of the board who shall notify the official appealed from.

Sec. 16.43. Calendar

Appeals and applications shall be marked with the date of receipt and placed on the hearing calendar in the order in which received. Appeals shall be heard in the order on the calendar unless otherwise set by the board for good cause shown.

Sec. 16.44. Withdrawal of Appeal

Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the board. An appeal from an administrative decision which is withdrawn may not be refiled after the fifteen (15) day time for appeal has expired. Withdrawn applications for variances and special exceptions may be refiled after six (6) months and shall be placed on the calendar according to the date refiled.

Sec. 16.45. Continuances

The hearing of an appeal or application may be continued one time by the board for good cause shown.

Sec. 16.46. Notice

Public notice of a hearing of the board shall be published in a local newspaper and posted on or adjacent to the property affected at least fifteen (15) days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected.

Sec. 16.47. Appearances

The applicant or any party in interest may appear in person or by agent or attorney. The board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.

Sec. 16.48. Witnesses

Parties in interest may present testimony under oath. Witnesses may be compelled to attend by subpoena requested at least ten (10) days prior to a hearing and signed by the chairman. The board may call its own witnesses when deemed appropriate.

Sec. 16.49. Cross-examination

No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses will not be allowed.

Sec. 16.50. Evidence

Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chairman will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

Sec. 16.51. Conduct of Hearing

The normal order of hearing, subject to modification by the chairman, shall be:

- a. statement of matter to be heard (chairman or secretary);
- b. presentation by applicant (5-minute limit);
- c. presentation by official appealed (5-minute limit); or
- d. presentation by opponents (5-minute limit);
- e. rebuttal by applicant (3-minute limit);
- f. unsworn public comment when appropriate;
- g. the board may question participants at any point in the hearing;
- h. matters in which additional time is granted may be moved to the end of the agenda.

Sec. 16.52. Disposition

The board may deliberate and make a final disposition of a matter by majority vote of members present at the hearing and qualified to vote; provided that not less than a quorum are qualified to vote. The vote may be taken at the same or a subsequent meeting. A member may not vote on a matter which the member has not heard. Deliberations shall be conducted and voting shall be in public.

Sec. 16.53. Form of Order

An order shall be issued disposing of a matter by granting or denying relief when such conditions may be deemed necessary; or affirming, modifying, or reversing an administrative decision. A matter may be dismissed for lack of jurisdiction or prosecution. Findings of fact and conclusions of law shall be separately stated in an order.

Sec. 16.54. Service of Order

The secretary shall delivery a copy of an order to each party in interest by certified mail immediately upon execution of the order by the chairman.

Sec. 16.55. Rehearing

The board may grant a rehearing of an application which has been dismissed or denied upon written request filed with the secretary within fifteen (15) days after delivery of the order accompanied by new evidence which could not reasonably have been presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome.

Sec. 16.56. Minutes

The secretary shall record all meetings and hearings of the board on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the board at the next regular meeting. Minutes shall be maintained as public records.

Sec. 16.57. Orders and Documents

The secretary shall assist in the preparation and service of all orders of the board in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as public records.

Sec. 16.58. Adoption

These rules were adopted by vote of a majority of the members of the board at a regular public meeting. (See enactment for date.)

Sec. 16.59. Amendment

These rules may be amended at any regular meeting of the board by majority vote of the members of the board at least seven (7) days after the written amendment is delivered to all members.