

AN ORDINANCE

TO AMEND ORDINANCE NO. 3203, AS AMENDED BY ORDINANCE NO. 4086, RELATING TO THE GREENVILLE COUNTY PLANNING COMMISSION, SO AS TO AMEND SECTION 2 OF ORDINANCE NO. 3203 TO ESTABLISH A TWELVE-MEMBER COMMISSION WITH ONE SEAT FOR EACH COUNTY COUNCIL DISTRICT; TO ABOLISH THE EXISTING SEATS ON THE COMMISSION WHILE THE COMMISSION CONTINUES IN EXISTENCE; TO PROVIDE FOR THE TRANSITION TO THE NEW COMPOSITION; AND TO REPEAL INCONSISTENT PROVISIONS.

BE IT ORDAINED by the County Council of Greenville County, South Carolina:

Section 1. Findings. Greenville County Council established the Greenville County Planning Commission by Ordinance No. 3203, adopted February 2, 1999, under the South Carolina Local Government Comprehensive Planning Enabling Act of 1994. Ordinance No. 4086, adopted February 20, 2007, amended Ordinance No. 3203 to integrate the Commission's staff into County government but did not change the Commission's composition. Section 2 of Ordinance No. 3203 provides for nine members appointed by Council for three-year terms and assigns no seat to any Council district.

Council is elected from twelve districts, and a nine-member Commission cannot include a resident of every district. State law permits a county planning commission of five to twelve members, S.C. Code Ann. § 6-29-350(A), leaves the length of terms and the method of appointment to the governing body, and authorizes Council to "regulate, modify, merge or abolish" the boards and commissions it establishes, S.C. Code Ann. § 4-9-30(6). Council finds that a twelve-member Commission, with one seat assigned to each Council district, will better represent, promote the general welfare of, and preserve order and good government in a County that has grown substantially since 1999.

This Ordinance changes the structure of the Commission. It abolishes the offices that make up the existing seats and establishes new ones on a different basis. It rests on no finding concerning any member of the Commission or any decision of the Commission, and nothing in it may be cited as such a finding. The Commission continues in existence, and its powers, duties, pending matters, and prior actions are unaffected.

Section 2. Continuation of the Commission. The composition of the Greenville County Planning Commission established by Section 2 of Ordinance No. 3203 is repealed, and as a result, the County Council abolishes the existing seats on the Commission as provided in Section 4 of this Ordinance. The Greenville County

Planning Commission shall continue in existence without interruption. Section 1 of Ordinance No. 3203, which establishes the Commission and states its powers and duties, and Sections 1, 2, and 3 of Ordinance No. 4086, which amended it, are not amended by this Ordinance and remain in full force.

Section 3. Amend Section 2 of Ordinance No. 3203 as follows:

Section 2. Composition of Commission. (a) The planning commission shall consist of ~~nine (9)~~twelve (12) members appointed by Greenville County Council for terms of three (3) years, staggered so that one-third of the members shall have terms expiring in each year. One seat is assigned to each Council district, and Council shall appoint to each seat a qualified elector of Greenville County who resides in the Council district to which the seat is assigned. Each term expires on May 31. Members shall serve until their successors are appointed and qualified, notwithstanding any other ordinance that limits the period during which a member may continue to serve after a term expires. A vacancy shall be filled for the unexpired term in the same manner as the original appointment. No member of the planning commission shall be the holder of an elected public office in the County of Greenville.

(b) Staggering. The terms of the seats assigned to Council Districts 17, 18, 19, and 20 expire on May 31, 2028, and every third year thereafter. The terms of the seats assigned to Council Districts 21, 22, 23, and 24 expire on May 31, 2029, and every third year thereafter. The terms of the seats assigned to Council Districts 25, 26, 27, and 28 expire on May 31, 2030, and every third year thereafter. An initial term may be shorter or longer than three years so that it expires on the date this subsection fixes.

(c) Residence. A member who ceases to reside in the Council district to which the member's seat is assigned vacates the seat, and Council shall fill it for the unexpired term with a resident of that district. A change in Council district boundaries through reapportionment does not vacate any seat. The member continues to serve for the remainder of the term, and Council shall fill the seat at the end of the term with a resident of the district as then constituted.

Section 4. Abolition of Existing Seats; Transition.

(a) The County Council abolishes the nine seats on the Commission that existed under Section 2 of Ordinance No. 3203 before the effective date of this Ordinance as part of the change in the Commission's structure this Ordinance makes. Council makes no finding of misconduct, neglect of duty, or cause as to any member, and nothing in this Ordinance may be cited as such a finding in any forum.

(b) Each person serving on the Commission on the effective date of this Ordinance continues to serve until a member has been appointed under Section 2 of Ordinance No. 3203, as amended by this Ordinance, to the seat assigned to the Council district in which that person resides and has qualified. If two or more such persons reside in the same Council district, each continues to serve until that seat is filled. No seat on the Commission stands vacant by operation of this Ordinance.

(c) Council shall make the initial appointments to the seats established by Section 2 of Ordinance No. 3203, as amended by this Ordinance, within 90 days after the effective date of this Ordinance.

(d) Every person serving on the Commission on the effective date of this Ordinance is eligible for appointment to the seat assigned to the Council district in which that person resides. A person who completed orientation training for a prior appointment is not required to repeat it. S.C. Code Ann. § 6-29-1340(B).

(e) Until every person described in subsection (b) has been succeeded, the Commission consists of the persons serving under subsection (b) and the members appointed and qualified under Section 2 of Ordinance No. 3203, as amended by this Ordinance. A new seat is not counted until its first member qualifies. For any purpose measured by the membership of the Commission, including a quorum, the membership is the number of persons then serving.

(f) The chair, vice-chair, and secretary serving on the effective date of this Ordinance continue in office while they continue to serve. If an officer's service ends under subsection (b), the Commission shall elect a successor for the remainder of the officer's term. When a majority of the new seats have been filled, the Commission shall elect a chair, vice-chair, and secretary under S.C. Code Ann. § 6-29-360(A).

Section 5. Pending Matters and Prior Actions. This Ordinance does not affect any action the Commission took before its effective date, any application, plan, plat, appeal, or other matter pending before the Commission, any proceeding in which the Commission is a party, or the Commission's authority under S.C. Code Ann. § 6-29-1200(A) to approve street and road names. Pending matters shall proceed without interruption and within the time limits of S.C. Code Ann. § 6-29-1150 and Section 1.6.1 of the Land Development Regulations, which may be extended by mutual agreement as those provisions allow. This Ordinance does not amend the Zoning Ordinance or the Land Development Regulations.

Section 6. Repeal. This Ordinance repeals any ordinance, resolution, or order with provisions that conflict with it only to the extent of the conflict.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, that decision shall not affect the validity of the remaining

portions of this Ordinance or of Ordinance No. 3203 as amended, which shall remain in full force and effect. If a court holds that Section 4(a) or 4(b) of this Ordinance may not lawfully end the service of a person serving on the Commission on its effective date, that person shall continue to serve until the term to which the person was appointed expires and a successor is appointed and qualified, and Section 2 of Ordinance No. 3203, as amended by this Ordinance, shall continue to govern every other seat.

Section 8. Effective Date. This Ordinance shall take effect upon its adoption.

DONE IN REGULAR MEETING THIS _____ DAY OF _____, 20__.

Benton Blount, Chairman
Greenville County Council

ATTEST:

Regina McCaskill
Clerk to Council

Joseph M. Kernell
County Administrator