

Oconee County Zoning Regulations



Brief Answers to 30 Commonly Asked Questions

June 2011

This document is intended to address *some* common questions related to Oconee County's zoning program, particularly things that are relatively unique among zoning regulations in our region. All attempts have been made to present the concepts of in as simple and easily understandable a manner as possible. *Please note that it should in no way be considered to be a comprehensive reference.*

Contact the Planning Department for more information.

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1. What is zoning?

Zoning is one process used by local governments to direct growth and development in the way desired by its citizens through the control of the way land is used. Although there are different types of zoning, the best known is *Euclidian zoning*, which delineates uses into geographic “districts”. Oconee County utilizes Euclidian zoning.



2. Can a local government zone property any way it wishes, or are there limits?

State law allows local governments a significant amount of freedom in the way it approaches zoning and land use, but it imposes certain standards to ensure citizens receive due process in an open and consistent manner. All zoning should be consistent with the jurisdiction’s adopted Comprehensive Plan and Future Land Use Map.



3. Why did Oconee County create a zoning program?

Our zoning regulations were created to “lessen traffic congestion, to protect public safety, to promote the health and general welfare of the citizens of Oconee County, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population and to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements.” It should be noted, however, that the regulations were created “with reasonable consideration of the character of each community and reflect concern for protecting the property and lifestyles of all Oconee County citizens.”



4. What does zoning mean for me and my property?

Zoning limits how properties are to be used in the future, which may or may not always allow the property owner to utilize their land as they wish. That said, legal uses occurring at the time a new use restriction is imposed are allowed to continue until the use is 'abandoned', and the Board of Zoning Appeals has the authority to grant variances to the standards for unique conditions.



5. What is 'grandfathering', and how can I get it?

The term 'grandfathering' is often used to describe what is more properly called, at least in zoning terms, 'non-conformance'. In effect, it means that a legal use in place at the time the zoning of the parcel is changed, with the new zoning not allowing the existing use, may continue until some specified act occurs in the future (in some situations a specified period of time may be used). Oconee County has chosen to approach the issue by focusing on the use itself, allowing non-conformance to continue until willfully abandoned for a year. Sale, inheritance, and even some limited dimensional expansions are allowed, provided the intensity of the use remains the same.



6. How does the zoning process work?

The act of zoning occurs when parcels are 'placed' into one of the districts, which imposes limits on how the land is to be used, including what type of structures may be built, and where they may be located on the property. Legitimate uses occurring at the time the parcel is zoned are allowed to continue until a change of some kind triggers a required compliance- sometimes the sale of a parcel, or maybe the owner's decision to

'abandon' the use for something else. Before required permits can be obtained to construct a structure, operate a business, or conduct any other regulated activity on a zoned parcel, a zoning permit is issued to verify that the proposed structure/activity complies with the standards of the district that the parcel is in. In the event a proposed use is not allowed, an appeal may be made to the Board of Zoning Appeals, who may grant a variance to the strict application of the particular standard; or, County Council may rezone the parcel.



7. The word 'district' is often used in different ways in zoning...what does it mean?

Euclidean zoning separates uses geographically by assigning parcels to various 'districts' governed by use regulations that permit or exclude certain activities. Unlike other common types of districts, such as utility service districts, voting districts, or school districts, all of which are typically contiguous areas encompassed by a single boundary, zoning districts are often comprised of multiple areas, sometimes separated from other groups of parcels in the district by miles, making the use of the singular word counterintuitive. Also, some zoning programs utilize other forms of 'districts', including overlay districts, which are themselves often called out as 'business districts', 'historic districts', or other delineated areas in which standards are applied in addition to the Euclidean zoning. In the case of Oconee County's zoning program, in addition to our base zoning districts, there are also the overlay districts (Lake Overlay, I-85 Overlay), and 17 Planning Districts, which were established as areas in which rezoning can be accomplished through The Planning District Method.



8. What is an 'overlay district'?

An overlay district is a special area subject to standards in addition to any zoning regulations that may apply. These standards may result in more stringent requirements that serve to limit potential negative impacts, or they may actually waive requirements to encourage certain activity inside the overlay boundaries. Oconee County's zoning regulations established 2 overlay districts, the Lake Overlay District (currently near Lake Keowee and Lake Jocassee), and the I-85 Overlay District (near Interstate 85).



9. How does the zoning process work in Oconee County?

The response to Question 6 (above) on the workings of the zoning process describes the general operation of our program as well, but there are some unique aspects worth noting, particularly in the way that the program provides for citizens to take part in implementing use restrictions. All parcels in the county were zoned into the Control Free District (CFD), which does not limit use, at the time our zoning regulations were adopted, which means that a rezoning is required to control how a parcel is used. The three methods of doing this include: the Planning District Method, which involves citizens requesting the creation of a local committee to create a proposed zoning map for a Planning District; the Small Area Method, which requires a petition containing the signatures of at least 51% of the owners of a platted subdivision comprised of 50± acres or 40± lots, or parcel or series of contiguous parcels totaling 200± acres; or the Council Initiation Method, which allows for County Council to initiate the rezoning of any parcel(s). Once a parcel is rezoned out of the CFD, there is little difference in our zoning program from most other places in South Carolina.



10. Does my signature on a petition circulated to initiate a rezoning under the Small Area Method count as a vote for zoning?

Petitions should in no way be considered “votes” either for or against zoning. The use of the petition process under The Small Area Method is merely a mechanism created to assist County Council in gauging interest in moving forward with rezoning an area. Although some sponsors of rezoning requests have gathered more, zoning standards only require the signatures of 51% of the property owners in an area to get the process started; once verified by staff to ensure the signatures in fact represent more than half of the owners, the signatures are not a consideration in the rest of the process.



11. If a rezoning petition requesting a particular zoning district is being circulated in my community, and I am opposed to the district, can I submit a separate petition requesting another zoning district?

Although the zoning regulations do not limit the number of petitions that can be circulated in any area at a time, which means that it is possible to have more than one petition associated with the same area proposed for rezoning, it is not necessary to submit a separate petition to oppose a request that you disagree with. Because a petition’s only purpose is to initiate the request, it does not in any way limit the ultimate outcome, which means that any method of communicating your feelings to the Planning Commission and County Council are just as effective.



12. I did not sign a petition for rezoning, but I received a letter in the mail stating a 'citizen-initiated request' is beginning and my property was included. What can I do about it?

The zoning regulations only require the support of 51% of the property owners in any given area to initiate a rezoning request under the Small Area Method, which means that it is conceivable that up to 49% of the property owners did not sign a petition in support of initiating a request. In the event County Council feels a rezoning to be inappropriate, for whatever reason, including lack of sufficient support by those involved, they are not bound to grant the request.



13. How can my name be removed from a petition supporting a rezoning request once it has started?

Keep in mind that petitions are merely used to indicate that the required minimum level of support (51% of property owners) exists to initiate a rezoning, which is verified prior to County Council creating the draft ordinance of amendment that will actually do the rezoning of the properties involved. Therefore, if you signed a petition supporting a rezoning request, and subsequently change your mind, your name may be removed from the petition up until the time it is presented to County Council- although no regulation requires the petition sponsor to do so. At any time during the process, you may inform planning staff that you wish to withdraw support of a petition. Staff will make note of the decision, and provide notice to the Planning Commission and/or County Council, as appropriate.



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14. How can property be added to or removed from a rezoning request once it has been initiated?

Consideration of a rezoning request typically starts when County Council has taken First Reading on an ordinance identifying the parcels considered for rezoning. And because only County Council can make changes in an ordinance, only they can make changes to a rezoning request under consideration. Therefore, a request for the change would need to be made directly to Council; or, in the event the Planning Commission has not concluded their review, submit a request to the Commission that they consider recommending Council add or remove your parcel. Either way, only County Council can do it.



15. Some adjoining properties were rezoned through the Small Area Method of rezoning, but I did not join in at the time- as my property is contiguous, can I simply 'add on' to the completed area later?

The Small Area Method of rezoning does not provide for adding additional parcels to a previously rezoned area. The Council Initiated Method (also known as Method 3), however, allows County Council to initiate the rezoning of any parcel at any time. Therefore, while rezoning a parcel outside of the scope of an active Small Area Method effort is possible, County Council must initiate it.



16. How do I go about starting a petition to request rezoning through The Small Area Method in my area?

The first thing you should do is to review the zoning regulations, paying particular attention to the eleven zoning districts and the uses that are allowed in each. Also, keep in mind that any rezoning must comply with

the adopted Comprehensive Plan and Future Land Use Map. Then, you need to decide on the boundary of the area to be proposed for rezoning; the number of parcels within the boundary determines the number of signatures on the petition necessary to initiate the process. Contact the Planning Department to obtain the necessary forms, assistance in developing the map, and other information specific to your effort.



17. How do the area zoning techniques utilized through the Small Area Method help ensure a rezoning is not ‘spot zoning’?

It should be noted that area zoning, such as is allowed for in Oconee County, is very different from spot zoning. The term ‘spot zoning’ is often used to describe questionable cases of rezoning that provide a benefit to an owner/developer at the expense of the surrounding area. According to the Comprehensive Planning Guide for Local Governments (2010), published by the Municipal Association of South Carolina, zoning “a small parcel as an island surrounded by a district with different zoning may be spot zoning”. But the mere fact that a small parcel is zoned differently from areas around it does not mean that it is illegal, provided it is not arbitrary or unreasonable. Because Oconee County’s allowance for area zoning requires at least 200 acres of land, or 50 acres or 40 lots in a platted subdivision development, individual small parcels cannot be rezoned through the Small Area Method.



18. Where can I find information on the types of zoning districts available?

Oconee County’s zoning districts are listed in Article 10 of Chapter 38 of the Code of Ordinances. Also, the Planning Department offers a

brochure that highlights the districts and other aspects related to zoning, as well as maintaining links to zoning information on the departmental webpage. Of course, planning staff are always more than happy to provide any assistance that they can.



19. What role does the Board of Zoning Appeals have in zoning?

The Board of Zoning Appeals (BZA) is a quasi-judicial body that plays a critical part in the implementation of zoning regulations by hearing appeals for variances, appeals of staff decisions, and granting Special Exceptions. Provided broad powers by the state, the BZA acts much like a court and issues decisions supported by findings of fact. Although bound to the scope of the adopted regulations, the BZA may apply conditions to any approval. By state law, an appeal of a BZA decision must be made to Circuit Court.



20. How does the role of the BZA differ from that of the Planning Commission?

Simply put, the BZA rules on variances, considers appeals of staff decisions, and approves staff decisions within the context of the existing adopted standards; in spite of their relatively broad power, they cannot change the standards. The Planning Commission, on the other hand, has no authority to rule on zoning issues, but are required by state law to review and advise County Council on proposed changes to the standards, which includes rezonings.



21. What are the differences between variances, appeals of staff decisions, and Special Exceptions?

A *variance* is relief from the strict application of a standard. This means the BZA may, if it is demonstrated that meeting the standard will be an undue hardship, relax the requirement provided the result is consistent with the intent of the standard, *and* there are proven extraordinary and exceptional conditions on the property— financial cost may not a consideration. *Appeals of staff decisions* involve the BZA reviewing decisions the owner or other interested party feels were flawed; the BZA may uphold, overturn, or amend any aspect of the staff decision. It should be stressed, however, that the BZA's authority in this area only extends to *staff* decisions, with appeal of decisions of the Planning Commission and County Council made to Circuit Court. Finally, a *Special Exception* to standards may be granted by the BZA after reviewing case-by-case such issues as compliance with the Comprehensive Plan, whether the use is suitable for the property and surrounding community, and any impacts on traffic and impact on roads— the particular criteria must be stated in the regulations. All Special Exceptions require a public hearing.



22. If a use is not specifically listed in a zoning district, does that mean I will not be allowed to do it?

Oconee County's zoning regulations list 3 categories of uses: Permitted Uses, which are permitted by right and therefore require no additional zoning review; Conditional Uses, which are permitted subject to documentation that some additional standard has been met; and Special Exceptions, which can only be approved by the BZA following a public hearing. If a use is not shown in one of these categories, it is not permitted. It should be noted, however, that the many of the uses listed in the various districts are relatively broad in nature, meaning that although a very specific use is not listed, it may be permitted under the broader category.

For example, although a real estate business may not be specifically listed as a use, it would be permitted under the professional offices category.



23. What is Appendix A of the zoning regulations?

Appendix A contains a series of design standards that are to be applied in some overlay districts. Focused primarily on non-residential development, the purpose of the appendix is to ensure attractive, quality development that imposes few if any negative impacts on existing uses and the surrounding area. At the time of writing, the standards only apply to the I-85 Overlay District, but be aware that this is *subject to change*. Consult the latest version of the Oconee County zoning regulations to confirm applicability.



24. Will zoning clean up my area?

There is a common belief that zoning automatically imposes property maintenance standards that require residents of zoned areas to keep their grass cut neatly, yards free of clutter, and inoperable automobiles out of sight. While this belief is understandable, for many jurisdictions use their zoning programs to target a range of standards to certain types of development, basic zoning regulates only use and establishes appropriate dimensional standards (setbacks, height limits, etc.), the fact is that irritating or nuisance issues can usually be effectively targeted by means other than zoning. For example, grass height, 'junky' yards, and inoperable automobiles all fall within the scope of a property maintenance code that can be adopted independently of any zoning. And, it should be noted that the base districts in Oconee County's zoning regulations

contain no such requirements. Therefore, while zoning will alleviate some future incompatibilities in use, and help ensure more orderly development, at least in Oconee County, it will do little to ‘clean up’ existing problematic situations.



25. *If I am currently zoned in the Control Free District, do I need to get a building permit to build a building?*

Yes, if the proposed construction is required to be permitted under adopted building codes, then a building permit must be obtained regardless of zoning. Be aware, however, that a zoning permit is required before any building permit (or other county-issued permit) can be issued. For more information related to building permits, Contact the Oconee County Building Codes Department.



26. *I live in a municipality—do the Oconee County zoning regulations apply to me?*

Oconee County’s zoning regulations *apply only to the unincorporated areas* of the county. So, if you own in a municipality, our regulations do not apply. Because the rules impacting land use vary from jurisdiction to jurisdiction, we highly recommend all property owners contact the local government having jurisdiction to confirm requirements prior to moving ahead with any construction or other regulated activity.



27. How are the vegetative buffer requirements enforced by Oconee County dealt with in the municipalities?

County government's jurisdiction only includes the unincorporated areas, which means its regulations only apply to those areas outside the municipalities. Simply put, there are no county buffer requirements in the towns.



28. Can I get the zoning of my land changed?

Yes. Please note that Oconee County's zoning program is rather unique in that it includes 2 types of rezonings: 1) initial rezonings from the Control Free District into a district that limits use; and 2) subsequent rezonings that change permitted uses. To date, the initial form of rezoning has received the most attention, for all parcels in the unincorporated areas were zoned into the Control Free District when zoning was adopted. As the Control Free District was created exclusively for this initial period, no parcel rezoned out of it, through any of the 3 methods established in the zoning regulations (Planning District Method, Small Area Method, or by Council Initiation), may be put back into it in the future. Once a parcel has been rezoned, however, the owner may request rezoning at any time, with the process following much the same route as in most other jurisdictions in the state.



29. What happens if a use allowed today is no longer allowed by a future change in the zoning regulations?

If a zoning district is amended to remove one or more permitted uses, then those uses will not be allowed in parcels in that district. Of course, any of those uses in place at the time of rezoning would be considered non-conforming (in effect, grandfathered), and under the current terms of Oconee County's zoning standards, allowed to continue until such time as the use is abandoned. Please note that non-conformance rules may vary from place to place, so such may not be the case in other jurisdictions.



30. How does zoning impact my taxes?

Because zoning deals with the future use of property, and taxation relates to current usage, your tax rate should not be directly affected by zoning decisions in Oconee County. For example, agricultural property rezoned into a residential district remains eligible for an agricultural tax exemption until the land is no longer used for agricultural purposes. Be aware, however, that tax officials have informed us that zoning *MAY* be one of many factors used in determining a property's value for tax purposes. For more information related to property taxation, contact the Oconee County Tax Assessor.



Overview of the Small Area Rezoning Process

This section outlines the *typical* steps necessary to meet the requirements established in Article 38 of the Oconee County Code of Ordinances for a citizen-initiated effort to rezone parcels under the "Small Area Process". Please note that the number or order of steps is subject to change based on the nature of the individual rezoning proposal. Consult planning staff for more information.

Notice of Intent to request small area rezoning submitted by sponsoring citizen(s) .

Sponsoring citizen(s) collect and submit signatures of a minimum of 51% of the owners of the parcels in the proposed rezoning area.

Petitions and owner signatures reviewed by planning staff.

In the event one or more parcels are proposed for rezoning by multiple rezoning efforts, staff will coordinate review to ensure submission of both to County Council at same time. Staff mails notices of the proposed rezoning to all owners of parcels in the rezoning area.

Sponsoring citizens(s), assisted by planning staff, present request to County Council for consideration of First Reading of ordinance reflecting the request. County Council refers the matter to the Planning Commission for review.

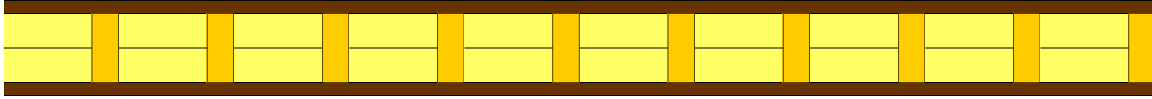
Planning Commission reviews proposal, and issues a recommendation to County Council.

County Council considers proposed rezoning for Second Reading, and schedules a Public Hearing.

No later than 15 days prior to the public hearing, a legal ad is placed in a newspaper of general circulation no later than 15 days prior to the hearing; notices of the public hearing are mailed to owners of parcels in the rezoning area, as well as all owners of adjacent properties; and signs containing contact information are posted throughout the area.

County Council holds the public hearing on the proposed rezoning, and considers the matter for adoption on Third Reading.

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