



# CRITICAL REQUIREMENTS FOR EVERY MUNICIPALITY

## Small City Summit

July 27, 2023

Eric Shytle, General Counsel  
Charlie Barrineau, Field Services Manager  
Ashley Kellahan, Field Services Manager  
Municipal Association of SC




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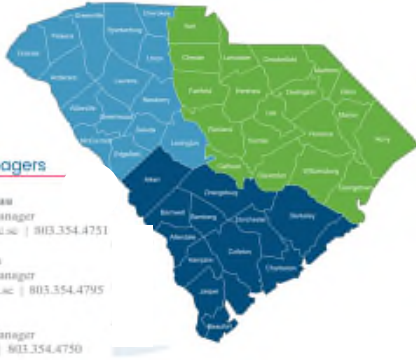
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## Civility Campaign

### Pillars of Civility



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|--|--|---|
| Be the leader to listen and to speak.                            | Communicate on what you know. Be honest and avoid spreading rumors.                      | Act on your shared respect whenever to act in your forms. |
| Make your voice on events from our shared people. Act to follow. | Take time to volunteer. Get to know our people in person.                                | Ask yourself how to work. Answer questions with respect.  |
| Communicate our history, our mission.                            | Our work will serve the people. It's our responsibility and we will work to get it done. | Make your presence known. The world is the person.        |




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## FORMS OF GOVERNMENT




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### Know Your Form of Government

**Three forms of municipal government:**

- Mayor-Council - [Title 5, Chapter 9](#)
- Council - [Title 5, Chapter 11](#)
- Council-Manager - [Title 5, Chapter 13](#)





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### Know Your Form of Government

| Council form  | Mayor-Council Form  | Council-Manager Form  |
|---|---|---|
| <b>Powers of Mayor</b>  |   |   |
| Presides over meetings by tradition, council can name another presiding officer.  | Presides over meetings by law.  | Presides over meetings by tradition, council can name another presiding officer.            |
| Votes as member of council, performs administrative duties only if authorized by council. The mayor has no further authority beyond other councilmembers. | Votes as member of council. Acts as chief administrative officer, appointing and removing employees subject to personnel rules adopted by council, supervising departments, preparing budgets and capital programs for council, makes annual financial report to public and council, and reports on department operations to council. | Votes as member of council. The mayor has no further authority beyond other councilmembers. |
| <i>All three forms: May call special meetings, designates temporary judge.</i>  |   |   |




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### Know Your Form of Government

| Council form  | Mayor-Council Form                                | Council-Manager Form                         |
|---|---|--|
| <b>Powers of Council</b>  |   |  |
| Has all legislative, policy and administrative power.   | Has all powers not otherwise provided for by law. | Has all legislative and policy powers.       |
| May hire administrator to assist council, may appoint officer to administer departments subject to council direction.                         | May employ administrator to assist mayor.         | Employs manager, appoints temporary manager. |
| Appoints municipal clerk, attorney and judge.   | Appoints municipal clerk, attorney and judge.     | Appoints attorney and judge.                 |
| Prepares and adopts a balanced budget.  | Adopts a balanced budget.                         | Adopts a balanced budget.                    |
| <i>All three forms: Establishes departments and functions, investigates departments, elects mayor pro tempore, may call special meetings.</i> |   |  |


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### Know Your Form of Government

| Council form   | Mayor-Council Form   | Council-Manager Form  |
|--|--|---|
| <b>Powers of Administrator or Manager</b>                  |  |   |
| If appointed, has only the authority delegated by council. | If appointed, has only the authority delegated by council. | Is chief executive and head of the administrative branch. Appoints, sets salaries and removes employees, including municipal clerk. Prepares and administers the budget, advises council on departments and appointments. |


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### Know Your Form of Government

**SECTION 5-7-190. Mayor pro tempore elected from council membership.**

Immediately after any general election for the municipal council, the council shall elect from its membership a mayor pro tempore for a term of not more than two years. The mayor pro tempore shall act as mayor during the absence or disability of the mayor. If a vacancy occurs in the office of mayor, the mayor pro tempore shall serve as mayor until a successor is elected.


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Municipal Elections



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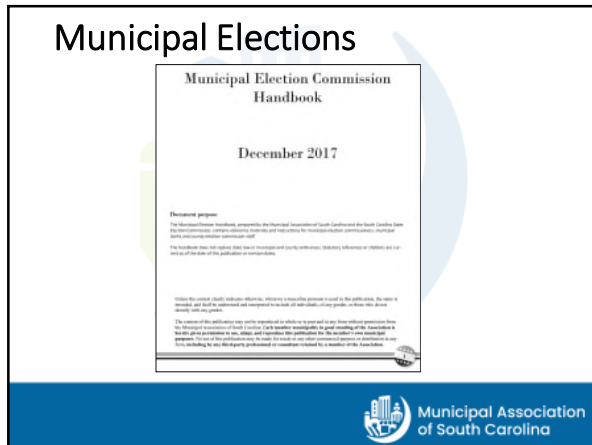
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Municipal Elections


Municipal Election Commission Handbook

December 2017

**Executive purpose:**

The Municipal Election Commission, organized by the Municipal Association of South Carolina and the South Carolina State Election Commission, develops policies and procedures for municipal election administration, provides best practices and technical assistance, and

The handbook also includes information on the election process, including information on the election process and the role of the Municipal Election Commission.



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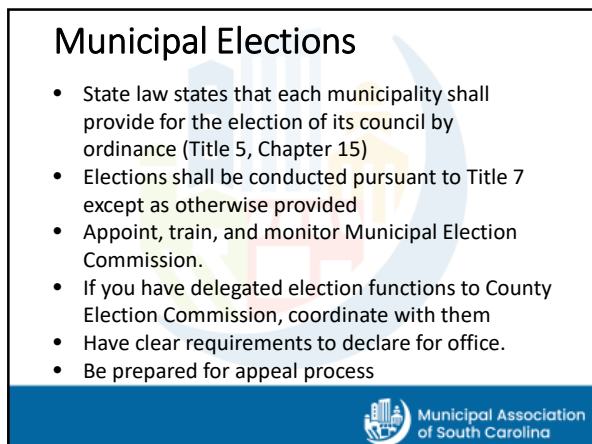
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Municipal Elections

- State law states that each municipality shall provide for the election of its council by ordinance (Title 5, Chapter 15)
- Elections shall be conducted pursuant to Title 7 except as otherwise provided
- Appoint, train, and monitor Municipal Election Commission.
- If you have delegated election functions to County Election Commission, coordinate with them
- Have clear requirements to declare for office.
- Be prepared for appeal process



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## MEETINGS AND LEGISLATION



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### Municipal Meetings & Legislation



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### Municipal Meetings & Legislation

**Meeting:** FOIA defines as the convening of a quorum of the public body. Sec. 30-4-20(d).

**Quorum:** A majority of the total membership of the council must be present to transact business. Sec. 5-7-160 and 30-4-20(e).

**Voting:** May be cast by voice, hand, or roll call.

**Voting:** Must be present to vote; no proxies; and no secret ballots.



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## Municipal Meetings & Legislation

**Abstentions:** Rules of Procedure often require all member present, including the mayor (presiding officer), to vote unless prohibited by a conflict of interest.

**Conflict of Interest – Proper Procedure** (Sec. 8-13-700(B))

- Announce the conflict
- Follow the Ethics Reform Act of 1991
- Put the conflict in writing (recusal form)
- Do not participate in deliberations
- Do not vote

**Members of council:**

- Should not point out someone else's conflict
- Public announcement could be seen as defamation
- Proper procedure is to notify Ethics Commission



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## Municipal Meetings & Legislation

**Monthly Meeting:** The council, after public notice, shall meet regularly at least once in every month. Sec. 5-7-225(a).

**Municipal Clerk:** is required to give notice of council meetings to members of council and the public. Sec. 5-7-220.

**Media:** Under FOIA, must make an effort to notify local media of the time, date, place, and agenda of all public meetings. The meeting minutes must note the efforts made to comply. Sec. 30-4-80(e).

**Written Public Notice:** At a minimum, must include posting a copy of the notice at least 24 hours prior to the meeting at town hall or at the building in which the meeting is to be held. Sec. 30-4-80(a) and (d)

**Calendar:** Must give written notice of regular meetings at the beginning of each calendar year. Sec. 30-4-80(a) and (d).



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## Municipal Meetings & Legislation

**RECUSAL STATEMENT**

Member Name: \_\_\_\_\_  
Meeting Date: \_\_\_\_\_  
Agenda Item: Section \_\_\_\_\_ Number \_\_\_\_\_  
Topic: \_\_\_\_\_

The Ethics Act, Act 124 of 2012, does provide that no public official may knowingly use his office or position as an officer or employee of the government, or in his or her capacity as a member of the government, to influence or attempt to influence the action of any other officer or employee of the government, or in his or her capacity as a member of the government, to influence or attempt to influence the action of any other officer or employee of the government, or in his or her capacity as a member of the government, to influence or attempt to influence the action of any other officer or employee of the government.

**Justification to Recuse:**

\_\_\_\_ Professionally employed by or under contract with principal  
\_\_\_\_ Does or has vested interest in principal or property  
\_\_\_\_ Other: \_\_\_\_\_

Date: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Approved by Parliamentarian: \_\_\_\_\_



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## Municipal Meetings & Legislation

Five Types of Meetings Identified In State Law:

1. Regular council meeting
2. Special meeting
3. Emergency meeting
4. Public hearings
5. Executive sessions

- Meetings are a vehicle for achieving certain goals.
- Important that council selects the right type of meeting.
- Location and environment are important as well.



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## Municipal Meetings & Legislation

Common Problems:

- Failing to give reason for executive session
- Discussing matters in executive session that were not publicly stated
- Failing to give notice of work session
- Boards, commissions, committees, etc. must comply with FOIA too
- The “is it a committee or council meeting” conundrum



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## Municipal Meetings & Legislation

### Ordinance

- Law made by a Council. Two readings on two separate days with at least six days between each reading. An adopted ordinance can only be amended by another ordinance.

|                        |                       |                                     |
|------------------------|-----------------------|-------------------------------------|
| Annexation             | Set Salary of Council | Conduct elections                   |
| Adopt Standard Codes   | Rules of Procedure    | Comp plan, zoning, land development |
| Establish/Abolish Dept | Est. fine or penalty  | Borrow money                        |
| Annual budget          | Sell or lease land    |                                     |



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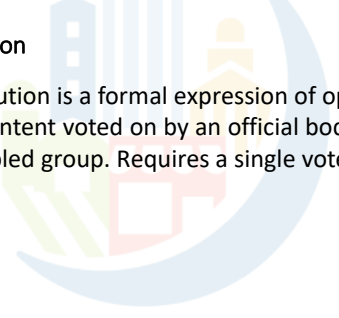
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## Municipal Meetings & Legislation

### Resolution

A resolution is a formal expression of opinion, will or intent voted on by an official body or assembled group. Requires a single vote.



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## MUNICIPAL FINANCE



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## General Fund



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### Limitations on General Revenue

- Increase in millage rate limited to CPI + population growth (few exceptions)
- New Service or User Fee requirements
- Revenue restricted to pay costs of service or program for which the fee is paid



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### Special Funds



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### Limitations on Special Source Revenue Funds

- State Accommodations Tax
- Statutory restrictions
  - State definition of tourism related expenditures
- Local Accommodations and Hospitality Tax
- Local definition of tourism related expenditures
- Victims Assistance
- Statutory restrictions



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## Annual Budget and Finance Requirements

- Annual budget adopted by ordinance after a public hearing
- Newspaper notice minimum 15 days in advance of public hearing
- Complete independent financial audit
- Submit annual Local Government Finance Report 
- Penalties for non-compliance




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## Finances/Budget

- Before adoption of a budget ordinance **Sec. 5-7-260**, state law requires:
  - Advertisement *Follow exactly!* **Sec. 6-1-80**
  - Public hearing

**Public Notice**  
 Hearing on municipal budget

Pursuant to Section 5-1-80 of the S.C. Code of Laws, public notice is hereby given that the council for the (Town/City) of \_\_\_\_\_ will hold a public hearing on the municipal budget for the \_\_\_\_\_ fiscal year on \_\_\_\_\_ (date) of \_\_\_\_\_ (year) (please)

| Current Fiscal Year Revenue | Projected Revenue 2023-2024 | Percentage Change in Revenue | Current Fiscal Year Millage |
|-----------------------------|-----------------------------|------------------------------|-----------------------------|
| \$ _____                    | \$ _____                    | % _____                      | _____                       |

| Current Fiscal Year Expenditures | Projected Expenditures 2023-2024 | Percentage Change in Expenditures | Estimated Millage for 2023-2024 |
|----------------------------------|----------------------------------|-----------------------------------|---------------------------------|
| \$ _____                         | \$ _____                         | % _____                           | _____                           |

\*Estimated Millage Equals \_\_\_\_\_ per \$100 of Assessed Property Value




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## Borrowing Requirements

- Cannot just get a bank loan.
- Borrowing requires an ordinance.
- The borrowing must be in the form of a bond.
- You must specify the source of payment for the bonds – taxes or special revenues.
- For bonds payable from taxes, there is a debt limit.




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## Purchasing Requirements

- S.C. Code Sec. 11-35-5320 requires that “political subdivisions of the State shall adopt ordinances or procedures embodying sound principles of appropriately competitive procurement”;
- Can *and should* identify exceptions to competitive bidding (i.e. state contract, sole-source)
- MASC’s Model Procurement Ordinance ([www.masc.sc](http://www.masc.sc) keyword search “Model Procurement Ordinance”).



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## FREEDOM OF INFORMATION ACT



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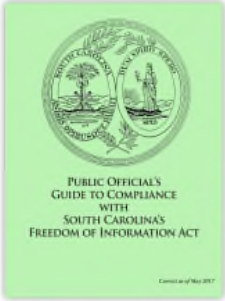

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## Freedom of Information Act (FOIA)



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## Freedom of Information Act (FOIA)

### *A Public Record is Defined as*

- Any record regardless of form: books, papers, maps, photographs, cards, tapes, recordings, computer records.
- Any record prepared, owned, used, or in the possession of a public body.



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## Freedom of Information Act (FOIA)

### *Public Records Exempt from Disclosure*

- Trade secrets;
- Information of a personal nature which would be an unreasonable invasion of personal property;
- Correspondence from an attorney;
- Documents concerning proposed contracts or proposed property transactions; and
- Other minor exemptions.



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## Freedom of Information Act (FOIA)

### *About FOIA Requests*

- The public and the press can request a public record in writing under FOIA.
- One can request a public record in electronic format. The public body is not required to create an electronic version of the public record.
- Individuals incarcerated are barred from submitting FOIA requests.



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## Freedom of Information Act (FOIA)

### *Replying to a FOIA Request*

- A public agency has 10 business days to respond to a request of a record less than 2 years old; 20 business days for those over 2 year old.
- Requires body to produce requested records within 30 calendar days from when it initially responds that the request will be fulfilled; 35 days for records over 2 years old.



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## Freedom of Information Act (FOIA)

### *Replying to a FOIA Request*

- Request is considered granted if no response is received within the set limits (only for nonexempt records or information).
- Production, response, and determination timetables may be extended by mutual consent.



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## Freedom of Information Act (FOIA)

### *Replying to a FOIA Request*

- An entire document isn't secret just because it contains information that can be shielded.
- In such cases, the law states that the agency must separate the exempt information and make the non-exempt information public.
- This is usually done by redacting or blacking-out the sensitive information on the copy.



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## Freedom of Information Act (FOIA)

### *Replying to a FOIA Request*

#### Fees:

- Limits the copy rate not to exceed the prevailing commercial rate for producing copies.
- Limits the rates charged for searching, retrieving, and redacting records not to exceed the hourly wage of the lowest paid employee on the public body's staff who has the skill and training to fulfill the request.
- Fee schedule must be posted on your website.



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## Freedom of Information Act (FOIA)

### *Dealing w/ Burdensome or Improper Requests*

- A public body may file a request for a hearing in circuit court to seek relief from unduly burdensome, overly broad, vague, repetitive, or improper requests.
- Allows the public body to request a hearing if it is unable to make a good faith determination regarding information's exemption from disclosure.



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## AMERICAN RESCUE PLAN ACT



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### ARP Reporting Requirements

- Cities not identified as Metropolitan Cities (under 50k in population) required to file an Annual Report – referred to as **NEU's**
- Funds were direct deposited into two equal payments – Last one received in or around first week of Oct. 2022
- Annual Report is due by April 30<sup>th</sup> every year and covers expenses made from April 1<sup>st</sup> of previous year to March 30<sup>th</sup> of current year



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### ARP Reporting Requirements cont.

- [www.irs.gov/compliance](http://www.irs.gov/compliance)
- Eligible Expenses? REVENUE REPLACEMENT if received less than \$10 million
- Best Practices
- Funds must be obligated (i.e. Purchase Order) by December 31, 2024 and expended by December 31, 2026



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### GRANTS



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### Hometown Economic Development Grant

- Application period opens **TODAY!** Due Friday, September 29 at 5 pm.
- <https://www.masc.sc/hometown-economic-development-grant-application>
- Up to \$25,000; match depends on population
- Requires resolution of support by Council
- Small cities in 2022...Bethune, Blacksburg, Bowman, Landrum, Ridgeway, Summerton and Ware Shoals
- A city may be awarded an economic development grant once every two years



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### SCRIA Infrastructure Grant

- <https://ria.sc.gov/grants/how-to-apply/>
- RIA will hold two application rounds in FY24, with due dates on **September 11, 2023** and **March 11, 2024**.
- More funds allocated than previous years. The max allowed request for infrastructure (water, waste water and storm water) and economic impact grants is \$1 million; \$250k for planning grants.



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### Community Development Block Grant

- <https://www.cdbgsc.com>
- Non-entitlement eligible local governments
- See eligibility requirements
- Fall Funding Round (Community Enrichment, Neighborhood Revitalization & Local Priorities)
  - Application Requests – August 15, 2023 at 5pm
  - Applications – September 15, 2023 at 5pm
- Spring Round (Community Infrastructure)



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**CRITICAL REQUIREMENTS  
FOR EVERY MUNICIPALITY**

Small City Summit

July 27, 2023

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