
COUNTY CLERKS TO COUNCIL HANDBOOK



**A Handbook for County Clerks to Council in South Carolina
Third Edition
Revised – November 2025**

© 2018 by the South Carolina Association of Counties

All rights reserved. No part of this publication may be used or reproduced in any manner whatsoever without written permission from the publisher.



Acknowledgements

Handbook Committee Members – Third Edition

South Carolina Clerks to Council Association

Chairperson – Karen T. Whittle, CCC, Saluda County
Carolyn Clayton, CCC, Chester County
Merri M. Seigler, Kershaw County

*Institute for Public Service and Policy Research
University of South Carolina*

William E. Tomes, Director, Governmental Research and Service
Adrienne Moody, Research Associate

South Carolina Association of Counties Staff

Contributing Local Government Officials

Several local government officials have provided technical assistance in completing this handbook. The handbook committee would like to express its gratitude for their assistance.



Table of Contents

Chapter 1

Home Rule and the Clerk to Council

The Home Rule Act.....	1
Changing the Form of Government	4
Appointment of the Clerk to Council.....	4
Relationship with Council	5
General Duties and Responsibilities	5
Qualifications	6
Additional Resources.....	7

Chapter 2

Meetings

Types of Meetings	8
Notice	9
Agendas.....	9
Special Agendas	10
Amending Agendas	10
Ordinances and Resolutions	10
Other Important Details	11
Executive Sessions	11
Public Hearings	12
Americans with Disabilities Act.....	13
Participation via Technology	13
Audio/Video Recording.....	13
Rules of Procedure	13
Guidelines for Motions.....	14
Additional Resources.....	16

Chapter 3

Minutes and Other Follow-Up Items

Minutes.....	17
Content	17
Implementing Council Action	19
Codification	19
Additional Resources.....	19

Chapter 4

Public Records

Records Retention	21
Additional Resource	21

Chapter 5
Ethics

Conflict of Interest.....22
Statement of Economic Interests23
Penalties24
Making Ethical Decisions.....25
Additional Resource.....25
South Carolina Clerks to Council Code of Ethics.....26

Chapter 6
Assisting Newly-Elected Council Members

SCAC’s Orientation Program27
County-Specific Orientation27
The Oath of Office29
The Institute of Government for County Officials.....29
Course Credit and Graduation30
Registration and Recordkeeping.....30
Oath Form for County and State Officers31

Chapter 7
Other Duties

Bond Coverage for Public Officials and Employees.....32
Council Member Records.....32
County Boards and Commissions.....32
Recruitment and Appointment.....33
Orientation.....34
Board and Commission Meeting Minutes34
Financial Management.....35
The Budget Process35
Budget Calendar37
Financial Reports.....37
Independent Audit and Reports37
Annual Reports.....38
Human Resources.....38
Recordkeeping for Planning and Zoning Education Programs38
Additional Resources.....39
Sample Application Form for County Boards and Commissions40
Planning and Zoning Educational Requirements Certification Form.....43
SCPEAC Suggested Model: Uniform Certificate of Attendance.....44

Chapter 8
The South Carolina Clerks to Council Association

The Clerks to Council Certification Program45
Certification Requirements45
Curriculum45
Advanced Certification.....46
Additional Resources.....46

Appendix A: Other Helpful Resources47
Index.....49



Chapter 1

Home Rule and the Clerk to Council

The Home Rule Act

Counties were not a significant form of government during the early history of South Carolina. The functions of county governments were very limited until 1975, when South Carolina enacted the Local Government Law of 1975. Also known as the Home Rule Act, this legislation redefined the authority and responsibilities of county government. It was codified as **Chapter 9, Title 4 of the Code of Laws of South Carolina 1976**.

The Home Rule Act also created four forms of county government. A detailed discussion of the forms of government and the assignment of responsibilities in each can be found in *A Handbook for County Government in South Carolina*, Fifth Edition, published by the South Carolina Association of Counties (SCAC). The four forms of county government are:

- **The Council Form.** The council form of county government is unique in that it is the only form in which administrative power is vested in the council. The council has responsibility for both policy making and administration of county government. The council may hire someone to assist it in carrying out administrative responsibilities or it may designate the council chairman to carry out these activities. The terms of council members in this form—as in the other forms—may be two or four years;
- **The Council-Supervisor Form.** A county supervisor is elected at-large and serves as both chairman of county council and the chief administrative officer, with responsibility for the daily operation of county government. The supervisor and all council members are elected for two- or four-year terms;
- **The Council-Administrator Form.** A county administrator is an appointed official, employed by the council to assume administrative responsibility for county government. Except for purposes of inquiries and investigations, council is prohibited from dealing directly with county officials and employees who are supervised or are under the direction of the county administrator except through the administrator¹; and
- **The Council-Manager Form.** This form of government is similar to the Council-Administrator Form with the significant exception that the county auditor and treasurer may be appointed by county council, rather than elected by the citizens.

The specific duties of each clerk to council vary from county to county, based in part on the form of government (see pages 5–6 for more information). Each clerk should become familiar with the Home Rule Act and Title 4 of the Code of Laws of South Carolina 1976.

¹ S.C. Code Ann. § 4-9-660.

Table 1. Important Sections of the Home Rule Act

Forms of county government

Referendum to determine form of county government; adoption of form of government selected; form of government when not otherwise determined by referendum; change in initial form; continuation of officials in office (for more information about changing the form of government, see page 4). § 4-9-10

Powers of counties

Powers of counties. § 4-9-25

Designation of powers under each alternative form of government.... § 4-9-30

County public libraries and boards of trustees

County public library systems; boards of trustees. § 4-9-35

Joint administration

Power of county to contract for services within municipalities. § 4-9-40

Joint administration of functions by county, incorporated municipality, special purpose district, or other political subdivision. § 4-9-41

Police jurisdiction of coastal counties § 4-9-45

Revenue and expenditures

Source of funds for use of county personnel, facilities, or equipment to implement general law. § 4-9-50

Enactment of general laws affecting counties' expenditures and revenue raising; conditions; exceptions. § 4-9-55

County treasurer and auditor

Election or appointment, and terms, of county treasurer and auditor under certain forms of government; continuation of officials in office. § 4-9-60

Public education

Powers of county councils with regard to public school education; establishing school tax millage. § 4-9-70

Table 1 (continued)

Political subdivisions

Powers of county councils with regard to public service and special purpose districts, water and sewer authorities, and other political subdivisions; procedures upon dissolution of such districts.	§ 4-9-80
Authority for increasing size of governing body of district; procedure.	§ 4-9-81
Transfer by hospital public service district of assets, properties, and responsibilities for the delivery of medical services.	§ 4-9-82
Examination of financial impact on revenues of county where district is abolished; procedure for refunding taxes.	§ 4-9-85

Council members

Election of council members; reapportionment of single-member election districts; terms of office and vacancies; election at-large of chairman; procedure for changing term of office; continuation in office after reapportionment.	§ 4-9-90
Council members shall not hold other offices; salaries and expenses of members.	§ 4-9-100
Council shall select chairman and other officers; terms of office; appointment of clerk; frequency and conduct of meetings; minutes of proceedings (for more information, see Chapters 2–3).	§ 4-9-110

Ordinances

Procedures for adoption of ordinances; proceedings and all ordinances shall be recorded (for more information, see Chapter 2).	§ 4-9-120
--	-----------

Public hearings

Public hearings on notice must be held in certain instances; adoption of standard codes or technical regulations and furnishing copies thereof; emergency ordinances (for more information, see Chapter 2).	§ 4-9-130
---	-----------

Budget

Designation of fiscal and budget years; annual fiscal reports; adoption of budgets; levying and collection of taxes; supplemental appropriations; obtaining reports, estimates, and statistics (for more information, see Chapter 7).	§ 4-9-140
---	-----------

Litter control officers

Litter control officers; custodial arrest authority; number of officers; powers and duties.	§ 4-9-145
---	-----------

Financial audit

Audits of county records; designation of auditors; public inspection of report.	§ 4-9-150
---	-----------

Table 1 (continued)

Purchasing	
Council shall provide for a centralized purchasing system.	§ 4-9-160
County boards, committees, and commissions	
Council shall provide for appointment of certain boards, committees, and commissions; appointive powers of council (for more information, see Chapter 7).	§ 4-9-170
Per diem, travel, and other expenses authorized for travel by board or commission members outside county.	§ 4-9-175
Ethics	
Officers and employees shall disclose personal interests in county business and refrain from voting on or participating in such matters (for more information, see Chapter 5).	§ 4-9-180
Special property tax assessments	
Grant of special property tax assessments to “rehabilitated historic property” or “low and moderate income rental property.”	§ 4-9-195

Changing the Form of Government

Under S.C. Code § 4-9-10(c), a county may change its form of government, the number of council members, or the method of election after a majority of voters vote in favor of a referendum proposing the change. The referendum may be called by county council or by a petition of at least 10 percent of the registered voters in the county. If by petition, the board of registration has 60 days to certify the petition; and if certified, the council shall provide for a referendum within 90 days of certification. The county election commissioner may conduct the referendum at a general election or a special election as determined by council. Whether a referendum to change the form of government passes or not, the county may not hold another referendum on changing the form of government for another four years.

As a result of the 2013 U.S. Supreme Court decision in *Shelby County v. Holder*, counties do not have to obtain federal preclearance from the U.S. Department of Justice before implementing a change in voting procedure. As of the time of this publication, Congress has been unwilling to enact a new preclearance formula. A future Congress may however enact a new formula that could subject counties to preclearance.

Appointment of the Clerk to Council

Section 4-9-110 of the S.C. Code of Laws provides the legal basis for appointing a clerk to council. It requires the appointment as follows: “...The council shall appoint a clerk to record its proceedings and perform such additional duties as the council may prescribe....”

The council may also appoint an acting clerk to council during the disability or absence of the appointed clerk to council.

Relationship with Council

Typically, the chief administrative officer² (CAO) is responsible for carrying out the day-to-day operations of the county and the clerk to council is assigned to work with both the council and CAO. However, in some counties the clerk either reports directly to county council or directly to the CAO.

Regardless of the formal reporting structure, the clerk to council works closely and directly with the members of council. As a public servant, the clerk's role is to be the "neutral servant" of the political processes of council. This relationship must be based on trust and mutual respect; without this, they cannot work effectively together. The clerk should also avoid showing favoritism in responding to requests from council members.

However, within this role the clerk to council can still set the tone for a professional, trusting relationship. To be successful, both council and the clerk must clearly understand the nature of the relationship. One way to eliminate confusion is to have a clearly defined and agreed upon job description. In many instances, failure to understand the nature of the relationship is the greatest source of tension between council and the clerk.

The role of council is to develop policy, and the role of the clerk is to support the council's efforts. The clerk to council must not undermine the efforts of council in pursuit of a personal agenda. The clerk must understand the importance of confidentiality in dealing with sensitive issues that may be discussed in executive sessions. However, in no way should the need for confidentiality be used to violate the letter, spirit, and intent of the Freedom of Information Act.

An effective clerk to council can become the glue that provides continuity for council. While members of council may come and go with each election cycle, the clerk is the one constant who can provide the background and history of events to ease this transition. The clerk is an invaluable resource to council and has a wealth of information to provide.

General Duties and Responsibilities

Section 4-9-110 of the S.C. Code of Laws defines the duties of clerk to council as recording council proceedings and performing other duties that council may prescribe. In addition, §4-9-120 states that:

All proceedings of council shall be recorded and all ordinances adopted by council shall be compiled, indexed, codified, published by title, and made available to public inspection at the office of the clerk of council. The clerk of council shall maintain a permanent record of all ordinances adopted and shall furnish a copy of such record to the clerk of court for filing in that office.

The specific duties and responsibilities of the clerk to council vary in each county, based on the form of government and whether the clerk is assigned full-time or has additional job duties. In many large counties, the clerk is assigned these responsibilities on a full-time basis. In many small counties, the clerk may also be assigned the responsibility for payroll, personnel, or general administrative duties. It is critical that the job description for the clerk be written to meet local needs.

In general, the duties and responsibilities of the clerk to council may include (but are not limited to) the following:

Meetings

- Notify council members and the public of public meetings;
- Advertise public hearings, other public meetings, and legal notices;

² Depending on the form of government, the title for the person who fulfills this responsibility will vary (e.g., administrator, director, manager, or supervisor). For the purpose of this publication, CAO refers to the chief administrative officer, whether elected or appointed.

- Assist in the development of meeting agendas and agenda packets;
- Ensure that meeting rooms are properly arranged and prepared;
- Attend all regular, special, and called meetings of both council and council committees;
- Record and transcribe the minutes of council and committee meetings; and
- Coordinate follow-up actions such as: contracts, easements, leases, bonds, ordinances, and resolutions.

Recordkeeping

- Provide council members with copies of the minutes and make them available to the public;
- Maintain permanent records of all ordinances, resolutions, petitions, and other legal documents and file necessary copies with the clerk of court;
- Maintain custody of the county seal, minutes, and Code of Ordinances;
- Maintain information on board appointments;
- File orientation and continuing education records for planning and zoning officials/employees; and
- Maintain other county files and records.

Other duties

- Ensure administration of the oath of office for newly-elected officials;
- Attest and certify official documents on behalf of council;
- Assist in preparing reports, correspondence, and other materials for council members;
- Conduct background research;
- Coordinate citizen requests;
- Maintain the council calendar;
- Make travel arrangements for council members;
- Schedule speaking arrangements for council members; and
- Receive and handle council phone calls and mail.

Qualifications

There are no mandated qualifications for the position of clerk to council. Each county should determine the minimum qualifications that are necessary for its clerk to perform all assigned duties and responsibilities. In general, the clerk to council should have the following knowledge, skills, and abilities:

- The ability to understand and apply the rules, regulations, procedures, and operations of county government and county council;
- Knowledge of county laws, policies, codes, and regulations;
- Knowledge of clerical and accounting methods and procedures;
- The ability to establish and maintain effective working relationships with superiors, peers, subordinates, and the general public;
- The ability to record and transcribe the minutes of council meetings;

- Considerable knowledge of grammar, spelling, and punctuation; and
- The ability to deal with confidential data.

Additional Resources

Visit <http://www.scstatehouse.gov/code/t04c009.php> to review the entire Home Rule Act.

SCAC's *Home Rule Handbook for County Government* addresses the provisions of the Home Rule Act and their application to county government. This publication is intended to provide information that cannot be gleaned merely from reading the statutory code. Editor's notes, case notes, and summaries of Attorney General opinions are also provided in order to provide a better understanding of each code citation.

A Handbook for County Government in South Carolina, Fifth Edition, is intended to equip county officials with a general reference to the many issues, laws, and regulations that impact county government in South Carolina. It includes citations for applicable state and federal laws, court decisions, regulations, and other relevant resources.

Both handbooks are available via <http://www.sccounties.org/publications>.



Chapter 2 Meetings

The Freedom of Information Act (FOIA), § 30-4-10 *et seq.*, requires meetings of public bodies to be open to the public and makes special provisions related to public disclosure of public records by local government officials. It is imperative that the clerk to council read and become familiar with the provisions of FOIA. Failure to fully comply, or the release of information protected from release, can place the county at considerable risk. Violation of the spirit and intent of the act can have a significant negative impact on public perception of county council and the manner in which the council conducts the public’s business. As the Supreme Court of South Carolina has stated, the purpose of FOIA is not to protect or create a duty of confidentiality, but to protect the public by providing for disclosure of information.³ It is advisable to consult with the county attorney about how FOIA requirements apply to specific requests.

Provisions that apply to council meetings, council minutes, and records held by council are discussed below. Please note that these sections are accurate as of December 2018. Legislation and court rulings after this date may amend FOIA requirements.

Types of Meetings

Meetings are where council conducts the business of government. They are an important link in effectively communicating with citizens. For many citizens, attending county council meetings is their only direct contact with elected officials. At council meetings, they have the opportunity to form opinions about the quality of local government in their community. The news media also attends these meetings and reports on the activities and conduct of council. If council is to generate and maintain public confidence in its ability to govern effectively, meetings must be conducted in a thoroughly professional manner.

FOIA applies to any meeting of a public body. For purposes of the act, any entity that is supported in whole or in part by public funds or that expends public funds is considered a public body. Therefore, the county and county council are considered public bodies, as are county committees,⁴ boards, and commissions. A “meeting” occurs when a quorum of the body’s membership gathers in-person or by electronic means, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power, whether formal action is taken or not.⁵ Council retreats and work sessions are meetings of council under FOIA and should be conducted in accordance with all FOIA requirements. The Home Rule Act requires county councils to meet at least once each month.⁶

All meetings of public bodies, except for executive sessions, must be open to the public. Debate, discussion, and votes are to be conducted in public. Council members cannot use a chance meeting, a social gathering, or electronic communication to commit to a course of action or to thwart the notice and open meeting requirements of FOIA.⁷

Regular meetings – Regular meetings are held at a specified date and time each month. A quorum is required for the transaction of all business. Regular meetings are held for general county business and for the enactment of ordinances and resolutions.

³ *Bellamy v. Brown* 305 S.C. 291, 408 S.E.2d 219 (1991).

⁴ This includes ad hoc, advisory, special, and study committees.

⁵ S.C. Code Ann. § 30-4-20(d).

⁶ S.C. Code Ann. § 4-9-110.

⁷ S.C. Code Ann. § 30-4-70(c).

Special meetings – The chairman or a majority of council members may call special meetings. In general, special meetings are called to address pressing issues that cannot be held until the next regular meeting. Special meetings may also be called to address or receive information about issues of concern to the citizens of a community, (e.g., infrastructure, law enforcement, or other issues where public input is encouraged and/or desired).

Notice

At the beginning of the calendar year, counties must give written public notice of the dates, times, and places of regular scheduled meetings. Such notice must also be given at least 24 hours before all special called meetings⁸ and include the purpose of the meeting in addition to the date, time, and place. The county should also notify the news media and other individuals who request notification before each regular or special called meeting. Agendas for these meetings must be posted on a bulletin board at the location of the meeting at least 24 hours in advance.

State law may require the county to publish notice of meetings of board and commissions in locations beyond those required by the Freedom of Information Act. Section 6-29-790 requires the meetings of the county Board of Zoning Appeals to also be published in a newspaper of general circulation, and if any item on the meeting agenda involves the consideration of a variance or special exception the county must also physically post conspicuous notice on or adjacent to the property affected, with at least one notice visible from each public road/street that abuts the property. Section 6-29-790 does not provide for a specific time frame for newspaper publication. At a minimum, the county should provide the notice to the newspaper(s) in a sufficient time for publication to meet the minimum notice provisions of the Freedom of Information Act Section 30-4-80.

Agendas

Section 30-4-80(A) of the Freedom of Information Act requires agendas for all meetings of public bodies. Agendas must be posted on a bulletin board in a publicly accessible place at the office or meeting place of the public body **and on a public website maintained by the body**, if any, at least 24 hours prior to such meetings. This requirement does not apply to emergency meetings of public bodies.

A carefully worded and thoughtfully prepared agenda helps to ensure a well-run meeting and is an invaluable tool in assigning priorities to the matters to be considered. Agendas must be properly publicized through the news media and posted in public places to obtain good public response.

This process may be easier if the clerk maintains a spreadsheet or folder of proposed agenda items. When a probable agenda item comes across the clerk's desk, it is helpful to document the subject, parties involved, and the date this item will probably be scheduled. It is also helpful if the council has designated a deadline for requesting agenda items. All items scheduled for a particular meeting can then be assembled, organized, and prepared in draft form as follows:

- Call to order
- Approval of minutes
- Ratification of executive session items (if appropriate)
- Proclamations and resolutions
- Third reading items
- Second reading items
- First reading items

⁸ S.C. Code Ann. § 30-4-80.

- Committee reports
- Council member requests⁹
- Other business

An agenda meeting attended by the clerk, CAO, council chairman, and vice chairman might be helpful in preparing the final agenda.

Special Agendas

Consent agenda – A time-saving device, consent agendas are composed of items that are not controversial but need to be made official. Consent agendas make it possible for a single motion to approve many items, eliminating the need for discussion and separate motions about routine matters. It should be noted that a council member could open the floor for discussion about any item on the consent agenda if the member has some concerns. Examples of consent agenda items might be approval of staff travel, meeting schedules, and items for second and third reading that were thoroughly discussed at first reading.

Policy agenda – This agenda is composed of items that require a statement of policy or represent a change in council’s current policy.

Amending Agendas

Once an agenda for a regular, called, special, or rescheduled meeting is posted, no items may be added to the agenda without an additional 24-hour notice to the public—which must be made in the same manner as the original posting.

Once a council meeting begins, an item upon which action can be taken may only be added to the agenda by a two-thirds vote of the members present and voting. However, if the item is one upon which final action can be taken at the meeting or if the item is one in which there has not been and will not be an opportunity for public comment with prior public notice given, it may only be added to the agenda by a two-thirds vote of the members present and voting and upon a finding by the body that an emergency or an exigent circumstance exists if the item is not added to the agenda.¹⁰ An example of an exigent circumstance is where county council has to approve a matter in order to meet a deadline for a grant qualification. If this item was not on the posted agenda and council does not amend the agenda to address this matter, the county will lose the opportunity to obtain the grant.

Ordinances and Resolutions

Section 4-9-120 of the S.C. Home Rule Act requires county council to take legislative action by the passage of an ordinance. An ordinance is “local legislation passed by the governing body of the county, duly enacted pursuant to proper authority, describing general, uniform and permanent rules of conduct relating to the corporate affairs of the county.”¹¹ In simple terms, an ordinance is a permanent law enacted by the county.

Any member may introduce an ordinance. Ordinances must be read three times on three different days, with no less than seven (7) days between the second and third readings.¹² State law allows an ordinance to be introduced by title only, meaning it is not in a complete written form. The council’s rules of procedure must specifically allow this practice. By second reading, the ordinance must be in writing. SCAC generally advises against introducing an ordinance by title only.

A resolution is “an expression of opinion or policy concerning some particular item of business coming within

⁹ It may be helpful to group all requests made by a particular member under one heading.

¹⁰ Act 70 of 2015 was passed in response to the S.C. Supreme Court decision in the case of *Lambries v. Saluda County Council*, 409 S.C. 1, 760 S.E.2d 785 (2014).

¹¹ 5 McQuillin Mun. Corp. § 15.01 (1996).

¹² S.C. Code Ann. § 4-9-120.

the county council's official cognizance and often deals with matters of special or temporary character."¹³ Council matters that may be adopted as resolutions include appointments; honoring individuals, institutions, and organizations; retirements; sports recognitions; and policy positions.

Resolutions are adopted after one reading. If there is doubt about whether an item should be introduced as an ordinance or a resolution, it is prudent to adopt the item as an ordinance. The clerk to council should maintain a permanent record of all ordinances and resolutions passed by council.

Other Important Details

To be effective, council members need to have the necessary information concerning items on which they are to make decisions. When the agenda is prepared, pertinent documents should be included for review. These reports should be concise. When possible, agenda packets should be provided to council members several days before the meeting.

Full agenda packets should usually be distributed as follows:

- One copy for each council member;
- One copy for the CAO;
- One copy for the county attorney;
- One copy for each member of the media; and
- One copy for the county library (if applicable).

Copies of the agenda for each regular meeting should be provided to county department heads and citizens who attend the meetings; however, supporting documents are not typically provided. Agendas for special meetings and public hearings should also be made available to department heads and the public.

People to be present at a county council meeting should be notified by telephone or e-mail in ample time before the meeting. Many counties require the county attorney or assistant county attorney to be present at each council meeting. In some counties, the clerk may also be responsible for reserving parking spaces for council meetings with security staff.

Complete agenda files (all items pertaining to a particular agenda) are usually taken to the council meeting for reference as needed by the CAO, attorney, or council. The clerk and/or the county attorney should have an official copy of the current Code of Ordinances at the meeting or be able to access it via computer for reference.

If agendas are used for executive sessions, use discretion in distributing them. In most cases, the CAO and the county attorney receive these agendas. The council chairman should determine whether any department heads receive them.

Executive Sessions

Some issues may place the county at risk if certain information is released prematurely. In these instances, there are provisions for council to enter executive session to discuss these matters. Exceptions are also provided for discussing personnel matters that may violate the privacy rights of the individuals concerned. For these reasons, minutes **should not be taken** in executive sessions.

Executive sessions may on occasion be necessary only as provided for in FOIA. No action may be taken in executive session. Sanction is given for the purpose of discussing the following items:¹⁴

¹³ 5 McQuillin Mun. Corp. § 15.01 (1996).

¹⁴ S.C. Code Ann. § 30-4-70.

1. Employment matters;
2. Contract negotiations and receiving legal advice;
3. Security measures;
4. Criminal misconduct; and
5. Matters concerning economic development.

Before entering executive session, council must vote on a motion to enter executive session, and upon a favorable vote, the chairman should clearly state the reason for executive session.¹⁵

Public Hearings

Sections 4-9-130, 4-19-20, and 4-9-85 of the S.C. Code of Laws require county councils to hold public hearings before taking final action on eight specific matters. **Prior to conducting public hearings, council is required to publish notice of each hearing’s purpose, time, and place in at least one newspaper of general circulation in the county.** The time frames for providing minimum notice are summarized in the following table. **Final action for all of these matters must be in the form of an ordinance.**

Table 2. Minimum Notice of Public Hearings	
Business to be addressed	Minimum notice
<ol style="list-style-type: none"> 1. Adopt annual operational and capital budgets* 2. Make appropriations, including supplemental appropriations 3. Adopt building, housing, electrical, plumbing, gas, and all other regulatory codes involving penalties 4. Adopt zoning and subdivision regulations 5. Levy taxes 6. Sell, lease, or contract to sell or lease real property owned by the county 	<ol style="list-style-type: none"> 1. 15 days prior to the public hearing 4. 15 days prior to public hearing – publication in a general circulation newspaper. If issue involves a rezoning – physical posting of notice on the affected property(ies) on or adjacent to each public road/street that abuts the property(ies)¹⁶
<ol style="list-style-type: none"> 7. Impose ad valorem property taxes upon a fire service area 	<p>Once per week for three successive weeks</p> <p>The public hearing must occur at least 16 days after the first notice</p>
<ol style="list-style-type: none"> 8. Provide for the distribution of assets following the abolishment of a special purpose district— at least two public hearings are required prior to this action 	<p>10 days prior to each public hearing</p>

* Pursuant to S.C. Code Section 6-1-80, notice of the public hearing for proposed annual operating and capital budgets must be at least two columns wide, have a bold headline, and include specific content. For more information, see page 35.

¹⁵ S.C. Code Ann. § 30-4-70(b).

¹⁶ S.C. Code 6-29-760

Public hearings must also be held to adopt other standard codes or technical regulations¹⁷ and these hearings require 15 days' notice. The codes/regulations may be adopted by reference in the adopting ordinance and the clerk to council must make copies of the codes/regulations available for distribution or purchase.

The clerk should prepare a master list of persons who wish to address council and present this list to the chairman at the beginning of the hearing. This policy allows for decorum during the meeting and assists the clerk in preparing the minutes.

Americans with Disabilities Act

Counties are subject to the Americans with Disabilities Act (ADA). This act requires counties to make an effort to reasonably accommodate the needs of people with disabilities. This responsibility may be assigned to the clerk to council when preparing for council meetings.

The ADA allows an entity to ask each person which modification or adjustment is preferred to enable participation. If the request is not reasonably attainable, the county may offer another alternative.

Participation via Technology

Public bodies have the authority to conduct public meetings with council members participating by telephone or video conference, as long as no other statute or ordinance requires the body to meet in-person or at a certain location.¹⁸ FOIA defines a meeting to be either in-person or by electronic equipment.¹⁹ This language implies that council members may call in or participate via video conference. As always, council must comply with all other requirements of FOIA—including notice, open meeting requirements, and minutes.

Audio/Video Recording

Members of the media and the public may record or film public meetings (this does not apply to executive sessions) provided they do not interfere with the meeting.²⁰

Rules of Procedure

Rules of procedure are adopted in order to protect the rights of everyone who attends a meeting and ensure majority rule. If the group is very large, council may need to use strict rules, while a smaller group may not require strict enforcement. An example of strict enforcement is the use of time limits at public hearings. This policy can assist in alleviating the problem of citizens repeating the same points. The established rule of having one spokesperson to present a group's views to council is also a good approach. Citizens should be assured that the time limits and rules will provide an opportunity for all viewpoints to be presented.

Time limits can also be a useful tool in limiting debates, testimony, and other items for the regular agenda. If more time is needed, it may be that additional information is required to make a decision. The topic can be referred to the CAO for additional fact finding or to a committee for further study. It is always helpful if a citizen, group, committee, or department head is specific in a request or recommendation to council. Sometimes, groups come before council with a problem but never state what they wish council to do about the problem. A proposed recommendation to council is helpful. This is not to assume that the council will accept this proposal, but at least council will understand the group's request.

The clerk to council may assist in this by suggesting a form for presentation on the agenda as follows:

¹⁷ S.C. Code Ann. § 6-9-60.

¹⁸ 2012 WL 3875118 August 28, 2012, SCAG.

¹⁹ S.C. Code Ann. § 30-4-20(d).

²⁰ S.C. Code Ann. § 30-4-90(c).

- Group
- Problem
- Recommendation

This procedure can assist the chairman in calling for either discussion or a motion and assist the clerk in preparing the minutes.

Guidelines for Motions

The following guidelines from *Model Rules of Parliamentary Procedure*, Third Edition, are provided for information only. They do not include all possible types of motions. Each council should adopt rules of procedure to be followed in conducting their meetings. Council should also appoint a parliamentarian to provide advice in applying the adopted rules of procedure, and the clerk to council should ensure that sufficient copies of the rules are available for reference.

Table 3. Privileged Motions						
Motion	Amendable	Debatable	Reconsider	Vote	Interrupt Speaker	Second Required
Adjourn	No	No	No	Majority	Yes	No
Recede (take a recess)	Only as to the proposed length of recess	No	No	Majority	No	No
Raise a question of privilege	No	No	No	Ruled on by the chairman; no vote unless appealed	Yes	No
Convene an executive session	Yes*	Yes*	No	Majority*	Yes	No
Follow the agenda	No	No	No	Requires two-thirds majority to overrule	No	No

* This motion can be amended and debated only for the purpose of identifying the appropriate reason(s) for convening the executive session. A public vote is required by § 30-4-70(b). A majority vote is also required.

Table 4. Subsidiary Motions						
Motion	Amendable	Debatable	Reconsider	Vote	Interrupt Speaker	Second Required
Lay on the table	No	No	No	Majority	No	Yes
Call for the question	No	No	Yes	Two-thirds majority	No	Yes
Limit or extend debate	Yes	No	No	Two-thirds majority	No	Yes
Postpone/to time certain	Yes	Yes	Yes	Majority or two-thirds majority*	No	Yes
Commit	Yes**	Yes	Yes	Majority	No	Yes
Amend	Yes	Only if the motion is debatable	Yes	Majority	No	Yes

* A majority vote is required unless the motion sets a time and date certain, in which case there is a two-thirds majority requirement.

** This motion is amendable as to which committee or department the matter is to be assigned; it is also amendable as to when the committee or department is to report.

Table 5. Incidental Motions

Motion	Amendable	Debatable	Reconsider	Vote	Interrupt Speaker	Second Required
Point of Order	No	No	No	Often ruled on by chairman; vote only if chairman is in doubt or an appeal is taken	Yes	No
Appeal	No	Yes	Yes	Majority or tie vote sustains the chairman*	No	Yes
Suspend the rules	No	No	No	Majority	No	Yes
Divide the Question	Yes	No	No	Majority	No	Yes
Consider by paragraph/section	Yes	No	No	Majority	No	Yes
Requests and inquiries	No	No	No	Dependent upon request/inquiry**	No	No

* The chairman can vote to create a tie to defeat an appeal.

** No vote is taken for a parliamentary inquiry or point of information; other requests require a majority vote, although they are often granted by unanimous consent; reading of papers requires unanimous consent.

Additional Resources

The U.S. Department of Justice provides information about the Americans with Disabilities Act through a toll-free information line. Call 1-800-514-0301 to address specific questions about the county's responsibility to accommodate the needs of people with disabilities.

SCAC's *Model Rules of Parliamentary Procedure*, Third Edition, provides a simplified set of rules of procedure which county councils can adopt by ordinance. The model rules were written for county council, board, and commission meetings. This publication is available in hard copy from SCAC and also via <http://www.sccounties.org/publications>.



Chapter 3 Minutes and Other Follow-Up Items

Minutes

Minutes are the official record of county council's transactions and discussions. The Freedom of Information Act (FOIA) requires all public bodies to keep written minutes of public meetings. Section 4-9-110 of the Home Rule Act also requires county councils to "...keep a journal in which shall be recorded the minutes of its proceedings which shall be open to public inspection."

Ultimately, the approved minutes of council take on the weight of law and, thus, should be given much interest. Additionally, it should be emphasized that until council approves the minutes at the next meeting, they are not official.

The clerk to council or the designated appointee attends council meetings and prepares meeting minutes. Some clerks transcribe the minutes from a recording and file the tape for future reference. Others take notes during the meeting. Often, the clerk's notes can be used to transcribe the minutes, while the tape provides additional assistance for discussion that is not clear or proceedings of a controversial matter. During the meeting, if there is confusion as to the action taken by council, the action should be clarified immediately. A prearranged signal by the clerk to the chairman is helpful if confusion occurs.

Content

Section 30-4-90 of FOIA requires the minutes to include:

- The date, time, and place of the meeting;
- The members of council recorded as either present or absent;
- The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by individual member, of any votes taken; and
- Any other information that any member of council requests be included or reflected in the minutes.

The minutes should also contain:

- The name of the public body;
- The type of meeting (regular, special, emergency, work session, or retreat);
- A statement of compliance with FOIA requirements for notice of meetings;
- The presiding official;
- Approval of the previous meeting's minutes;
- Persons appearing before council and reason;
- A record of motions made and by whom (member seconding the motion, the vote by council, and specific member voting for non-unanimous votes);
- Resolutions presented and actions taken;
- Committee reports and actions taken; and
- Ordinances presented and actions taken—first, second, and third readings.

In considering content, the following should be noted:

- If it is a special meeting, the purpose should be stated.
- Minutes should indicate whether the CAO, county attorney, and council clerk are present or absent.
- If council members are not in agreement and no formal vote is taken, this should be noted.
- Summaries of discussions can be helpful in referring back to a matter; however, summaries should be written with care, because they are subjective.
- Motions are the most important content and they should be recorded verbatim, if possible. The minutes should record who made each motion, who seconded, who voted in favor, who voted in opposition, and who abstained.
- If a motion is withdrawn, the minutes should specify who made the motion, who seconded the motion, and that the motion was withdrawn. The reason for withdrawing the motion should also be included.
- If possible, the minutes should provide a council member's comments "for the record" verbatim.
- The minutes should record the names of petitioners, persons making presentations, the reason for their presence, and action taken by council—even if these matters are referred to committee for study or taken under advisement.
- The council's briefing or advisement on administrative/legal matters should be noted.
- Minutes should specify the time of adjournment.
- The clerk should be consistent in using present or past tense; although past tense is generally preferred. Minutes should be written in the third person.
- Minutes should include space at the end for the council chairman and/or council members to sign the minutes after approval.

The clerk should circulate the minutes for signature after they are approved. Corrections may be noted in red and initialed by the clerk. If this procedure is used, the approval date can also be noted on the original and initialed by the clerk. If the corrections are too complex to note in the margin, the clerk may note in red that a revised page has been added as of a certain date. Revised pages should not be discarded or destroyed.

Once a format is established, it is helpful to continue using that format; however, the clerk should have flexibility in amending the format for purposes of clarity.

After the minutes are completed, the clerk schedules them on the next agenda for council approval and includes them in the agenda packet for review. Once approved and signed, minutes can be distributed to department heads and the media as designated in each county. All minutes of council proceedings should be kept in some form of permanent book and stored in a safe, fireproof location.

Minutes are available for public inspection in the county council office but should not be removed from the office under any circumstances. Most county council offices have a research library in the clerk's office. A sign-out procedure may be helpful when departments borrow materials from this library. Many documents and records are in the clerk's safekeeping. If they are lost, there are usually no other copies.

The clerk is also responsible for securing council meeting tapes and notes. Because the tapes may have legal implications, they must be kept for two years and should not be removed from the clerk's office. For more information about retaining council records, such as meeting minutes and tapes, please see page 21.

Implementing Council Action

After each council meeting, the clerk should prepare a list of actions approved by council and forward this information to the CAO and/or council chairman. The list may also include notations to indicate the administrative actions required by council's decisions.

In most counties, the clerk drafts all follow-up correspondence to department heads, agency heads, and other individuals for signature by the chairman. In some counties, routine letters advising the action of council may be sent with the clerk's or CAO's signature. It is important to know who is responsible for this administrative function.

After each meeting, the clerk may prepare or request the necessary ordinances, contracts, agreements, deeds, leases, bonds, rights-of-way, and easements for execution and subsequent recording. The clerk or county attorney should also maintain a current list of all leases, contracts, agreements, bonds, and grants—including expiration dates where appropriate. The original, signed documents should be kept on file in fireproof filing cabinets, and copies should be distributed to the concerned parties. Any monetary clauses within a document make it necessary for the finance department/officer to automatically receive a copy.

The CAO should receive 60 days' notice of the expiration dates for all contracts, leases, and agreements in order that negotiations between parties may commence. Matters such as rights-of-way, quit claims, and drainage easements should be approved by council, signed, and forwarded to the register of deeds or clerk of court for recording. An official copy will be sent to the clerk to council for filing. A copy will also be sent to the Public Works Department or official who will inform the affected parties.

The clerk also prepares letters of appointment and maintains records of all appointments to local boards and commissions (for more information, see Chapter 7).

As a result of the 2013 U.S. Supreme Court decision in *Shelby County v. Holder*, counties do not have to obtain federal preclearance from the U.S. Department of Justice before implementing a change in voting procedure. As of the time of this publication, Congress has been unwilling to enact a new preclearance formula. A future Congress may, however, enact a new formula that could subject counties to preclearance.

Codification

South Carolina law requires counties to codify and publish their Code of Ordinances,²¹ and the clerk to council must maintain and update an official copy of the codified ordinances. Most counties have a vendor agreement for codification services with either American Legal Publishing Corporation or Municode/Municipal Code Corporation. The clerk to council or county attorney regularly submits adopted ordinances to the company, which publishes the organized ordinances via hard copy, compact discs, and its website.

Additional Resources

The *Freedom of Information Handbook for County Government*, 2018 Edition, and the most recent supplement include practice pointers, case notes, and summaries of S.C. General opinions related to FOIA. View or download the handbook and supplement via <http://www.sccounties.org/publications>.

To view examples of South Carolina county codes of ordinances online, visit the websites for American Legal Publishing Corporation (<https://codelibrary.amlegal.com/regions/sc>) and Municode/Municipal Code Corporation (<https://library.municode.com/sc>).

²¹ S.C. Code Ann. § 4-9-120.



Chapter 4 Public Records

Public records must be made available to the public upon request. The S.C. Freedom of Information Act (FOIA) defines public records as “all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body.”²²

The phrase “...other documentary materials regardless of physical form or characteristics...” suggests that documents in electronic form, including e-mail messages, are public records. It is likely that social media activities are also considered electronic records and thus would be subject to public record retention rules and other FOIA requirements. The law on this subject will likely become clearer over time.

Meeting minutes from the previous six months must be made available to the public on demand.²³ However, most other FOIA requests must be in writing. For documents two years old or less, a public body has 10 business days to respond to a FOIA request. In addition, the public body has 30 calendar days from the response date to produce the documents. If the documents requested are older than two years, a public body has 20 business days to respond, and 35 calendar days from the response date to produce the documents. If the county will not honor the request, it must state a reason. If no response is rendered, regardless of the age of the documents requested, the request is deemed to have been approved only as to documents that do not meet any of the exemptions under state law.²⁴

State law exempts certain information from the requirements of disclosure.²⁵ The following items, often found in the possession of county council, **do not** have to be released under FOIA:

- Personal information where disclosure would be considered an unreasonable invasion of privacy;
- Documents relating to *proposed* contracts or *proposed* sales or purchases of property; and
- Correspondence or work product of the county’s legal counsel.

Records relating to the compensation paid to public employees and those relating to the search to fill an employment position receive limited exemption from disclosure. Salaries of the following employees must be disclosed:

- Agency or department heads;
- Employees earning \$50,000 or more a year;
- Part-time employees; and
- Persons paid honoraria for special appearances.

Compensation for employees who earn less than \$50,000 per year must be disclosed within a range which is specified in the statute. Materials gathered during a search to fill an employment position are generally exempt from disclosure; however, materials gathered for the final three applicants must be released.

²² S.C. Code Ann. § 30-4-20(c).

²³ S.C. Code Ann. § 30-4-30(d).

²⁴ S.C. Code Ann. § 30-4-30(c).

²⁵ S.C. Code Ann. § 30-4-40(a).

While FOIA requires public bodies to release certain records, be mindful that other laws prohibit certain private information from being released. The Federal Privacy Act of 1974 prohibits anyone from releasing Social Security Numbers. However, the S.C. Identity Act of 2008 allows Social Security Numbers to be released under certain exceptions for governmental agencies. Also, the Health Insurance Portability and Accountability Act protects individuals from the release of certain identifiable health information.

Records Retention

An effective records management and retention program is essential for the operation of county government. Knowing which records and documents to keep, how long they must be kept, and how to find a specific document or record is the essence of all records management and retention programs. Records are kept for both legal and historical reasons. The clerk to council has significant responsibility in maintaining records and documents for safekeeping.

There are a variety of technologies for saving, storing, and retrieving official records and documents. Some counties use microfilm or compact discs when developing a records management program. The use of microfilm can help to save space, enhance convenience, and ensure the security of records. Whatever method each county decides to use, it must comply with the S.C. Public Records Act, found at § 30-9-10 *et seq.* This act provides for the administration, retention, preservation, and disposal of public records of the state and its political subdivisions.

The county’s CAO is the legal custodian of public records but may appoint a records officer to act on his/her behalf.²⁶ Therefore, the clerk to council may fulfill this role in some counties. The S.C. Department of Archives and History is charged with administering the act’s guidelines and provides *General Records Retention Schedules for County Records*. The table below summarizes the retention schedule for county council and county administration records:

Permanent retention	County council minutes, board and commission minutes, ordinances, resolutions, annual budgets, audit reports, general ledgers, agenda packets, program records
5 years	General administrative records
3 years	Claims issued as payment for goods, paid invoices, purchase orders, receipts, banking records
2 years	County council meeting tapes (provided that paper copies of the minutes were produced)

Additional Resource

The S.C. Department of Archives and History provides advice, training, and detailed schedules for retaining county records. To view the agency’s records management page visit <https://scdah.sc.gov/records-management>. To view the retention schedules for county government visit [https://scdah.sc.gov/sites/scdah/files/Documents/Records%20Management%20\(RM\)/Schedules/cotxt.pdf](https://scdah.sc.gov/sites/scdah/files/Documents/Records%20Management%20(RM)/Schedules/cotxt.pdf).

²⁶ S.C. Code Ann. § 30-1-20.



Chapter 5 Ethics

Conflict of Interest

Because clerks hold a position of public trust, they must avoid any conflict of interest—either actual or perceived. South Carolina state law addresses rules of conduct for public employees and public officials. In general, public employees and officials—which include clerks and council members—cannot use their offices to obtain economic benefit for themselves, members of their family, or individuals or businesses with which they are associated. In addition to prohibiting use of the office of clerk to council for economic benefit, the law prohibits use of the office to influence governmental decisions. If a clerk believes that a conflict might exist, this concern must be brought to the attention of the council chairman or county attorney.

Title 8 of the S.C. Code of Laws contains several sections of statutes relevant to clerks and county council. They are highlighted below. Note that these references are current as of December 2018; however, future legislative action may amend the provisions contained in these sections. The sections are provided for information only and are not intended to be a substitute for reviewing the current annotated statutes.

Public officials and employees subject to the act are prohibited from:

- Knowingly using their official office or employment to obtain an economic interest for themselves, a family member, or an individual or business with which they are associated.²⁷
- Soliciting or accepting payment for advice or assistance given in the course of their employment, other than the compensation received as a public employee or official.²⁸
- Disclosing confidential information gained in the course of their official capacity for a financial gain to themselves, a member of their immediate family, or an individual or business with which they are associated.²⁹
- Examining private records for an improper or unlawful purpose. Those records include tax returns, workers' compensation records, health records, social services records, or other records of an individual in the possession of or within the access of a public department or agency.³⁰
- Hiring, appointing, or causing the employment of a family member to a position that the official supervises or manages.³¹
- Participating in an action that disciplines a family member.³²

Family member is defined in the ethics law to include a spouse, parent, sibling, mother- or father-in-law, son- or daughter-in-law, brother- or sister-in-law, grandparent, grandchild, or a member of immediate family. Immediate family is defined to include children, spouses, or dependents living within the same household.³³

²⁷ S.C. Code Ann. § 8-13-700(A).

²⁸ S.C. Code Ann. § 8-13-720.

²⁹ S.C. Code Ann. § 8-13-725(A).

³⁰ S.C. Code Ann. § 8-13-725(B).

³¹ S.C. Code Ann. § 8-13-750(A).

³² S.C. Code Ann. § 8-13-750(B).

³³ S.C. Code Ann. § 8-13-750(B).

In some jurisdictions, the clerk to council may have either direct or indirect involvement in preparing contracts or submitting issues for proposals. This involvement may even include the bid process.

Because of this involvement, two issues are important for the clerk. The first relates to conflicts of interest created by employees involved in the contracting process who have an economic interest in the contract. A public official or employee may not have an economic interest in a contract with the county if the official or employee is authorized to perform an official function relating to the contract. Official function means "...writing or preparing the contract specifications, acceptance of bids, award of the contract, or other action on the preparation or award of the contract."³⁴

The second issue relates to individuals who actively participate in procurement efforts resigning to take a position with an employer with whom they had a professional relationship. Public employees or officials who participate directly in the procurement process are prohibited from resigning from the governing body and accepting employment with a vendor who contracts with the governing body if the contract falls under the employee's or official's responsibilities.³⁵

Statement of Economic Interests

The following individuals are required to file statements of economic interests with the State Ethics Commission:

- All elected and appointed officials;³⁶
- All candidates for public office;
- The chief administrative official of each county, municipality, and political subdivision (such as libraries, airport commissions, and hospitals); and
- The chief finance official and chief purchasing official of each county, municipality, and political subdivision.³⁷

The statement of economic interests requires public officials to disclose the following information for themselves and for their immediate family members:³⁸

- Source, type, and amount or value of income received from a governmental entity;
- Source and type of any private income in the previous year;
- Description, value, and location of any property owned and options to purchase real property if there have been any public improvements more than \$200 on or adjacent to the real property within the reporting period and the improvements are known to the filer, or if the filer sales, leases, or rents personal property to the state, county, or municipal government;
- Name of any organization which paid for or reimbursed any expenses of the filer for speaking engagements. The amount, purpose, date, and location must be disclosed;

³⁴ S.C. Code Ann. § 8-13-775.

³⁵ S.C. Code Ann. § 8-13-760.

³⁶ For purposes of determining whether an officeholder is a public official, it may be helpful to note that numerous S.C. Attorney General opinions have defined an office as a position for which the holder takes an oath and exercises part of the sovereign power of the state. See, for example, S.C. Atty. Gen. Ops. October 9, 2012, and August 19, 2009.

³⁷ S.C. Code Ann. §§ 8-13-1110 *et seq.*

³⁸ S.C. Code Ann. §§ 8-13-1120 *et seq.*

- Identity of each business or entity in which the filer or the filer’s immediate family held/controlled, in the aggregate, securities or interests constituting 5% or greater of the total issued and which constitute a value of \$100,000 or more;
- Names and addresses of each creditor owed a debt in excess of \$500 at any time during the reporting period if the creditor is subject to regulation by the filer’s agency or department (this does not include credit cards, mortgage payments, or vehicle payments);
- Names of any lobbyist who is a member of the filer’s immediate family or an individual with whom or business with which the filer or member of the filer’s immediate family is associated;
- Any compensation received from an individual or business which contracts with the governmental entity with which the filer serves or is employed; and/or
- Any gifts received during the reporting period from any person if the gift was believed to be given because of the filer’s position or if the gift is given in hopes of seeking a contractual, business, or financial relationship with the filer’s agency.³⁹

The statement of economic interests **must be filed electronically** at the time of filing as a candidate, upon assuming the duties of the office, and by noon on March 30 of each subsequent year as long as the position is held. Statements of economic interests are maintained by the State Ethics Commission and the clerks of court offices. They are matters of public record and are available for public inspection upon request.⁴⁰

Filers are responsible for and held accountable for the information contained on the statements of economic interest and for submitting the statements. Therefore, it is not advisable for public officials to delegate these responsibilities to anyone else.

Penalties

As prescribed in S.C. Code § 8-13-1510, anyone required to file a report or statement who files a late statement or report or fails to file a required statement or report is assessed a civil penalty as follows:

- A fine of \$100 if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and
- After notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of \$10 per calendar day for the first 10 days after notice has been given, and \$100 for each additional calendar day in which the required statement or report is not filed, not exceeding \$5,000.

After the maximum civil penalty has been levied and the required statement or report has not been filed, the person is:

- For a first offense – guilty of a misdemeanor triable in magistrate’s court and, upon conviction, must be fined not more than \$500 or imprisoned not more than 30 days;
- For a second offense – guilty of a misdemeanor triable in magistrate’s court and, upon conviction, must be fined not less than \$2,500 nor more than \$5,000 or imprisoned not less than a mandatory minimum of 30 days;
- For a third or subsequent offense – guilty of a misdemeanor triable in magistrate’s court and, upon conviction, must be fined not more than \$5,000 or imprisoned for not more than one year, or both.

³⁹ S.C. Code Ann. §§ 8-13-1120 *et seq.*

⁴⁰ S.C. Code Ann. §§ 8-13-1140

As prescribed in S.C. Code § 8-13-1520, except as otherwise specifically provided in the ethics act, a person who violates any provision of the act is guilty of a misdemeanor and, upon conviction, must be fined not more than \$5,000 or imprisoned for not more than one year, or both.

A person who violates any provision of the ethics act is guilty of a misdemeanor and, upon conviction, must be fined not more than 500% of the amount of contributions or anything of value that should have been reported pursuant to the provisions of the act but not less than \$5,000 or imprisoned for not more than one year, or both.

Any person who does not file the statement of economic interests may be subject to complaint action filed against them by the State Ethics Commission. In addition, the State Ethics Commission has a webpage that lists the name, jurisdiction, position, and debt amount of anyone who has been fined for failure to comply with the reporting requirements.

The information in this section is an overview and is not intended to be a complete list of all ethics requirements and provisions. Every public official and employee should read the statutes and keep a copy for reference. Specific questions should be referred to the county attorney, SCAC, and/or the State Ethics Commission.

Making Ethical Decisions

It is important to remember that the ethics statutes represent the minimum legal definition of ethical behavior. One can obey the law and still be unethical. The challenge is to err on the side of caution; to do the hard right rather than the easy wrong. To paraphrase Michael Josephson, a nationally recognized leader in the study of ethics, the ethical person does more than they have to and less than the law allows.

The South Carolina Clerks to Council Association has adopted a professional code of ethics to guide its members in making ethical decisions and serving the public. A copy of the code is provided on page 26 for reference.

Additional Resource

For more information about ethics in South Carolina and filing statements of economic interests (including the login page for electronic filing), visit the S.C. State Ethics Commission website via <http://ethics.sc.gov>.



South Carolina Clerks to Council Code of Ethics

Mission: To maintain the professionalism and integrity of the Clerk to Council office by supporting local government practices and sustaining professional growth for the benefit of the public whom we serve. I do hereby affirm that the following ethics shall govern my conduct as Clerk to Council:

- To uphold County Government and protect the laws that have been established;
- To conduct my public and private life as to be an example to my fellow citizens;
- To conduct the affairs of my office in a manner that reflects honor and public trust;
- To the best of my ability record and preserve what is true and accurate;
- To protect documents and artifacts which have been entrusted to me;
- To maintain the role of neutral servant as I serve the elected body and the public.

These ethics, I as the Clerk to Council, do pledge.

Signature

President

South Carolina Clerks to Council Association



Chapter 6

Assisting Newly-Elected Council Members

SCAC's Orientation Program

The most effective way to prepare newly-elected council members for office is to share information with them regarding county council and county government operations. Following the statewide general election in even-numbered years, SCAC sponsors a full-day orientation to help prepare newly-elected council members for their new role as public officials. Council members who were elected in a special election in the previous year are also encouraged to attend this orientation.

The program is offered free of charge. The orientation is offered in December prior to new members taking office in January. During the orientation, newly-elected council members learn about the following aspects of county government:

- Roles and responsibilities of county council;
- Forms of county government;
- Risk management;
- Budget basics and funding sources;
- The S.C. Freedom of Information Act; and
- The S.C. State Ethics Reform Act.

Participants receive copies of many SCAC publications during the orientation, such as *A Handbook for County Government in South Carolina* and *Revenue Resources for County Government*. Those who attend the full-day orientation receive six hours of credit for Orientation to County Government I and II of the Institute of Government for County Officials (please see pages 29-30 for more information about the Institute of Government for County Officials).

Each clerk to council assists SCAC by providing mailing addresses for the newly-elected council members and encouraging these individuals to attend. SCAC sends correspondence directly to the newly-elected council members with copies to the CAO and clerk to council.

County-Specific Orientation

In addition to supporting newly-elected council members' attendance at SCAC's orientation, counties are encouraged to hold county-specific orientation programs. This gives the county an opportunity to share specific information that is critical for the new council members to successfully begin their terms in office. The clerk to council can play an important role in this orientation by working with the council chairman and CAO in developing and coordinating this program.

During the orientation, new members should be provided the following information:

- A list of county council members and their contact information;
- Contact information for the CAO and the clerk to council;
- Council committee assignments;

- Council and committee meeting schedules;
- A sample council meeting agenda with an explanation of common items and the process for having items placed on the agenda;
- Council rules of procedure;
- Information on executive sessions;
- Minutes from the last six meetings;
- The annual budget schedule and current budget;
- Council district maps;
- A description of Home Rule and the general organizational structure (form of government, organizational chart highlighting employees who report to council, departmental functions, process for electing council chairman and vice chairman, and ordinances pertaining to county government/council);
- The county's comprehensive plan and strategic plan;
- A list of board and commission members and staff members with contact information;
- The S.C. State Ethics, Government Accountability, and Campaign Reform Act and council recusal form;
- The S.C. Freedom of Information Act;
- Information on swearing-in ceremonies; and
- Council mail and equipment.

During this orientation, newly-elected council members should also receive an overview of the county's human resource policies and procedures. Specifically, it is important for new council members to learn about the county's policies in the following areas:

- County council compensation and benefits;
- Use of county vehicles;
- Travel reimbursement;
- Use of technology equipment; and
- Risk management.

In addition to providing this information, the county's human resource director can assist the newly-elected council members in completing the required compensation and benefits paperwork.

If the county does not have a formal orientation program, the clerk to council can assist the newly-elected council members by coordinating a time for each of the members to meet with the county's human resource director to review this information and to complete the necessary paperwork.

Newly-elected council members who attend both SCAC's orientation and their county-specific orientation are better prepared to be an educated and contributing member of county council when they take office.

The Oath of Office

Council members' terms begin on January 2 following their election, although members may be sworn in before this date.⁴¹ New council members must be sworn in before taking action at a meeting. A council member cannot lawfully take office until he/she has filed a statement of economic interests,⁴² has taken the oath provided in Article VI, Section 5 of the Constitution of South Carolina, and has been commissioned by the Governor. After reciting the oath, a form should be filed with the Secretary of State as soon as possible to record the issuance of the oath and commission. The form is provided on page 31.

Notaries public, judges, and anyone else authorized by state law to administer an oath are authorized to administer the oath of office at a swearing-in ceremony.

The Institute of Government for County Officials

The Institute of Government for County Officials offers training to provide the knowledge and skills that county officials need to become effective leaders. **Elected officials, CAOs, clerks to council, and other executive staff members typically attend this training program; and clerks to council serve as the local contact for enrollment and registration.**

Clerks to council have the opportunity to pursue certification through the South Carolina Clerks to Council Certification Program (for more information, see pages 45-46) in addition to the Institute of Government for County Officials. Both programs offer courses to enhance the clerks' professional development and provide a broad perspective of county government administration in South Carolina. Although some courses provide dual credit, each program has separate requirements. Clerks should follow the guidelines set forth by each program in pursuing certificates.

The Institute of Government for County Officials is sponsored by SCAC in cooperation with The Joseph P. Riley Jr. Center for Livable Communities at the College of Charleston and the Strom Thurmond Institute of Government and Public Affairs at Clemson University.

The curriculum includes two levels of certification and also offers advanced courses to permit graduates to increase their knowledge of timely issues. Courses are offered prior to SCAC's Counties Connect: A Legislative Action Day (February), Annual Conference (July/August) and Fall Advocacy Meeting (October).

⁴¹ S.C. Code Ann. § 4-9-90; 2000 WL 1803596 (S.C.A.G.).

⁴² S.C. Code Ann. § 8-13-1110.

Table 7. Requirements for Earning a Certificate

Level I	Level II
<p align="center">Participants must attend <u>ALL</u> required courses:</p> <p>Orientation to County Government I Orientation to County Government II Ethical Leadership and Public Service Legal Issues in County Government Planning and Land Use Public Budgeting</p> <p align="center">AND <u>any three</u> elective courses:</p> <p>Building an Effective County Team Building Effective Intergovernmental Relations Developing Good Leadership Skills Employment Law: What Counties Need to Know Managing and Conducting Meetings Public Speaking Strategic Planning Understanding and Seeking Differences</p>	<p align="center">Participants must attend <u>any six</u> courses:</p> <p>Current Issues Facing County Government Decision-Making in a Political Environment Economic Development Effective Communications Financial Management Measuring and Reporting County Performance The Policy Role of Council The Property Taxation Process</p>

Course Credit and Graduation

- Each course provides three hours of instruction. **In order to receive credit, participants must be present for the entire course and return a form to certify that they have completed the course.**
- **Graduates of Level I and participants who are within three courses (nine hours) of graduating from Level I are eligible to earn credit for Level II courses.**
- **Course credits are valid for a period of four years.** If a county official does not graduate within the four-year period, expired credits are removed from his/her record.
- County officials are awarded a certificate upon graduation from Level I and Level II. Certificates are presented at SCAC’s Annual Conference.

Registration and Recordkeeping

SCAC’s conference brochures and meeting notices include institute registration information, and clerks may register participants online via <http://www.sccounties.org>.

SCAC’s staff coordinates registration, maintains all records of credit, and awards certificates to graduates of Levels I and II. The association does not maintain records of credit or issue certificates for advanced courses. For more information or to view the institute brochure, visit <https://www.sccounties.org/education-training/institute-government> Please call 1-800-922-6081 or send a message via scac@scac.sc to address questions about registration, the requirements for earning a certificate, or participants’ records of credit.

OATH FOR COUNTY AND STATE OFFICERS

1. ***Immediately*** return this completed, notarized oath form to:

The Honorable Mark Hammond
Office of the Secretary of State
1205 Pendleton Street, Suite 525
Columbia, South Carolina 29201
Attn: Boards and Commissions Division

2. ***Print*** your name, the office to which you have been appointed/elected, and your mailing address plainly.
Please write clearly.

PRINT NAME: _____

APPOINTED/ELECTED: _____
(Name of Board, Commission or Position)

MAILING ADDRESS: _____

TERM TO EXPIRE: _____

STATE OF SOUTH CAROLINA

COUNTY OF _____

I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected (or appointed), and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God.

Sworn to and subscribed before me this
_____ day of _____, 20____

Signature of Appointed/Elected Official

Notary Public of South Carolina

My Commission Expires _____

*Please note that the document you are submitting is a public record, and the information contained therein is subject to public scrutiny or release.



Chapter 7 Other Duties

Bond Coverage for Public Officials and Employees

There are currently two classes of surety bond coverages that the county must purchase to cover the actions of certain county officials and employees. Faithful performance bonds protect both the governmental entity and the taxpayer against monetary loss as a result of the mistakes, negligence, neglect of duty, or intentional acts of covered officials and employees.

Fidelity bonds are purchased to protect the county and taxpayers against monetary loss due to the dishonest acts of officials and employees in positions of trust. The coverage of such bonds is limited to dishonesty on the part of public officials and employees. County councils have the authority to purchase fidelity bonds to cover all or a portion of county officials and employees⁴³ when bonding of those county officials or employees is statutorily required.⁴⁴ The council must pass a resolution evidencing the purchase of such fidelity bonds, and the bonds must meet or exceed the minimum value required by statute. A copy of the bond and resolution must be filed with the Secretary of State and the county clerk of court.

Council Member Records

Although the human resource department maintains employment records for all county council members, the clerk to council maintains a general file for each council member. This file typically includes the following information:

- A copy of the notarized Oath of Office Form;
- Contact information (telephone numbers, home and work addresses, e-mail address, etc.);
- Biographical information;
- Records of appointment to pertinent boards of directors and committees, e.g., regional councils of governments, South Carolina Association of Counties (SCAC), and National Association of Counties;
- Copies of registration forms and records of credit for the Institute of Government for County Officials;
- General correspondence; and
- Travel and expense records.

The clerk to council should also keep a historical record of the council's members and officers, their election dates, terms of office, and resignations.

County Boards and Commissions

One of the ways county councils develop sound policies and establish equitable service delivery is through local boards and commissions. As the appointing body, county council is granted the authority to create boards and commissions and to establish the related duties and responsibilities.⁴⁵

The number and type of boards and commissions varies from county to county.

⁴³ S.C. Code Ann. § 4-11-65.

⁴⁴ Counties are required to provide surety bond coverage for the auditor, clerk of court and deputy clerks of court, constables, coroner and deputy coroners, magistrates and their employees with financial responsibilities, probate judge and associate probate judges, sheriff and deputy sheriffs, and treasurer.

⁴⁵ S.C. Code Ann. § 4-9-30(6).

The clerk to council plays a vital role in assisting county council with boards and commissions. The purpose of this section is to provide information on the different areas in which the clerk to council can provide assistance. The recommended practices highlighted in this section are based on practices that have worked well in some counties. These practices may not be applicable or desirable in counties that are less formal or less structured in their approach to boards and commissions.

Recruitment and Appointment

In order for boards and commissions to be effective in providing advice, guidance, and recommendations to county council, attention should be given to the recruitment and appointment of board and commission members. Recruitment should be a continuous effort. As the appointing authority, county council can rely on council members to actively recruit citizens to serve.

The council may also want to consider creating a publication to highlight the various boards and commissions of the county and include the following information for each:

- Purpose/authorizing ordinance;
- Governing body;
- Term of office;
- Meeting schedule;
- Desirable experience or background for members (if applicable); and
- Information about the application process.

This publication could be promoted on the county's website, at board and commission meetings, neighborhood meetings, and local chamber of commerce meetings.

Several resources naturally lend themselves to recruiting new members. Current board and commission members and staff members are often knowledgeable about citizens who have either expressed an interest in serving or who would be a good fit for the board or commission. Therefore, county council may find it beneficial to ask boards and commissions for recommendations. A county-sponsored citizen academy is another resource for potential board and commission members. Individuals who participate in these programs are usually interested in their local government and may volunteer to serve. County council may also have success in recruiting members by periodically highlighting boards and commissions at council meetings.

County council should determine a schedule for accepting applications and specify the time period for applications to be considered valid or active. Some counties accept applications year-round for all boards and commissions and consider the applications valid for one year, while other counties may only accept applications three to six months before a board or commission member's term expires. County council should also determine the application review and recommendation process. Factors to consider include who will review the applications (full council versus a select few council members, staff members, etc.), when the applications will be reviewed, and how and when recommendations will be brought to county council for consideration.

To encourage diverse input on boards and commissions and to ensure the membership is representative of the community, county council should consider race, ethnicity, gender, geographical representation, and technical expertise when making appointments.

Vacancies should be avoided. County council can specify that one of the responsibilities of all boards and commissions is to provide six months' notice of members with expiring terms. The clerk to council can assist county council by compiling this information and providing a complete list of board and commission members with expiring terms on a quarterly basis.

The clerk to council prepares letters of appointment. Letters are typically sent to the appointee (with a copy sent

to the chairman of the board/commission affected) and the former board/commission member (with a letter of thanks enclosing a certificate of appreciation).

Appointment records are very important and must be up-to-date in order to be useful. Records should address all boards, commissions, agencies, etc. in the county, regardless of whether appointments are made by county council. The records should also include the date that each member's term expires. Former members usually receive a certificate of appreciation for service to the county, and the clerk to council prepares these certificates.

When a new appointment is approved, a copy should be forwarded to the CAO and anyone else who keeps a record of appointments. The record for the previous appointment should remain in the clerk's files so the history of a particular board, commission, or agency can be easily reviewed. A sample form for collecting biographical information about citizens who wish to serve on a board or commission is included on pages 40–42. This provides a standard application format for council to review.

Orientation

In fulfilling its commitment to establish effective boards and commissions, county council should ensure that the board and commission members it appoints are well-prepared to serve. The best method for this is a comprehensive, new member orientation. Ideally, counties should offer this on annual basis shortly before the newly-appointed members begin their terms. However, this may not be practical if the boards and commissions have different terms.

At a minimum, new members should be given a notebook including, but not limited to, the following information:

- A copy of the letter appointing them to the board or commission;
- Roles and responsibilities of the board or commission and its members (including expectations for meeting attendance);
- Relative federal and/or state statutes;
- The ordinance or resolution that created the board or commission;
- Bylaws;
- Minutes from the last six meetings;
- Budget document(s);
- A list of board or commission members and staff members with contact information; and
- A meeting schedule for the next six months.

Additionally, new members would benefit from learning about the S.C. State Ethics, Government Accountability, and Campaign Reform Act, the S.C. Freedom of Information Act, recommended rules of procedure for board and commission meetings, meeting agendas, and minutes. In addition to the council chairman, it may be helpful to ask the county attorney and the CAO to review this information during the orientation.

Board and Commission Meeting Minutes

The county council office typically receives copies of minutes for informational purposes for boards and commissions to which it makes appointments or which receive funding from the county. It is recommended that the clerk to council maintain a chart/spreadsheet detailing when the minutes are received for each board and commission. This will make the information readily available.

Financial Management

County council has the fiduciary responsibility to provide oversight for all county assets. As the policy-making body, council determines the funding priorities for the county and adopts the spending plan required to fund these

priorities. Council also adopts financial management policies such as those related to investments, fund balance, debt administration, and proprietary funds.

The CAO, finance director, and department managers each play a critical role in helping council fulfill these obligations. Clerks to council also have an important role in this process, although the form of government and the county's size have a significant impact in determining each clerk's responsibilities.

Most clerks are also asked to prepare an annual budget for the county council office and submit it to the finance director or CAO. Office supplies, printing, and travel expenses are examples of items the clerk would include. For more detailed information about budgeting and financial management, see Chapter 6 of *A Handbook for County Government in South Carolina*, Fifth Edition.

The Budget Process

The budget is the county government's financial plan. It includes service goals, the costs of providing those services, and the means for financing these costs. In addition to being a financial plan, a summarized version of the budget establishes county appropriations by ordinance. The budget ordinance adopted by council is valid for one fiscal year, places a legal limit on spending, and establishes special conditions for spending.

Annual operating and capital budgets must be approved by ordinance, preceded by a public hearing.⁴⁶ The operating budget includes recurring, ongoing expenses for salaries, materials and supplies, and other cost categories. The capital budget includes expenses for one-time, major purchases of items that have an extended life (at least one to two years) and a minimum cost that is defined by the county.

Council must provide notice to the public by advertising in at least one newspaper of general circulation in the county at least 15 days before the public hearing. The notice must be at least two columns wide, have a bold headline, and include the following content:⁴⁷

- The name of the county;
- The time, date, and location of the public hearing;
- Total revenues and expenditures for the current fiscal year's operating budget;
- The proposed total projected revenue and operating expenditures for the next fiscal year;
- The proposed or estimated percentage change in estimated operating budgets;
- The millage for the current fiscal year; and
- The estimated millage in dollars needed for the next fiscal year's proposed budget.

Please see more detailed information about public hearings on page 12.

Additional budget requirements include:

- The fiscal year must be July 1 through June 30.⁴⁸
- Council must approve the budget prior to the beginning of the fiscal year.
- The budget must include all revenue sources, and council must provide for the levy of taxes.
- Supplemental appropriations may be used if it is evident that the county will exceed its original budget. A supplemental budget appropriation must be approved in the same manner as the initial budget.⁴⁹

⁴⁶ S.C. Code Ann. §§ 4-9-130 and 6-1-80.

⁴⁷ S.C. Code Ann. § 6-1-80.

⁴⁸ S.C. Code Ann. § 4-9-140.

⁴⁹ S.C. Code Ann. § 4-9-140.

There are four major steps in the budget process:

1. *Preparation.* This step involves staff estimates of needs and revenues for presentation to county council. Under guidelines issued by council and the CAO, department heads develop budget proposals and service plans for the next year. The CAO then reviews these budgets and plans and develops recommendations for county council.
2. *Legislative review and approval.* This step involves county council's review of the budget recommended by the CAO and adoption of the final budget via the budget ordinance. This review is conducted with the input of citizens and local agencies and organizations that benefit from county government services.
3. *Execution.* This step involves carrying out the budget. The CAO and department heads are tasked to follow the council's instructions included in the budget ordinance and to follow all laws and policies of the county related to the spending plan. The CAO should also provide monthly financial reports to council.
4. *Financial audit.* Following the end of the fiscal year, the county is required to provide for an independent annual audit of all financial records and transactions of the county and any agency funded in whole by county funds.⁵⁰ This audit should include the staff's compliance with laws, policies, and procedures related to carrying out the budget.

A typical budget calendar begins at least six months before the beginning of the fiscal year. Some of the early steps include projecting revenues; preparing budget forms and instructions for department heads and outside agencies; and developing preliminary estimates. County councils often have planning sessions in the winter to set financial and service goals for the next fiscal year and to provide guidance to the CAO and department heads.

Many counties have adopted strategic plans or other forms of long-term planning to complement their annual budget process. The annual budget is enhanced by its relationship to a long-term plan and the directional path the plan establishes. Additionally, many budget goals span more than one fiscal year, so it is important—especially as new members join council—to review those goals annually.

In order to meet the June 30 deadline for adopting the budget, county councils typically receive a proposed budget in April or early May. This will provide adequate time for the required readings and public hearings in addition to any work sessions needed to assist councils in understanding the budget.

⁵⁰ S.C. Code Ann. § 4-9-150.

Budget Calendar

Although the sequence varies in each county, the following calendar provides a sample timeline for key steps in the budget process:

Table 8. Sample Budget Calendar	
December/January	Council holds a retreat or work session to set direction for the budget. The CAO and finance director provide information on revenue projections for the next fiscal year and any significant personnel or capital needs.
January	All county departments and local agencies receive a budget form.
February	The finance department receives all budget requests for review.
March	The finance director submits a recommended budget to the CAO for review and discussion.
April	The CAO presents a proposed budget to council for first reading and council schedules a public hearing.
May	The clerk to council places a public notice in at least one newspaper of general circulation in the county to address the requirements of § 6-1-80, which are outlined on pages 35-36. Second reading
June	Council adopts the budget ordinance. Local agencies and county departments receive their budgets by June 30.
July–December	The county’s audit is performed once the books are closed for the fiscal year. However, the auditors’ preliminary work may begin in the spring. Counties should receive completed audits by December.

Financial Reports

The purpose of budgeting is to maintain accountability and control, to implement policy, and to reflect long-term planning. To this end, county council oversees financial reporting through monthly reports, audits, and annual reports.

Independent Audit and Reports

Section 4-9-150 of the S.C. Code of Laws requires an independent annual audit of all financial records and transactions of the county and “any agency funded in whole by county funds.” Additionally, § 4-9-150 provides that “(s)pecial audits may be provided for any agency receiving county funds as the county governing body deems necessary.”

The audit process begins with the procurement of audit services. Audits must be conducted by a certified public

accountant or accounting firm that has no personal interest, direct or indirect, in the fiscal affairs of the county or any of its officers.⁵¹ The council typically issues a request for proposals to procure audit services; however, it may—without requiring competitive bids—designate the accountant or firm annually or for a period not exceeding three years. The designation for any particular fiscal year must be made no later than July 31.

The entire audit report is known as the annual comprehensive financial report (ACFR). In addition to the management statement and reports of the auditors, the ACFR includes other specific information about county finances.

County council and the CAO should review and correct any audit findings identified in the management report. A copy of the ACFR must be submitted to the State Treasurer by January 1 each year. The State Treasurer must withhold certain funding until the audit is submitted. If a county requests an extension and shows proper cause as determined by the State Treasurer, the county may be granted a 90-day extension.⁵²

Annual Reports

An annual progress report is one method counties may use to communicate the county's goals, funding priorities, and progress with citizens. This type of report includes elements of the county's strategic plan, budget, and performance measures. In addition to publishing the report on the county's website, council members and staff may find it helpful to share copies with the public at council meetings and community meetings.

Human Resources

Clerks to council often have supervisory responsibilities for clerical staff; and in smaller counties, the clerk may also have responsibility for human resource duties. For more information about human resource management, please review Chapter 9 of *A Handbook for County Government in South Carolina*, Fifth Edition.

Recordkeeping for Planning and Zoning Education Programs

In 2003, the General Assembly established continuing education requirements for local government planning and zoning officials and employees.

Article IX of the S.C. Local Government Planning Enabling Act establishes initial and annual mandatory training requirements for all appointees and professional staff involved with local planning and zoning. This includes planning commissions and boards of zoning appeals, as well as the professional staff who directly or indirectly work with them.

The S.C. Planning Education Advisory Committee determines which training programs satisfy the educational requirements of the act. SCAC has been approved to provide orientation and continuing education training programs for appointees and staff.

Unless expressly exempted, each local appointee/staff member must attend six hours of orientation training and annually attend at least three hours of continuing education.⁵³ Anyone who previously attended orientation training for a prior appointment or period of employment is not required to repeat this training; however, they must comply with the requirement for continuing education.

Orientation training must be completed within six months prior to or one year from the date of appointment/employment. After the first year of service, continuing education must be completed annually within one year of the anniversary date of appointment/employment.

Appointees/staff with at least one of the following qualifications are exempt from the educational requirements:⁵⁴

⁵¹ S.C. Code Ann. § 4-9-150.

⁵² S.C. Code Ann. § 4-9-150.

⁵³ S.C. Code Ann. § 6-29-1340.

⁵⁴ S.C. Code Ann. § 6-29-1350.

- American Institute of Certified Planners (AICP) certification;
- A master’s or doctorate degree in planning from an accredited college/university;
- A master’s or doctorate degree or specialized training/experience in a related field as determined by the S.C. Planning Education Advisory Committee; or
- A license to practice law in South Carolina.

Each year, no later than the anniversary date of their appointment/employment, planning and zoning officials/staff members must file an Educational Requirements Certification Form with the clerk to council and attach their certificate of attendance for the required training⁵⁵ OR qualifications for exemption.⁵⁶ Copies of the certification form and the suggested Uniform Certificate of Attendance are included on pages 43-44 for reference.

It is the responsibility of the local governing body to track and file with the clerk to council all certification forms for individual planning and zoning appointees/staff members. **The clerk to council must keep all original forms and documentation in the official public records for three years after the calendar year in which forms are filed.**⁵⁷

The consequences for not complying with these requirements are strict. Local governments are prohibited from appointing or employing individuals who have falsified the certification form or documentation.⁵⁸ Individuals can also be removed from office, suspended, or dismissed if they fail to complete required training within the time allotted or fail to file the appropriate documentation.⁵⁹

Additionally, failure to comply may call into question any decision or recommendation made by these officials and open the county up to liability.

Additional Resources

For more detailed information about county boards and commissions, review Chapter 4 in *A Handbook for County Government in South Carolina*, Fifth Edition.

Visit <https://www.sccounties.org/education-training/planning-zoning-officials-training> to learn more about the planning and zoning education programs provided by SCAC, to download forms, and to access training resources.

For information about the S.C. Planning Education Advisory Committee and approved educational programs, visit <https://www.sccounties.org/education-training/planning-zoning-officials-training>.

⁵⁵ S.C. Code Ann. § 6-29-1360.

⁵⁶ S.C. Code Ann. § 6-29-1350(B).

⁵⁷ S.C. Code Ann. § 6-29-1370(B).

⁵⁸ S.C. Code Ann. § 6-29-1380(C) and (D).

⁵⁹ S.C. Code Ann. § 6-29-1380.

Sample Application Form for County Boards and Commissions

This application is for: Reappointment New appointment

To which board or commission are you applying? _____

In order for your application to be given consideration, it is critical that you answer all questions as completely as possible.

Mr. Mrs. Ms. Name: _____

Home address: _____

City: _____ Zip Code: _____ Home phone: _____ Work phone: _____

Occupation: _____ Employer: _____

Employer address: _____

Previous work experience: _____

Volunteer experience (please list and describe):

Do you currently hold any elected or appointed office in [*county name*]? Yes No

If yes, please list this office: _____

Have you ever held any elected or appointed offices in [*county name*] in the past?

If yes, please list these offices: _____

Describe your understanding of the role of the board or commission to which you are applying:

Have you ever attended a meeting of this board or commission? Yes No

Can you attend at the regularly scheduled date and time of the board or commission meetings? Yes No

If appointed, will you pledge to faithfully attend the meetings and actively participate? Yes No

Do you have any personal connections to this board's work that might pose a conflict of interest? Yes No

If yes, please describe: _____

How many hours per week are you available to dedicate to this board or commission? _____

Why did you decide to apply for a position on this particular board or commission? _____

What specific skills do you have to contribute as a member of this board or commission? _____

Do you have expertise in any of the following areas? Please check all that apply:

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> Accounting | <input type="checkbox"/> Corrections | <input type="checkbox"/> Inspections | <input type="checkbox"/> Recruiting |
| <input type="checkbox"/> Administration | <input type="checkbox"/> Education | <input type="checkbox"/> Investigation | <input type="checkbox"/> Research |
| <input type="checkbox"/> Auditing | <input type="checkbox"/> EMS | <input type="checkbox"/> Landscaping | <input type="checkbox"/> Soil and Water |
| <input type="checkbox"/> Budgeting | <input type="checkbox"/> Engineering | <input type="checkbox"/> Law | <input type="checkbox"/> Training |
| <input type="checkbox"/> Communications | <input type="checkbox"/> Fire Service | <input type="checkbox"/> Planning | <input type="checkbox"/> Waste Management |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Healthcare | <input type="checkbox"/> Public Relations | <input type="checkbox"/> Zoning |
| <input type="checkbox"/> Contracting | <input type="checkbox"/> Information Systems | <input type="checkbox"/> Purchasing | |

List any additional information relevant to items checked above: _____

Highest degree of education earned: _____

School attended: _____ Field of study: _____

Do you have any relatives currently employed by [county name]? Yes No

If so, please list relative(s) name(s): _____

Are you currently a registered voter in [county name]? Yes No

Are you current in payment of [county name] property taxes? Yes No

I understand this appointment will require substantial effort on my part and I am willing to devote the necessary time to carry out the responsibilities and requirements of the position.

I hereby authorize [county name] and/or its agents to conduct a criminal background check and further understand that the same investigation can be considered for or against appointment to a board/commission for [county name].

Signature: _____ Date: _____

Recommended by: _____

Staff Use Only
Council district: _____
If this is a reappointment, percent of meetings attended last year: _____
Does this person have the recommendation of the board or commission chairperson? _____
Comments of the board chairperson about this applicant: _____

Please return completed form to:

[county name] Council
Mailing Address
City, SC Zip Code

Questions or Inquiries: [telephone number]

[Note: provide the URL for the webpage that lists the county's boards and commissions or include a list of all county boards and commissions in this section]

**EDUCATIONAL REQUIREMENTS CERTIFICATION FORM
FOR LOCAL GOVERNMENT PLANNING OR ZONING OFFICIALS OR EMPLOYEES**

To report compliance with the educational requirements, please complete and file this form each year with the clerk of the local governing body no later than the anniversary date of your appointment or employment. To report an exemption from the educational requirements, please complete and file this form with the clerk of the local governing body by no later than the first anniversary of your current appointment or employment. Failure to timely file this form may subject an appointed official to removal for cause and an employee to dismissal.

Name of Appointed Official or Employee: _____

Position: _____

Initial Date of Appointment or Employment: _____

Filing Date: _____

I have attended the following orientation or continuing education program(s) within the last 365 days (please note that a program completed more than 180 days prior to the date of your initial appointment or employment may not be used to satisfy this requirement):

Program Name	Sponsor	Location	Date Held	Hours of Instruction

Also attached with this form is documentation that I attended the program(s)

—OR—

I am exempt from the orientation and continuing education requirements because (please initial the applicable response on the line provided):

___ I am certified by the American Institute of Certified Planners.

___ I hold a master’s or doctorate degree in planning from an accredited college or university.

___ I hold a master’s or doctorate degree or have specialized training or experience in a field related to planning as determined by the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees (please describe your advanced degree or specialty on the line provided).

___ I am licensed to practice law in South Carolina.

Also attached with this form is documentation to confirm my exemption.

I certify that I have satisfied or am exempt from the educational requirements for local planning or zoning officials or employees.

Signature: _____

SUGGESTED MODEL

**UNIFORM CERTIFICATE OF ATTENDANCE FOR ORIENTATION PROGRAM AND
CONTINUING EDUCATION**

Name & Position: _____

Appointment/Employment Date: _____ Filing Date: _____

I have attended the following orientation or continuing education program(s) within the last three hundred and sixty-five days. (NOTE: a program completed more than one hundred and eighty days prior to the date of your initial appointment or employment may not be used to satisfy this requirement):

1. Program Name: _____ Course Number: _____

Sponsor: _____

Location: _____

Date: _____ Number of Hours: _____

2. Program Name: _____ Course Number: _____

Sponsor: _____

Location: _____

Date: _____ Number of Hours: _____

NOTE: Attach documentation of attendance

I am exempt from the orientation and continuing education requirements because:

- I am certified by the American Institute of Certified Planners
- I hold a masters or doctorate degree in planning from an accredited college or university
- I hold a masters or doctorate degree or have specialized training or experience in a field related to planning as determined by the South Carolina Planning Education Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees.

Please describe your advanced degree or specialty: _____

- I am licensed to practice law in South Carolina NOTE:

Attach documentation of exemption

I certify that I have satisfied or am exempt from the educational requirements for local planning or zoning officials or employees.

Signature: _____



Chapter 8

The South Carolina Clerks to Council Association

The South Carolina Clerks to Council Association (SCCCA) aids in improving public administration and increasing the proficiency of clerks to council and executives of counties in South Carolina. This organization also provides a means for exchanging ideas and experiences among clerks to council; promotes and encourages the education of all clerks to council; and collects, analyzes, and distributes information relative to county government in South Carolina.

The Clerks to Council Certification Program

The South Carolina Clerks to Council Certification Program is a joint initiative of SCCCA and The Joseph P. Riley Jr. Center for Livable Communities at the College of Charleston. The program offers intensive training which addresses clerk duties and general management capabilities. It also provides participants with the unique opportunity to discuss and share common problems and interests.

The certification program establishes minimum standards and professional goals for county clerks to council by:

- Introducing new methods and approaches to enable clerks to become more efficient and effective in their jobs;
- Increasing managerial competence of clerks to meet new challenges and demands placed on local government;
- Ensuring clerks are up-to-date on the most recent legislation approved by the General Assembly affecting the local governing body and any additional responsibilities placed on the clerk; and
- Creating the opportunity for clerks to further their professional development to improve overall efficiency and effectiveness of the office of the clerk to council.

Certification Requirements

1. Be a county clerk to council or deputy clerk to council.
2. Complete the required 36 hours of training and all required documentation.
3. Meet one of the following requirements for education/experience:
 - A bachelor's degree and two years of local government experience;
 - An associate degree and four years of local government experience; OR
 - Six years of local government experience.
4. Be a current member of SCCCA.
5. Believe in and practice SCCCA's Code of Ethics.

Curriculum

The certification curriculum consists of a basic overview of job duties and functions required of clerks. Designed and presented by recognized experts, the training courses offer members the opportunity to explore new methods and technologies while learning from the experiences of others across the state.

The curriculum consists of 12 courses—eight required courses and four electives. All courses provide three hours of instruction and are offered in conjunction with SCCCA meetings and the South Carolina Association of Counties (SCAC’s) Institute of Government for County Officials.

Table 9. Requirements for Earning a Certificate	
<p>Required courses</p> <p>Participants must attend <u>four</u> courses offered by the Institute of Government for County Officials:</p> <ol style="list-style-type: none"> 1. Managing and Conducting Meetings 2. Financial Management 3. Building Effective Intergovernmental Relations 4. Ethical Leadership and Public Service <p>AND <u>four</u> courses offered in conjunction with SCCCA meetings:</p> <ol style="list-style-type: none"> 1. Records Management 2. Customer Service 3. Roles and Responsibilities 4. Minutes, Agendas, and Ordinances 	<p style="text-align: center;">Electives</p> <p style="text-align: center;">Participants must attend <u>four</u> electives:</p> <p>Electives may include additional courses offered by SCCCA and SCAC’s Institute of Government for County Officials.</p>

Advanced Certification

The S.C. Clerks to Council Certification Program also offers an Advanced Certification curriculum with components to address continuing education and professional and social contributions.

Clerks must attain six points in the Continuing Education Category (18 hours of training offered through SCCCA, the Institute of Government for County Officials, and/or SCAC webinars) and four points in the Professional and Social Contributions category. For additional information, visit:

<https://www.sccounties.org/association-groups/clerks-council>

Additional Resources

Visit <https://www.sccounties.org/association-groups/clerks-council> to learn more about the South Carolina Clerks to Council Association, to review the organization’s bylaws, and to view contact information for all county clerks to council.

The Joseph P. Riley Jr. Center for Livable Communities at the College of Charleston provides instructors, administrative support, and recordkeeping for the South Carolina Clerks to Council Certification Program. For more information about the Riley Center, visit <http://riley.cofc.edu/index.php> or call (843) 953-6100.



Appendix A Other Helpful Resources

Table 10. Regional Councils of Governments (COGs)

Appalachian http://www.scacog.org	Anderson, Cherokee, Greenville, Oconee, Pickens, Spartanburg	Steve Pelissier, Executive Director 30 Century Circle PO Box 6668, Greenville, SC 29606 (864) 242-9733
Berkeley-Charleston-Dorchester http://www.bcdco.com	Berkeley, Charleston, Dorchester	Ronald E. Mitchum, Executive Director 1362 McMillan Avenue, Suite 100 North Charleston, SC 29405 (843) 529-0400
Catawba http://www.catawbacog.org	Chester, Lancaster, Union, York	J. Randall Imler, Executive Director 215 Hampton Street PO Box 450, Rock Hill, SC 29731 (803) 327-9041
Central Midlands http://www.centralmidlands.org	Fairfield, Lexington, Newberry, Richland	Britt Poole, Executive Director 236 Stoneridge Drive Columbia, SC 29210 (803) 376-5390
Lowcountry http://www.lowcountrycog.org	Beaufort, Colleton, Jasper, Hampton	Sabrena P. Graham, Executive Director 634 Campground Road PO Box 98, Yemassee, SC 29945-0098 (843) 726-5536
Lower Savannah http://www.lscog.org	Aiken, Allendale, Bamberg, Barnwell, Calhoun, Orangeburg	Dr. William Molnar, Executive Director 2748 Wagener Road PO Box 850, Aiken, SC 29802 (803) 649-7981
Pee Dee http://www.peedeecog.org	Chesterfield, Darlington, Dillon, Florence, Marion, Marlboro	Joette Dukes, Executive Director 2314 Pisgah Road PO Box 5719, Florence, SC 29502 (843) 669-3138
Santee Lynches http://www.santeelynchescog.org	Clarendon, Kershaw, Lee, Sumter	Dennis Cyphers, Executive Director 2525 Corporate Way Suite 200, Sumter, SC 29154 (803) 775-7381

Table 10 (continued)

Upper Savannah
<http://www.uppersavannah.com>

Abbeville, Edgefield, Greenwood,
Laurens, McCormick, Saluda

Patricia C. Hartung, Executive Director
430 Helix Road
Greenwood, SC 29646
(864) 941-8050

Waccamaw
<http://www.wrcog.org>

Georgetown, Horry, Williamsburg

Sarah Penick Smith, Executive Director
1230 Highmarket Street
Georgetown, SC 29440
(843) 546-8502

S.C. Association of Counties

1919 Thurmond Mall
P.O. Box 8207
Columbia, SC 29202-8207
(803) 252-7255/1-800-922-6081

E-mail: scac@scac.sc

Homepage: <http://www.sccounties.org>

Publications: <http://www.sccounties.org/publications>

S.C. State Ethics Commission

201 Executive Drive, Suite 150
Columbia, SC 29210
(803) 253-4192

Homepage: <http://ethics.sc.gov>

Statements of economic interests:

<https://ethics.sc.gov/statement-economic-interests>

**S.C. Department of Archives and History Records
Management Services**

8301 Parklane Road
Columbia, SC 29223
(803) 896-6123

E-mail: harris@scdah.state.sc.us

Homepage: <http://scdah.sc.gov>

Records management: <https://scdah.sc.gov/records-management>

S.C. State Government

Homepage: <http://www.sc.gov>

State government agencies and resources:

<https://www.sc.gov/government>

S.C. Secretary of State's Office

1205 Pendleton Street, Suite 525
Columbia, SC 29201
(803) 734-2170

<http://www.scsos.com>

S.C. State Legislature

Homepage: <http://www.scstatehouse.gov>

Search current and archived legislation:

<http://www.scstatehouse.gov/legislation.php>

Index

A

Agendas

- Amending of, 10
- Consent Agenda, 10
- Distribution of, 11
- Policy Agenda, 10
- Preparation of, 6, 9-10, 14, 18
- Records, 20-21

Americans with Disabilities Act, 13, 16

Annual Comprehensive Financial Report, 38

Annual Reports, 38

Audit, 3, 21, 36, 37-38

B

Bellamy v. Brown, 8

Boards and Commissions

- Appointment, 4, 19, 32-34
- Authorized Expenses, 4
- Minutes, 34
- New Member Orientation, 34
- Recruitment, 33-34, 40-42
- Sample Application Form, 40-42

Bond Coverage, 32

Budget

- Approval, 3, 35-37
- Calendar, 37
- Capital Budget, 12, 35
- Operating Budget, 12, 35
- Ordinance, 3, 35, 36, 37
- Process, 3, 12, 35-37
- Public Hearing, Notice Requirement, 12, 35-36, 37
- Records, 21

C

Capital Budget, 12, 35

Chief Administrative Officer (CAO), 5, 10, 11, 13, 18, 19, 21, 27, 29, 34, 35, 36, 37, 38

Clerk of Court, 5, 6, 32

Clerk to Council

- Appointment, 4
- Certification Program, 45-46
- General Duties and Responsibilities, 1, 4, 5-6
- Qualifications, 6-7
- Relationship with Council, 5

Codification, 6, 19

College of Charleston

- Joseph P. Riley Jr. Center, 29, 45, 46

Conflict of Interest, 22-23, 41

Consent Agenda, 10

Councils of Governments, 32

County Attorney, 8, 11, 18, 19, 22, 25, 34, 35

County Council

- Council Member Records, 32
- Council Meetings (*See Meetings*)
- New Member Orientation, 27-28
- Oath of Office, 6, 29, 31

E

Ethics, 4, 22-26, 27, 28, 34, 45

Executive Sessions, 5, 8, 9, 11, 12, 13, 14, 15, 28

F

Federal Privacy Act of 1974, 21

Fiscal Year, 3, 35, 36, 37, 38

Forms

- Boards and Commissions, Sample Application, 40-42
 - Clerks to Council Code of Ethics, 26
 - Oath Form for County and State Officers, 31
 - Planning and Zoning Education Forms, 43-44
- Forms of County Government, 1-2, 4, 5, 28, 35
- Changing the Form of Government, 2, 4
- Freedom of Information Act, 5, 8, 9, 10, 11, 13, 17, 19, 20, 27, 28, 34

Freedom of Information Handbook for County Government, 19

H

A Handbook for County Government in South Carolina, 1, 7, 27, 35, 38, 40

Health Insurance Portability and Accountability Act, 21

Home Rule, 2, 7, 8, 10, 17, 28

Home Rule Handbook for County Government, 7

Human Resources, 28, 38

I

Institute of Government for County Officials

- Certification, 29-30
- Course Credit and Graduation, 30
- Registration and Recordkeeping, 30

L

Lambries v. Saluda County Council, 10

Local Government Law of 1975, 7, 8, 28

M

Meetings

- Agendas, 6, 9-11, 14, 18, 20
- Executive Sessions, 5, 8, 9, 12, 13, 15, 28
- Implementing Council Action, 6, 19, 33
- Motions, 10, 12, 14-16, 18
- Notice, 3, 5, 8, 9, 10, 12, 13, 17, 19, 24, 30, 33, 35-37
- Participation via Technology, 13
- Public Hearings, 3, 5, 11, 12, 13, 35-36
- Recording of, 6, 13, 16, 20
- Records, 6, 8, 18, 20, 21
- Regular Meetings, 8, 9, 11, 17
- Rules of Procedure, 10, 13, 14
- Special Meetings, 6, 9, 11, 16, 17
- Work Sessions, 8, 17, 36, 37

Minutes

- Board and Commission Meetings, 34
- Content, 17-18
- Council Approval, 17-18
- Distribution, 6, 18
- Public Inspection, 5, 6, 18, 20
- Retention, 6, 18, 21
- Model Rules of Parliamentary Procedure*, 14-16
- Motions, 14-16

O

- Oath of Office, 6, 29, 31
- Operating Budget, 12, 35
- Ordinances, 3, 5, 6, 8, 10, 11, 12, 13, 16, 17, 19, 21, 28, 33, 34, 35, 36, 37

Orientation

- Board and Commission Members, 34-35
- Council Members, 27-28, 36

P

- Planning and Zoning Education Records, 6, 38-39, 43-44
- Policy Agenda, 10
- Powers of Counties, 2, 3, 4
- Preclearance, 4, 19
- Public Hearings, 3, 5, 11, 12, 13, 35-36
- Public Records, 5, 6, 8, 17, 18, 20-21, 24, 39

R

- Records Retention, 18, 21, 39
 - General Records Retention Schedules for County Records*, 21
 - Legal Custodian, 21
 - Records Officer, 21
- Register of Deeds, 19
- Regular Meetings, 8, 9, 11, 17
- Resolutions, 8, 9, 10, 11, 17, 21
- Rules of Procedure, 10, 13-14

S

- Shelby County v. Holder*, 4, 19
- S.C. Association of Counties, 1, 7, 10, 16, 27, 28, 29, 30, 32, 38, 39, 46, 48
- S.C. Clerks to Council Association, 25, 26, 45-46
- S.C. Department of Archives and History, 21, 48
- S.C. State Ethics, Government Accountability, and Campaign Reform Act, 27, 34
- S.C. Identity Act of 2008, 21
- S.C. Local Government Planning Enabling Act, 38
- S.C. Planning Education Advisory Committee, 38, 39, 43-44
- S.C. Public Records Act, 21
- S.C. Secretary of State, 29, 31, 32, 48
- S.C. State Ethics Commission, 23, 24, 25, 48
- S.C. State Government Website, 48
- S.C. State Legislature Website, 48
- S.C. State Treasurer, 38
- Special Meetings, 6, 9, 11, 16, 17
- Statement of Economic Interests, 23-24, 25, 29

U-W

- U.S. Department of Justice, 4, 16, 19
- Voting Laws and Procedures, 4
- Work Sessions, 8, 17, 36, 37