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# **HOME RULE HANDBOOK FOR COUNTY GOVERNMENT**

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2025 SUPPLEMENT

**File with the 2024 Home Rule Handbook  
for County Government**



**SOUTH CAROLINA  
ASSOCIATION OF COUNTIES**

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## PREFACE

This Supplement should be stored with the *2024 Home Rule Handbook for County Government*. Any time the *Home Rule Handbook for County Government* main volume is consulted, this supplement must be checked for statutory amendments, case law, and Attorney General opinions interpreting the statutes, which were issued after the main volume was published.

This publication is not designed to be the final word on the law affecting county government structure and operations. The case notes, cross-references, and summaries of Attorney General opinions are not a complete source of the law which may affect the answer to a question you may have. It is important to consult your county attorney when you have a question regarding the law.

This publication is intended to give you a readily available reference to begin your search for information. Should you need assistance, the South Carolina Association of Counties staff is available to help all county officials and employees with any questions which might arise regarding the Home Rule Act or any other matter which affects county government. Whether the question involves a legal interpretation, research, or proposed legislation, the staff is here to serve the counties of our state.

You may call the SCAC office at 1-800-922-6081 or email us at [scac@scac.sc](mailto:scac@scac.sc).

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# PART I

## PROVISIONS THAT APPLY TO ALL FORMS OF GOVERNMENT

### ARTICLE 1: GENERAL PROVISIONS

#### P. 28 SECTION 4-9-30(7): Specific Powers Granted

##### CASE NOTES

The defendants, including the sheriff and deputies, argue that they are not "agents" of Chester County, but rather employees of the state. They claim the sheriff's office operates independently from county government, meaning deputies are accountable only to the sheriff. They reference several South Carolina cases asserting that sheriffs are state employees, such as *Allen v. Fidelity & Deposit Co.* and *Heath v. County of Aiken* (agreeing that sheriffs' deputies were not "county employees" for purposes of [Section 4-9-30\(7\)](#)'s personnel policies and grievance procedure). While they successfully argue that sheriffs and their deputies are state employees for some purposes, this does not address the broader term "agent" in 18 U.S.C. § 666, which refers to anyone authorized to act on behalf of another entity. The defendants also contend that insufficient evidence was presented regarding the \$10,000 requirement in federal benefits under § 666. However, the Chester County Treasurer testified that the county received approximately \$370,000 in federal grants in 2017 for essential services, which satisfied this requirement. *United States v. Underwood*, 95 F.4th 877 (Ct. App.2024).

##### ATTORNEY GENERAL'S OPINIONS

Sumter County is considering funding for private roads through a special tax district. According to the South Carolina Constitution, counties can impose varying tax rates based on the services they provide ([S.C. Const., art. VIII, § 7](#)). While Sumter County can create a tax district for road construction and maintenance ([Section 4-9-30\(7\)](#)), public funds cannot be used for private roads, as they do not serve a public purpose. Taxes from a special tax district are public funds, collected from certain residents for specific purposes. Therefore, while the county may create the district to fund roads, it cannot levy taxes for private road maintenance. If the roads are public, the county's public works department can construct and maintain them, with reimbursement from the tax district. ([Op. S.C. Att'y Gen., dated April 30, 2024](#))

#### P. 60 SECTION 4-9-35: County Public Library Systems

##### ATTORNEY GENERAL'S OPINIONS

The Charleston County Council established the Charleston County Library system and the Library Board of Trustees to oversee it, as outlined in Charleston County Code § 12. The board's structure,

trustee terms, and operational rules align with [Sections 4-9-35, 4-9-36 and 4-9-37](#), granting them the powers to employ a chief librarian, manage property transactions, and handle donations. These responsibilities are exercises of state-derived authority for public benefit, which categorizes board members as public officials. This aligns with prior opinions confirming that county library board members hold public office. Consequently, members of the Charleston County Public Library Board of Trustees are officers within the meaning of [Article VI, Section 4 of the South Carolina Constitution](#). They are therefore required to take the oath of office prescribed in [Article VI, Section 5 of the South Carolina Constitution](#). *Op. S.C. Att’y Gen.*, dated February 13, 2025.

## **P. 67 SECTION 4-9-40: Providing Services Within Municipalities**

### **ATTORNEY GENERAL’S OPINIONS**

Hampton County charges the municipality of Varnville a monthly fee of \$1,687.50 to dispatch the Police & Fire Department (Section 23-47-10). The Constitution states that the state and its political subdivisions can share the costs and administration of functions with other governments. [Art. VIII, § 13](#); see also [Section 4-9-40](#). The South Carolina Revenue and Fiscal Affairs Authority (RFA) oversees 911 systems in the state and maintains that once a county submits an approved 911 plan, no municipality within that county can file a separate plan. Similarly, once a county adopts an RFA-approved ordinance under Section 23-47-40, a city cannot implement its own 911 charge. Section 23-47-20(B)(2) specifies that public safety agencies providing emergency services within a 911 system must participate in the countywide system. While there are limitations on additional surcharges, counties and municipalities can still agree to provide supplemental funding for their 911 systems. However, without a cost-sharing agreement, it is unclear how a county could bill a municipality for 911 services. Furthermore, in South Carolina, municipalities can either operate their own jails, enter into agreements for joint facilities with other municipalities, or contract with the county to detain municipal inmates in a county detention facility. If a municipality operates its own jail, it is responsible for supervising and covering the associated costs. Alternatively, if it opts not to run its own jail, it can agree with the county to cover expenses related to detaining offenders, such as medical care, meals, and transportation. Given that municipal inmates are being housed at the county detention center, it suggests the municipality has chosen to enter into an agreement with the county and is being billed accordingly. *Op. S.C. Att’y Gen.*, dated January 3, 2025

## **P. 97 SECTION 4-9-120: Procedure for Adoption of Ordinances**

### **CASE NOTES**

DHD argued that Florence County's rules restricted its ability to adopt ordinances only during regular meetings, despite the authority granted in [Section 4-9-120](#). The Court disagreed, stating that statutory analysis should determine if the language is clear and unambiguous. [Section 4-9-120](#) does not prohibit introducing an ordinance at special meetings, and the Rules of Florence County Council do not expressly prohibit it either. While the rules allow for ordinance introduction at

regular meetings, this is permissive, not mandatory. Defendants noted a requirement that council members must be informed of the subjects discussed at special meetings, but no further limitations exist on legislative powers. Although it might be better practice to explicitly state that ordinances may be introduced at special meetings, the absence of such language does not invalidate the ordinance. Since there were no allegations that council members were uninformed about Florence County Ordinance No. 17-2021/22 prior to the special meeting, the Court finds the action lawful. Therefore, the Court deems the action lawful and grants Florence County's Motion for Summary Judgment. *DHD Jessamine, LLC v. Florence County*, US District Court, D. South Carolina, Florence Division, 2024 WL 4024697 dated September 3, 2024 (Slip copy).

**P. 98 SECTION 4-9-130: Public Hearings, Adoption of Standard Codes and Emergency Ordinances**

**ATTORNEY GENERAL'S OPINIONS**

[Section 6-1-80](#) implies that a public hearing is required before the Clarendon County School District adopts its proposed budget. If the county council and the school district board of trustees are unable to agree on the district's proposed budget or the millage levy, the county council can decline to approve the budget. A court giving effect to both [6-1-80](#) and [4-9-130](#) would likely find that each body must hold a public hearing prior to adopting the district budget. After Clarendon County Council receives a proposed budget from the school district, [Section 4-9-130\(1\)](#) requires the council to hold a public hearing, and, if it approves the budget, to adopt it by ordinance pursuant to [Sections 4-9-120](#) and [4-9-140](#). *Op. S.C. Att'y Gen., dated April 15, 2025*.

**P. 101 SECTION 4-9-140: Budgets, Appropriations and Taxes**

**ATTORNEY GENERAL'S OPINIONS**

[Section 6-1-80](#) implies that a public hearing is required before the Clarendon County School District adopts its proposed budget. If the county council and the school district board of trustees are unable to agree on the district's proposed budget or the millage levy, the county council can decline to approve the budget. A court giving effect to both [6-1-80](#) and [4-9-130](#) would likely find that each body must hold a public hearing prior to adopting the district budget. After Clarendon County Council receives a proposed budget from the school district, [Section 4-9-130\(1\)](#) requires the council to hold a public hearing, and, if it approves the budget, to adopt it by ordinance pursuant to [Sections 4-9-120](#) and [4-9-140](#). *Op. S.C. Att'y Gen., dated April 15, 2025*.

## **P. 105 SECTION 4-9-145: Code Enforcement Officers**

### **ATTORNEY GENERAL'S OPINIONS**

According to [Section 4-9-145](#), a code enforcement officer is considered a public officer exercising sovereign power (*Op. S.C. Att'y Gen., dated March 12, 2012*). In line with this statute, the governing body of the county may appoint and commission as many code enforcement officers as necessary for the security, general welfare, and convenience of the county. Commissioned code enforcement officers are not authorized to make custodial arrests; however, they have the power to issue ordinance summonses to cite violations of the county's ordinances, as outlined in [Section 56-7-80](#). These officers are regarded as law enforcement officers with limited powers, specifically the authority to issue ordinance summonses. It is concluded that there is no statute preventing code enforcement officers from prosecuting ordinance violations in Magistrate Court. The South Carolina Supreme Court is likely to permit such prosecutions, as these officers act in the community's best interests and are sworn to uphold the law. However, only the Court can definitively determine if this activity constitutes the unauthorized practice of law. The Attorney General recommends seeking clarification from the Court for a final ruling. (*Op. S.C. Att'y Gen., dated July 22, 2025*).

## **ARTICLE 13: INITIATIVE AND REFERENDUM**

### **P. 120 SECTION 4-9-1210: Referendum Initiated by the Public**

[Section 4-9-1210](#) of the South Carolina Code gives electors the authority to petition their county council to enact an ordinance and requires the signatures of at least 15% of the qualified electors of the county. If the county council either fails to pass the ordinance as presented by the electors or passes the ordinance in a form that is substantially different than the ordinance proposed by the electors, the county council must submit the ordinance to the electors “not less than thirty days nor more than one year from the date the council takes its final vote thereon.” [Section 4-9-1230](#). The only circumstance under which a county council can refuse to place the proposed ordinance on the ballot after it refuses to enact it is if the ordinance violates constitutional or statutory law. Barring such a violation, we do not find any authority by which a county council can “block” an ordinance from appearing on the ballot should it fail to adopt it. (*Op. S.C. Att'y Gen., dated Feb. 26, 2024*).

### **P. 124 SECTION 4-9-1230: Election Required When Council Fails to Act**

[Section 4-9-1210](#) of the South Carolina Code gives electors the authority to petition their county council to enact an ordinance and requires the signatures of at least 15% of the qualified electors of the county. If the county council either fails to pass the ordinance as presented by the electors or passes the ordinance in a form that is substantially different than the ordinance proposed by the electors, the county council must submit the ordinance to the electors “not less than thirty days nor more than one year from the date the council takes its final vote thereon.” [Section 4-9-1230](#). The

only circumstance under which a county council can refuse to place the proposed ordinance on the ballot after it refuses to enact it is if the ordinance violates constitutional or statutory law. Barring such a violation, we do not find any authority by which a county council can “block” an ordinance from appearing on the ballot should it fail to adopt it. [Op. S.C. Att’y Gen., dated Feb. 26, 2024.](#)