

BARNWELL CITY CODE

Chapter 2

ADMINISTRATION*

* **State Law References:** Powers conferred upon municipalities, S.C. Code 1976, § 5-7-30; general structure and functions of all municipalities, S.C. Code 1976, § 5-7-10 et seq.; municipal powers vested in council, S.C. Code 1976, § 5-7-160; local fee imposition limitations, S.C. Code 1976, § 6-1-330.

Article I. In General

- Sec. 2-1. Form of government.
- Sec. 2-2. Composition of council, terms.
- Sec. 2-3. Compensation, increases, actual expenses.
- Sec. 2-4. Mayor pro tempore, duties.
- Sec. 2-5. Oath of office required.
- Sec. 2-6. Ordinance.
- Sec. 2-7. Enacting clause of ordinances.
- Sec. 2-8. Ordinances required.
- Sec. 2-9. Emergency ordinances.
- Sec. 2-10. Codification of ordinances, standard codes.
- Sec. 2-11. Notice required for franchises, etc.
- Sec. 2-12. Form of ordinances, introduced in writing.
- Sec. 2-13. Introduction of ordinances, public inspection.
- Sec. 2-14. Original ordinance to be entered in book.
- Sec. 2-15. Notation of amending or repealing ordinances.
- Sec. 2-16. Enactment of ordinances, six days between readings.
- Sec. 2-17. Introduction of resolutions.
- Sec. 2-18. Adoption of resolutions.
- Sec. 2-19. State of emergency; emergency powers of the mayor.
- Secs. 2-20--2-41. Reserved.

Article II. Meetings of Council

- Sec. 2-42. Time of regular meetings, special meetings, open to public.
- Sec. 2-43. Agenda.
- Sec. 2-44. Minutes of council meetings.
- Sec. 2-45. Quorum, rules of order, parliamentary.
- Sec. 2-46. Unlawful to interrupt meetings.
- Sec. 2-47. Order of proceedings of council.
- Sec. 2-48. Appearance of citizens.
- Sec. 2-49. Voting, mayor may vote.
- Sec. 2-50. How often members may speak.
- Sec. 2-51. Reasons for voting may be recorded.
- Sec. 2-52. Interested member or mayor not to vote.
- Sec. 2-53. Mayor to preside; when mayor and mayor pro tempore absent.
- Sec. 2-54. Executive sessions.
- Sec. 2-55. Council committees.
- Sec. 2-56. Order of committee reports.
- Sec. 2-57. When motions to be in writing.
- Sec. 2-58. Motions not debatable.
- Sec. 2-59. Precedence of motions during debate.
- Sec. 2-60. Motions to reconsider.
- Secs. 2-61--2-78. Reserved.

BARNWELL CITY CODE

Article III. Officers and Employees

- Sec. 2-79. Enforcement of ordinances, laws, etc.
- Sec. 2-80. Right of entry.
- Sec. 2-81. Resisting or interfering with officers or employees.
- Sec. 2-82. Employment at will as general policy; conditions for exception.
- Secs. 2-83--2-107. Reserved.

Article IV. Municipal Clerk-Treasurer

- Sec. 2-108. Appointment; tenure.
- Sec. 2-109. Bond.
- Sec. 2-110. Duties.
- Secs. 2-111--2-133. Reserved.

Article V. Municipal Attorney

- Sec. 2-134. Appointment; tenure.
- Sec. 2-135. Duties.
- Sec. 2-136. Compensation.
- Secs. 2-137--2-155. Reserved.

Article VI. Administrator

- Sec. 2-156. Office created.
- Sec. 2-157. Authority.
- Sec. 2-158. Absence or disability.
- Sec. 2-159. Faithful performance bond required.
- Secs. 2-160--2-186. Reserved.

Article VII. Planning Commission

- Sec. 2-187. Established.
- Sec. 2-188. Composition of commission.
- Sec. 2-189. Compensation.
- Sec. 2-190. Removal of members.
- Sec. 2-191. Organizations and rules of procedure.
- Sec. 2-192. Public hearings.
- Secs. 2-193--2-222. Reserved.

Article VIII. Budget and Finance

- Sec. 2-223. Fiscal year.
- Sec. 2-224. Budget and accounting year.
- Sec. 2-225. Departments to submit budget, administrator to administer.
- Sec. 2-226. Budget, capital projects to be prepared.
- Sec. 2-227. Budget summary.
- Sec. 2-228. Contingent expenses.
- Sec. 2-229. Budget for utilities.
- Sec. 2-230. Public hearing on budget.
- Sec. 2-231. Budget open for inspection.
- Sec. 2-232. Certification, filing.
- Sec. 2-233. Failure to adopt a budget by ordinance.
- Sec. 2-234. Appropriations.
- Sec. 2-235. Appropriations shall lapse.
- Sec. 2-236. Emergency appropriations.
- Sec. 2-237. Tax levy to be stated in budget, clerk to notify county.
- Sec. 2-238. Regular financial reports.
- Sec. 2-239. Disbursement to be by check, signatures.
- Sec. 2-240. Returned checks.
- Sec. 2-241. Audit.
- Sec. 2-242. Borrowing in anticipation of collection of taxes.
- Sec. 2-243. Payment of notes.
- Sec. 2-244. Administrative fee for debt collection.
- Secs. 2-245--2-266. Reserved.

BARNWELL CITY CODE

Article IX. Purchasing

- Sec. 2-267. Purchasing agent; specified duties.
- Sec. 2-268. Formal contract procedure.
- Sec. 2-269. Competitive bidding; when required.
- Sec. 2-270. Award to lowest bidder; advertising, when required.
- Sec. 2-271. Bid deposits.
- Sec. 2-272. Sealed bid procedures.
- Sec. 2-273. Materials testing.
- Sec. 2-274. Financial interest of city officials and employees prohibited.
- Sec. 2-275. Record of open market orders and bids.
- Sec. 2-276. Stock reports.
- Sec. 2-277. Surplus stock.
- Sec. 2-278. Supplies unsuitable for public use, sale or exchange.
- Sec. 2-279. Gifts and rebates.
- Sec. 2-280. Cooperative purchasing.

BARNWELL CITY CODE

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ARTICLE I. IN GENERAL

Sec. 2-1. Form of government.

Pursuant to the 1976 South Carolina Code of Laws, the city form of government shall be the council form.

(Code 1989, § 2.101; Ord. No. 3-8-76, 4-7-1986)

State Law References: Council form of government, S.C. Code 1976, § 5-11-10 et seq.

Sec. 2-2. Composition of council, terms.

(a) The council shall be composed of a mayor and six members, all of whom shall be residents and qualified electors of the municipality.

(b) The mayor and each member of council shall be elected for a term of four years, with council terms being staggered so that one-half of the membership shall be elected every two years, commencing January 1 of the year in which they are elected.

(Code 1989, § 2.102; Ord. No. 3-8-76, 4-7-1986; Ord. No. 95-1, 6-5-1995; Ord. No. 2015-3, 4-6-2015)

Sec. 2-3. Compensation, increases, actual expenses.

(a) The mayor and councilmembers shall be paid an annual salary, special compensation, and benefits in such amounts and term as established from time to time by ordinance, subject to state law requirements.

(b) Increases in compensation shall not become effective until the commencement date of the terms of two or more members elected at the next general election, following the adoption of the ordinance from which this section is derived, at which time it will become effective for all members whether or not they were elected in such election.

(c) The mayor and members of council may receive payment for actual expenses incurred in performance of their official duties when supported by official expense vouchers.

(Code 1989, § 2.104; Ord. No. 95-2, 8-7-1995; Ord. No. 98-8, 8-3-1998)

State Law References: Salaries and expenses of mayor and councilmembers, S.C. Code 1976, § 5-7-170.

Sec. 2-4. Mayor pro tempore, duties.

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

(Code 1989, § 2.105)

State Law References: Mayor pro tem, S.C. Code 1976, § 5-7-190.

BARNWELL CITY CODE

§ 2-5

Sec. 2-5. Oath of office required.

The mayor and each member of council, before entering upon the duties of their respective offices, shall take the following oath, to wit:

"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 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."

"As mayor (councilman) of The City of Barnwell I will equally, fairly, and impartially, to the best of my ability and skill, exercise the trust reposed in me, and I will use my best endeavors to preserve the peace and carry into effect according to law the purposes for which I have been elected. So help me, God."

(Code 1989, § 2.106)

Sec. 2-6. Ordinance.

It shall be the duty of the council to pass, from time to time, such ordinances as in its judgment shall best promote the interests of the citizens and property owners of the city.

(Code 1989, § 2.107)

Sec. 2-7. Enacting clause of ordinances.

The enacting clause of all ordinances shall be, in substance, as follows: "Be it ordained by the council of The City of Barnwell, South Carolina."

(Code 1989, § 2.108)

Sec. 2-8. Ordinances required.

- (a) The council shall act by ordinance in all matters required by law to be done by ordinance, in order to:
- (1) Adopt or amend an administrative code or establish, alter or abolish any department, office or agency;
 - (2) Provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violations;
 - (3) Appropriate funds and adopt a budget;
 - (4) Grant, renew or extend franchises, licenses or rights in public streets, or in public property and close abandoned streets;
 - (5) Authorize the borrowing of money or the issuance of bonds;

- (6) Levy taxes, assess property for improvements or establish charges for services;
- (7) Annex areas;
- (8) Sell or lease or contract to sell a lease any lands; and
- (9) Amend or repeal any ordinance described in subsections (a)(1) through (8) of this section.

(b) In all other matters, the council may act either by ordinance, resolution, or on motion, written or oral, which shall be recorded in the minutes.

(Code 1989, § 2.109)

Sec. 2-9. Emergency ordinances.

Emergency ordinances shall conform to the provisions of S.C. Code 1976, § 5-7-250(d) and section 2-16(c) hereof.

(Code 1989, § 2.110)

Sec. 2-10. Codification of ordinances, standard codes.

(a) All ordinances amending this Code and any other ordinances or portions of ordinances, as may be required by council, shall be codified and available for public inspection at reasonable times.

(b) Standard codes, technical regulations, business license ordinances and zoning ordinances may be cited in the code by reference and copies thereof shall be made available by the clerk for distribution or for purchase at a reasonable price.

(Code 1989, § 2.111)

Sec. 2-11. Notice required for franchises, etc.

Prior to the introduction of an ordinance granting a franchise, license or right for the use of any street or public property, or for the permanent closing of any abandoned street, the applicant for such ordinance shall publish a notice in a newspaper having general circulation in the municipality stating the nature of the franchise, license or right sought or a description of the street sought to be closed, and the date on which the application is to be presented to council which shall be at least one week after the last notice. This requirement shall not apply to the temporary closing of a public street initiated by council.

(Code 1989, § 2.112)

Sec. 2-12. Form of ordinances, introduced in writing.

Every proposed ordinance shall be numbered and shall be introduced in writing and in the form required for final adoption which shall include:

- (1) A title briefly describing the contents;
- (2) Findings, reasons or basis for the ordinance, if desired and when appropriate;

§ 2-12

- (3) An enacting clause;
- (4) A repealing provision, when appropriate;
- (5) The provisions of the ordinance including section numbers, when appropriate;
- (6) The effective date of the ordinance and dates of first and second readings and approval of the attorney as to form, when asked.

(Code 1989, § 2.113)

Sec. 2-13. Introduction of ordinances, public inspection.

An ordinance may be proposed by any member of council or the city administrator. A proposed ordinance shall be referred to the city attorney, when appropriate, for approval as to legality and form, and he shall render assistance in the preparation of ordinances when requested to do so. After an ordinance is in proper form and the required notices have been given, the clerk shall hold the ordinance for public inspection. An ordinance shall be deemed to be introduced when, at a public meeting of council, its title is read, after appearance on an agenda.

(Code 1989, § 2.114)

Sec. 2-14. Original ordinance to be entered in book.

The clerk shall enter in an ordinance book the original copy of all ordinances passed by the council. The book shall be known as the "ordinance book" and it shall be indexed.

(Code 1989, § 2.115)

Sec. 2-15. Notation of amending or repealing ordinances.

The clerk shall write on the first page of every ordinance, subsequent to entry in the ordinance book, if the same shall be amended or repealed, as the case may be, the words "amended," or "repealed" with a reference on the ordinance in the ordinance book as to where the amending or repealing ordinance can be found.

(Code 1989, § 2.116)

Sec. 2-16. Enactment of ordinances, six days between readings.

(a) An ordinance to levy a tax, adopt a budget, appropriate funds, grant a franchise, license or right to use or occupy a public street or public property for commercial purposes shall be complete in the form in which it is finally passed, and in such form remain on file with the clerk for public inspection at least six days before final adoption.

(b) No ordinance shall be adopted until it shall have been read two times and on two separate days with at least six days between each reading.

(c) Emergency ordinances may be adopted on one reading, without notice or hearing, by affirmative vote of two-thirds of the members present. An emergency ordinance may not levy taxes, relate to a franchise or

a service rate and shall expire automatically on the 61st day following its enactment.

(d) The introduction and reading of any ordinance may be by the reading of the title only unless full reading is requested by a member of council.

(e) After the introduction of an ordinance, any member of council or any city citizen-taxpayer interested therein may request a public hearing which shall be held at a time designated by the council prior to final adoption.

(f) Upon final adoption, by majority vote of council, an ordinance shall be signed by the mayor, or presiding member in the absence of the mayor, and attested by the clerk.

(Code 1989, § 2.117)

Sec. 2-17. Introduction of resolutions.

A voice motion by a member of council shall be considered to be the introduction of an oral resolution which shall require no written record other than a notation by the clerk in the council minutes. However, a resolution proposed in writing shall be introduced in the same manner as an ordinance and in such form as may be recommended as applicable by the city attorney, when appropriate.

(Code 1989, § 2.118)

Sec. 2-18. Adoption of resolutions.

Written or oral resolutions may be adopted on one reading unless a public hearing is set by a majority of the members of council present.

(Code 1989, § 2.119)

Sec. 2-19. State of emergency; emergency powers of the mayor.

(a) A state of emergency shall be deemed to exist whenever, during times of great public crises, disaster, rioting, civil disturbances, catastrophe, or for any other reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety, health, welfare or property.

(b) In the event of a state of emergency threatening or endangering the lives, safety, health and welfare of the citizenry or threatening damage to or destruction of property, the mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order more effectively to protect lives, safety and property, to define and impose a curfew applicable to all persons within the jurisdiction of the council.

(c) The mayor is further authorized and empowered to limit the application of such a curfew to any area specifically designated and described within the jurisdiction of the council and to specific hours of the day or night and to exempt from the curfew policemen, firemen, doctors, nurses and such others as may be essential to the preservation of public order and immediately necessary to serve the needs of the people within the corporate limits.

(Code 1989, § 2.120)

Secs. 2-20--2-41. Reserved.

ARTICLE II. MEETINGS OF COUNCIL*

* **State Law References:** Council meets, rules of procedure, S.C. Code 1976, § 5-7-250.

Sec. 2-42. Time of regular meetings, special meetings, open to public.

(a) The regular meetings of council shall be held on the first Monday of each month at the city hall at 5:30 p.m. Meeting dates may be changed by a majority vote of members present at any regular or special meeting. Notice of all changed meetings and special meetings shall be given to all available members and the news media by the clerk.

(b) When a regularly scheduled meeting falls on a holiday, the meeting shall be held the following Monday.

(c) Special meetings shall be held whenever called by the mayor in cases of emergency or when, in his judgment, the good of the municipality requires it, or when a 24-hour notice is given in writing by four members of the council.

(d) All council meetings shall be open to the public, as required by the Freedom of Information Act of 1972, as amended.
(Code 1989, § 2.201)

Sec. 2-43. Agenda.

Matters to be considered by council at a regular meeting shall be placed on a written agenda and publicly posted at least 24 hours prior to the meeting. Matters not on the agenda may be considered upon request of a member unless at least two members object.
(Code 1989, § 2.202)

Sec. 2-44. Minutes of council meetings.

The clerk shall keep the minutes of all public meetings of the council which shall be a matter of permanent public record. At each regular council meeting, the minutes of the previous meeting shall be presented for approval. Minutes shall not be considered the official record of a meeting until approved by the council. Any member of council desiring to express a position in the minutes on a matter voted upon by council may do so by presenting the position in writing to council not later than the next regular meeting.
(Code 1989, § 2.203)

Sec. 2-45. Quorum, rules of order, parliamentarian.

(a) A majority of the council shall constitute a quorum for the conduct of business at any meeting.

(b) Except as otherwise provided by state law or this Code, all proceedings of council shall be governed by Robert's Rules of Order.

(c) The city attorney shall act as parliamentarian. In his absence, all questions of order shall be decided by the mayor or, in his absence, the presiding officer, without debate, subject to an appeal to the council.

(Code 1989, § 2.204)

Sec. 2-46. Unlawful to interrupt meetings.

It shall be unlawful for any person to interrupt the proceedings of council, the court or any other official body while in session.

(Code 1989, § 2.205)

Sec. 2-47. Order of proceedings of council.

The order of proceedings of council meetings may be substantially as follows:

- (1) Calling the roll.
- (2) Approval of the minutes.
- (3) Petitions and communications.
- (4) Reports of committees.
- (5) Old business.
- (6) New business.
- (7) Adjournment.

(Code 1989, § 2.206)

Sec. 2-48. Appearance of citizens.

Any citizen of the city shall be entitled to be placed on the agenda of any regular meeting with five days minimum notice before the meeting to discuss any municipal matter, with the exception of personnel matters. Persons desiring to be placed on the agenda shall notify the administrator stating the item he wishes to discuss prior to the meeting.

(Code 1989, § 2.207)

Sec. 2-49. Voting, mayor may vote.

(a) A show of hands or a voice vote shall be sufficient to record votes. During the voting, no member shall leave the council chamber, without permission of the presiding officer.

(b) All actions of council shall be by majority vote of the members present.

(c) The result of each vote on every question shall be recorded in the minutes by the clerk. The

"yeas" and "nays" on any question shall be recorded, when requested by any member.

(d) Every member of council, including the mayor, shall have one vote on every question, except when required to refrain from voting by state law.

(Code 1989, § 2.208)

Sec. 2-50. How often members may speak.

No member shall speak more than twice on the same question, except to explain his position, without concurrence of a majority of the council.

(Code 1989, § 2.209)

Sec. 2-51. Reasons for voting may be recorded.

Any member shall have his reasons for voting for or against any measure recorded in the minutes, at his request.

(Code 1989, § 2.210)

Sec. 2-52. Interested member or mayor not to vote.

Neither the mayor nor any member of council shall vote on any question of a private nature in which he is personally or pecuniarily interested.

(Code 1989, § 2.211)

Sec. 2-53. Mayor to preside; when mayor and mayor pro tempore absent.

The mayor shall preside at all council meetings, when present. In the absence of both the mayor and mayor pro tempore the duties of the mayor shall be performed by such member of the council as the council may designate.

(Code 1989, § 2.212)

Sec. 2-54. Executive sessions.

Council may hold executive sessions as permitted by the South Carolina Freedom of Information Act at such times and places as council may deem necessary and in the public interest.

(Code 1989, § 2.213)

Sec. 2-55. Council committees.

(a) To better facilitate the operation of city government, the mayor shall, as soon after the beginning of each term of office as possible, appoint members of council to the following standing committees:

- (1) Fire;
- (2) Police;
- (3) Finance and salary;

- (4) Sanitation and streets;
- (5) Recreation and parks;
- (6) Water and sewer;
- (7) Building and planning.

Membership on the salary committee shall change annually.

(b) The following committees shall be appointed by the members of council:

- (1) Building appeals board;
- (2) Jury commission;
- (3) Planning commission;
- (4) Board of zoning appeals; and
- (5) Recreation.

(c) Each committee shall have the responsibility to investigate and make recommendations to council concerning the matter within that committee's areas of responsibility. The area of responsibility of each committee shall be as determined by council at the beginning of each term.

(d) The mayor is further authorized to appoint special committees to be made up of persons within or without the city government as in his judgment may be needed.
(Code 1989, § 2.214; Ord. No. 96-1, 1-8-1996; Ord. No. 96-5, 4-1-1996)

Sec. 2-56. Order of committee reports.

Reports of committees shall be rendered as the presiding officer may determine.
(Code 1989, § 2.215)

Sec. 2-57. When motions to be in writing.

All motions shall be reduced to writing at the request of the mayor or any member of council.
(Code 1989, § 2.216)

Sec. 2-58. Motions not debatable.

The following motions shall be without debate to:

- (1) Adjourn;
- (2) Lay on the table;
- (3) Read any paper;
- (4) Take the yeas and nays for the previous question; and
- (5) Reconsider.

(Code 1989, § 2.217)

Sec. 2-59. Precedence of motions during debate.

(a) When a question is under debate, no motion shall be received except a motion to:

- (1) Adjourn;
- (2) Lay on the table;
- (3) The previous question;
- (4) Postpone to a certain day;
- (5) Commit, to amend or to postpone indefinitely.

(b) The motions in subsection (a) of this section shall have precedence in the order in which they are set forth.

(Code 1989, § 2.218)

Sec. 2-60. Motions to reconsider.

A motion to reconsider shall not be entertained unless it be made by a member of council who voted with the majority, and such motion shall be made only at the same or next succeeding meeting.

(Code 1989, § 2.219)

Secs. 2-61--2-78. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

Sec. 2-79. Enforcement of ordinances, laws, etc.

All officers and employees shall enforce obedience to all state statutes, provisions of this Code or any resolution, rules and regulations or orders issued thereunder by lawful authority by instituting such procedures as may be necessary to such enforcement.

(Code 1989, § 2.401)

Sec. 2-80. Right of entry.

Subject to lawful entry requirements, whenever any officer or employee is required to enter any premises or vehicle as authorized by statute, the provisions of this Code or any ordinance, resolution, rule, regulation or order issued thereunder, he shall have the right to enter any such premises or vehicle at any reasonable time.

(Code 1989, § 2.402)

Sec. 2-81. Resisting or interfering with officers or employees.

It shall be unlawful for any person to resist or interfere with any member of the police department, fire department or any other officer or employee in the discharge of his official duties.

(Code 1989, § 2.403)

Sec. 2-82. Employment at will as general policy; conditions for exception.

It is hereby declared to be the policy of the city that, notwithstanding any policies, memoranda, or handbooks promulgated by the city or any employment practices of the city:

- (1) All employees of the city are employed at-will and may resign or be discharged from employment at any time.
- (2) Only the city council shall have the right to enter into contracts for other than at-will employment on the city's behalf. Any contract for other than at-will employment must:
 - a. Be in writing;
 - b. Be executed by the city council;
 - c. Specify the duration of the employment; and
 - d. Specifically state that the contract is being created pursuant to the city council's authority under this section.

(Ord. No. 2005-4, § 1, 6-6-2005)

Secs. 2-83--2-107. Reserved.

ARTICLE IV. MUNICIPAL CLERK-TREASURER*

* **State Law References:** Appointment and duties of municipal clerk, S.C. Code 1976, § 5-7-220.

Sec. 2-108. Appointment; tenure.

The municipal clerk-treasurer shall be appointed by and serve at the pleasure of the council.
(Code 1989, § 2.501)

Sec. 2-109. Bond.

Before entering upon the duties of his office, the clerk-treasurer shall enter into bond in such sum as may be required by council with good and sufficient surety for the faithful performance of his duties. The fee therefor shall be paid by the municipality.
(Code 1989, § 2.502)

Sec. 2-110. Duties.

The clerk-treasurer and/or city administrator shall serve as ex officio clerk of council, give notice of meetings, prepare and post the agenda when required to do so, attend regular and special meetings, record votes of council, attest all ordinances and resolutions, keep minutes of council meetings and perform such other duties as may be assigned by council.
(Code 1989, § 2.503)

BARNWELL CITY CODE

§ 2-111

Secs. 2-111--2-133. Reserved.

ARTICLE V. MUNICIPAL ATTORNEY*

* **State Law References:** Municipal attorney, S.C. Code 1976, § 5-7-230.

Sec. 2-134. Appointment; tenure.

(a) The council may appoint a municipal attorney who shall be a lawyer of good and reputable standing.

(b) He shall hold office at the pleasure of council.

(c) He need not be a resident of the municipality.
(Code 1989, § 2.601)

Sec. 2-135. Duties.

(a) The attorney shall attend all meetings of council, unless excused by council. He shall act as parliamentarian. When requested to do so, he shall draft ordinances and resolutions and review all ordinances, resolutions and documents presented to council. He shall give opinions upon questions of municipal procedure, form and law to any member of council and other municipal officials, when requested.

(b) It also may be the duty of the attorney to prosecute all cases before the municipal court when a jury trial is demanded or the defendant is represented by an attorney.

(c) The attorney shall defend the municipality against all civil suits.
(Code 1989, § 2.602)

Sec. 2-136. Compensation.

The attorney shall be compensated as determined by council.
(Code 1989, § 2.603)

Secs. 2-137--2-155. Reserved.

ARTICLE VI. ADMINISTRATOR

Sec. 2-156. Office created.

The office of city administrator is hereby created.
(Code 1989, § 2.701)

Sec. 2-157. Authority.

The administrator shall direct the affairs of the city, subject to the direction and supervision of the city council.

(Code 1989, § 2.702)

Sec. 2-158. Absence or disability.

In the event of the temporary absence or disability of the administrator, the mayor may designate a qualified person to perform the duties of the administrator.

(Code 1989, § 2.703)

Sec. 2-159. Faithful performance bond required.

The administrator shall give bond in such amount as may be required by council with an approved surety company authorized to act as surety under the laws of the state, for the faithful performance of the duties of his office. The premium for such bond shall be paid by the city.

(Code 1989, § 2.704)

Secs. 2-160--2-186. Reserved.

ARTICLE VII. PLANNING COMMISSION

Sec. 2-187. Established.

There is hereby established a planning commission for the city, which shall have the powers and duties as provided in S.C. Code 1976, § 6-29-310 et seq.

(Ord. No. 96-1, § 1, 1-8-1996)

Sec. 2-188. Composition of commission.

(a) The planning commission shall consist of seven members appointed by the city council for terms of:

- (1) Two for three years;
- (2) Two for four years;
- (3) Three for five years.

(b) Members shall serve until their successors are appointed and qualified. No member of the planning commission shall be the holder of an elected public office in the city or the county.

(Ord. No. 96-1, § 2, 1-8-1996)

Sec. 2-189. Compensation.

Members of the planning commission shall serve without compensation. Reimbursement for actual expenses incurred in the performance of official duties may be reimbursed from budgeted funds pursuant to reimbursement policies and procedures for employees of the city.
(Ord. No. 96-1, § 3, 1-8-1996)

Sec. 2-190. Removal of members.

Members of the planning commission may be removed at any time by city council for cause. The existence of cause shall be discussed by the council in executive session as permitted by the Freedom of Information Act, S.C. Code 1976, § 30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.
(Ord. No. 96-1, § 4, 1-8-1996)

Sec. 2-191. Organizations and rules of procedure.

The planning commission shall organize, elect officers, and adopt rules of procedure as required by S.C. Code 1976, § 6-29-360.
(Ord. No. 96-1, § 5, 1-8-1996)

Sec. 2-192. Public hearings.

The city council shall hold all public hearings on amendments to the zoning ordinance and map pursuant to S.C. Code 1976, § 6-29-760(B).
(Ord. No. 96-1, § 6, 1-8-1996)

Secs. 2-193--2-222. Reserved.

ARTICLE VIII. BUDGET AND FINANCE

Sec. 2-223. Fiscal year.

The fiscal year shall begin on October 1 and shall end on the following September 30.
(Code 1989, § 8.101)

Sec. 2-224. Budget and accounting year.

The fiscal year also shall constitute the budget and accounting year.
(Code 1989, § 8.102)

Sec. 2-225. Departments to submit budget, administrator to administer.

Before the beginning of the budget year, the head of each department shall submit a proposed budget for the ensuing year to the administrator who shall administer the budget, when adopted. He may transfer funds within and between departments as necessary to achieve the goals of the budget.
(Code 1989, § 8.103; Ord. of 9-19-1988)

Sec. 2-226. Budget, capital projects to be prepared.

Each budget year, a budget shall be prepared by the city administrator prior to the new fiscal year. For such purpose, he shall obtain from the heads of each office or department, and in such detail as he may require, estimates of expenditures and such other supporting data as he may request, together with estimates of all capital projects pending or which such department head believes should be undertaken within the budget year and within the next five succeeding years.
(Code 1989, § 8.104)

Sec. 2-227. Budget summary.

The budget summary shall be in sufficient detail and summarized as to income and expenditures in such a manner as to present to taxpayers a simple and clear summary of the budget.
(Code 1989, § 8.105)

Sec. 2-228. Contingent expenses.

Separate provisions may be included in the budget for contingent expenses for the administration, operation and maintenance of the city.
(Code 1989, § 8.106)

Sec. 2-229. Budget for utilities.

The anticipated revenues and proposed expenditures of all utilities shall be stated in a separate section of the budget. All provisions relating to the preparation and administration of the general budget shall apply to the budget of the utility.
(Code 1989, § 8.107)

Sec. 2-230. Public hearing on budget.

The council shall determine a place and time for a public hearing on the budget and shall post a notice thereof which shall be not less than 15 days before the date of the hearing.
(Code 1989, § 8.108)

Sec. 2-231. Budget open for inspection.

Upon final adoption, the budget shall be in effect for the budget year and shall be a public record in the office of the city clerk, for public inspection during regular office hours.
(Code 1989, § 8.109)

Sec. 2-232. Certification, filing.

A permanent copy of the budget, as finally adopted, shall be filed in the office of the clerk.
(Code 1989, § 8.110)

Sec. 2-233. Failure to adopt a budget by ordinance.

Should the council fail to adopt a budget by ordinance for the next fiscal year, on or before its beginning, the budget as initially proposed to the council shall be effective until finally adopted.
(Code 1989, § 8.111)

Sec. 2-234. Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.
(Code 1989, § 8.112)

Sec. 2-235. Appropriations shall lapse.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.
(Code 1989, § 8.113)

Sec. 2-236. Emergency appropriations.

In the absence of unappropriated available revenues to meet emergency appropriations, the council may authorize by ordinance the issuance of notes, which may be renewed from time to time, but all such notes and renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made.
(Code 1989, § 8.114)

Sec. 2-237. Tax levy to be stated in budget, clerk to notify county.

(a) The council shall identify in the budget sources of anticipated revenue, including tax levy necessary to meet the financial requirements of the budgets.

(b) It shall be the duty of the clerk to notify the appropriate county officials of any change in the tax millage rates.
(Code 1989, § 8.115)

Sec. 2-238. Regular financial reports.

The clerk shall furnish to the council such financial statements of all receipts and disbursements as the council may require.
(Code 1989, § 8.116)

Sec. 2-239. Disbursement to be by check, signatures.

All disbursement shall be by check and signed by the administrator and clerk-treasurer, and by such other personnel as designated by the council.

(Code 1989, § 8.117)

Sec. 2-240. Returned checks.

All dishonored checks, drafts, or written orders, payable to the city and redeemed by the maker shall have added to the principal sum a service charge in the maximum amount allowed by S.C. Code 1976, § 34-11-70 or any successor state laws or provisions thereof.

(Code 1989, § 8.118; Ord. No. 91-2, 8-5-1991)

Sec. 2-241. Audit.

Prior to the end of each fiscal year, the council shall designate a qualified certified public accountant who, at the end of the fiscal year, shall make an independent audit of the accounts and other evidence of financial transactions of the municipality and shall submit a report to the council. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the municipality or of any of its officers. He shall, within specifications approve by council, post-audit the books and documents kept by any office, department, board or agency of the municipality.

(Code 1989, § 8.119)

Sec. 2-242. Borrowing in anticipation of collection of taxes.

The council may, during each calendar year, borrow money for its current expenses and pledge for the payment of any moneys so borrowed the taxes becoming payable during such calendar year.

(Code 1989, § 8.120)

Sec. 2-243. Payment of notes.

The power and obligation of the council to pay notes issued by it pursuant to this article shall be unlimited, and the council may levy ad valorem taxes on all the taxable property within the corporate limits for the payment of such notes and interest thereon. The full faith and credit of the municipality shall be pledged for the payment of the principal and interest on any notes issued, pursuant to this article.

(Code 1989, § 8.121)

Sec. 2-244. Administrative fee for debt collection.

(a) The city hereby imposes an administrative fee in the amount of \$5.00 to defray its internal costs of collection for any delinquent debts that are sought to be collected pursuant to the provisions of the Setoff Debt Collection Act, S.C. Code 1976, § 12-56-10 et seq. This fee is hereby declared to be a collection cost that arises by operation of law and shall be added to the delinquent debt and recovered from the debtor.

(b) The city hereby declares that the administrative fee charged by the Municipal Association of South Carolina is also a collection cost to the city, which shall also be added to the delinquent debt and

recovered from the debtor.
(Ord. No. 2006-6, 10-2-2006)

Secs. 2-245--2-266. Reserved.

ARTICLE IX. PURCHASING*

* **State Law References:** Political subdivisions required to adopt procurement laws, S.C. Code 1976, § 11-35-50; procurement and intergovernmental relations, S.C. Code Reg. 19-445.2155.

Sec. 2-267. Purchasing agent; specified duties.

The city administrator shall be the purchasing agent for the city. He shall be responsible for:

- (1) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the city government.
- (2) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the city government.
- (3) Establishing written specifications, whenever practicable, for supplies, materials, and equipment required by any office, department or agency of the city government. Such specifications shall be definite and certain and shall permit competition.
- (4) Maintaining, whenever practicable, a perpetual inventory record of all material, supplies or equipment stored in storerooms or warehouses.
- (5) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a bidders list. The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the city of who have failed to meet established specifications or delivery dates.
- (6) Obtaining as full and open competition as possible on all purchases, contracts and sales.
- (7) It is the policy to encourage qualified minority and women owned businesses to participate in available procurement opportunities.

(Code 1989, § 8.401; Ord. No. 2007-3, § 1, 7-2-2007; Ord. No. 2015-5 § 7, 8-3-2015)

Sec. 2-268. Formal contract procedure.

All supplies and contractual services, except as otherwise provided therein, when the estimated cost thereof shall exceed \$10,000.00, shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the requirements of this section. All sales of personal property which has become obsolete or unusable, when the estimated value shall exceed \$2,000.00, shall be sold by formal written contract or at a public auction to the

highest responsible bidder, after due notice inviting proposals and bidders.
(Code 1989, § 8.402; Ord. No. 2007-3, § 2, 7-2-2007)

Sec. 2-269. Competitive bidding; when required.

Before any purchases or contracts for supplies, materials, equipment or services exceeding \$1,000.00, are made, the purchasing agent shall give ample opportunity for competitive bidding. For purchases or contracts not exceeding \$10,000.00, oral bids may be accepted. All other bids shall be in writing. Competitive bidding shall be encouraged for all contracts, purchases or sales. However, in the event of an emergency affecting the public welfare, health or safety, the provisions of this section shall not apply. A full report of the circumstances of an emergency purchase shall be filled by the purchasing agent with the city council and shall be entered in the minutes of the council.
(Code 1989, § 8.403; Ord. No. 2007-3, § 2.1, 7-2-2007)

Sec. 2-270. Award to lowest bidder; advertising, when required.

All contract for city improvements, materials, equipment or services costing more than \$10,000.00 shall be awarded to the lowest responsible bidder after publication in a newspaper of general circulation in the city at least five days before the last day set for receipt of proposals, provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids.
(Code 1989, § 8.404; Ord. No. 2007-3, § 2.2, 7-2-2007)

Sec. 2-271. Bid deposits.

When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the purchasing agent has required such. A successful bidder shall forfeit any bid deposit required by the purchasing agent upon failure on his part to enter into a contract within ten days after the award; provided, however, that the city, in its uncontrolled discretion, may waive this forfeiture.
(Code 1989, § 8.405; Ord. No. 2007-3, § 2.3, 7-2-2007)

Sec. 2-272. Sealed bid procedures.

Procedures for sealed bids shall be as follows:

- (1) *Sealing.* Bids shall be submitted to the purchasing agent securely sealed in an envelope, and shall be identified on the envelope in accordance with bid instructions.
- (2) *Opening.* Bids shall be opened in public at the time and place stated in the public notice.
- (3) *Tabulation.* A tabulation of all bids received shall be available for public inspection.
- (4) *Rejection of bids.* The purchasing agent shall have the authority to reject all bids, parts of all bids, or all

SUPPLEMENT DATE 8-3-15

bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.

- (5) *Bidders in default to city.* The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license or other moneys due the city.
- (6) *Award of contract.* Contracts awarded as follows:
- a. *Authority in agent.* The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contracts in excess of \$10,000.00 shall not be awarded without prior approval of city council.
 - b. *Lowest responsible bidder.* Contracts shall be awarded to the lowest responsible bidder. In determining lowest responsible bidder, in addition to price, the purchasing agent shall consider:
 1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 4. The quality of performance of previous contracts or services;
 5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
 6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
 7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
 8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 9. The number and scope of conditions attached to the bid.
- (7) *Award to others than lowest bidder.* When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.
- (8) *Tie bids; local vendors.* If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agent shall award the contract to one of the outside tie bidders by drawing lots in

public. The purchasing agent, local bidders, and vendors should bear in mind, however that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality and service are not equal, is to give preference to one minute segment of the citizenry against the best interests of the community as a whole.

- (9) *Performance bonds.* The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the best interest of the city.
- (10) *Payment bond/labor and material bond.* The purchasing agent may require a payment bond and a labor and material bond, before entering into a contract, in such form and amount as he shall deem necessary to protect the best interest of the city.
- (11) *Protest.* An aggrieved bidder shall have 10 days to file with the City Council a protest of award by either the City Council or the Purchasing Agent. Said protest shall be heard by the City Council at its next regularly scheduled meeting or at such other time as may be scheduled by Council.

(Code 1989, § 8.406; Ord. No. 2007-3, § 2.4, 7-2-2007; Ord. No. 2015-2, § 11, 8-3-2015)

Sec. 2-273. Materials testing.

The purchasing agent shall have the authority to require chemical and physical test of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the city government or any outside laboratory.

(Code 1989, § 8.407; Ord. No. 2007-3, § 2.5, 7-2-2007)

Sec. 2-274. Financial interest of city officials and employees prohibited.

No member of the city council or any officer or employee of the city shall have a financial interest in any contract or in the sale to the city or to a contractor supplying the city of any land or rights or interests in any land, materials, supplies or services; except when a majority of the city council determines such exception in the best interest of the city, provided, that no councilman whose interest is involved shall vote on the questions. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge express or implied of the person or corporation contracting with the city shall render the contract voidable by the city administrator or the city council.

(Code 1989, § 8.408; Ord. No. 2007-3, § 3, 7-2-2007)

Sec. 2-275. Record of open market orders and bids.

The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

(Code 1989, § 8.409; Ord. No. 2007-3, § 4, 7-2-2007)

Sec. 2-276. Stock reports.

All offices, departments or agencies of the city government shall submit to the purchasing agent, at such times and in such format he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

(Code 1989, § 8.410; Ord. No. 2007-3, § 5, 7-2-2007)

Sec. 2-277. Surplus stock.

The purchasing agent shall have authority to transfer the surplus stock to other offices, departments or agencies of the city government.

(Code 1989, § 8.411; Ord. No. 2007-3, § 6, 7-2-2007)

Sec. 2-278. Supplies unsuitable for public use, sale or exchange.

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with section 2-268. All moneys received from such sales shall be paid into the appropriate fund of the city.

(Code 1989, § 8.412; Ord. No. 2007-3, § 7, 7-2-2007)

Sec. 2-279. Gifts and rebates.

The purchasing agent and every officer and employee of the city are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the city.

(Code 1989, § 8.413; Ord. No. 2007-3, § 8, 7-2-2007)

Sec. 2-280. Cooperative purchasing.

The purchasing agent shall have authority to join with other units of government in cooperative purchasing plans when the best interests of the city would be served thereby; provided, that the purchasing agent of the city is given the authority to make purchases of supplies and equipment through the property division of the state budget and control board, without the formality of publication and receiving competitive bids.

(Code 1989, § 8.414; Ord. No. 2007-3, § 9, 7-2-2007)