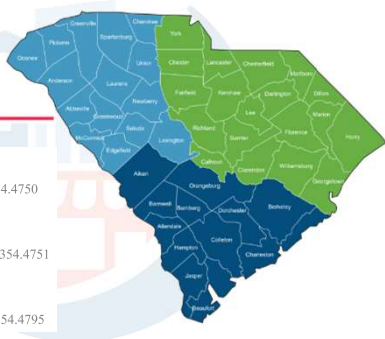




Forms and Powers of Municipal Government in S.C.


Charlie Barrineau, Field Services Manager
Municipal Association of South Carolina






MASC Municipal Association of South Carolina

- Jeff Shacker**
Field Services Manager
jshacker@masc.sc | 803.354.4750
- Charlie Barrineau**
Field Services Manager
cbarrineau@masc.sc | 803.354.4751
- Ashley Kellahan**
Field Services Manager
akellahan@masc.sc | 803.354.4795



Home Rule in S.C.

- 1967 Constitutional Study Committee
- Legislature approved recommendations of committee
- Proposed constitutional revisions approved by voters in 1972
- Among changes, Article VIII on local government added
- General Assembly approved Local Government Act of 1975
- "Home Rule Act" codified in Title 5 of S.C. Code of Laws



Home Rule in S.C.

- Municipalities are not sovereign bodies with inherent powers.
- The Home Rule Act established that cities and counties are political subdivisions of the state
- The General Assembly provides for the powers, duties, functions and responsibilities of municipalities by general law
- The state constitution prohibits local and special laws.
- The Act extensively broadened the powers of counties



Home Rule in S.C.

- The Act mandated that local government powers be construed liberally rather than strictly
- Municipalities exercise those powers:
 1. Delegated by state law
 2. Fairly implied from state law
 3. Not prohibited by state law
 4. Not inconsistent with the state constitution and state law.



Home Rule in S.C.

- All powers of a municipality are vested in the council, except as otherwise provided by law
- The council is the municipality for purposes of exercising the powers granted by state law (*Mason v. Williams*)



Establishment of FOGs

- ❑ The 1972 constitutional amendments allowed the General Assembly to approve five forms of municipal government
- ❑ However, the Home Rule Act only authorizes three forms:
 - Mayor-Council
 - Council
 - Council-Manager
- ❑ They also required the legislature to provide two or more optional procedures for framing and adopting municipal charters setting forth the organization, powers and functions of a particular municipality
- ❑ However, the General Assembly has never adopted a statute implementing this true “home rule” provision



What Distinguishes The FOGs

- ❑ The major difference is where the executive and administrative powers and responsibilities of the local government are vested
 - ❖ The legislative function resides with the council under all forms of municipal government
 - ❖ The performance of executive / administrative functions pursuant to state law or local ordinance is what differs between the forms.



Policy vs. Administration

- ❑ Two distinct areas of functional responsibility in local governments regardless of the form
 - 1) Policy
 - Policy = Council
 - The “What” and “Why” of issues
 - 2) Administration
 - Administration / Operations = Staff
 - The “How”, “When” and “Where” of issues



Municipal Government In S.C.

General Information

- 271 municipalities
- Most are very small (124 less than 1,000, 209 less than 5,000 and 233 less than 10,000 in population)
- Great variation in population and complexity of municipal governments

Three Authorized Forms

- Mayor-Council - 137 (89 under 1K, 3 over 25K)
- Council - 100 (33 under 1K, 3 over 25K)
- Council-Manager – 34 (1 under 1K, 10 over 25K)



Mayor-Council Form

General Information

- Most utilized form of municipal government in S.C. (137 of 271)
- Structure: Consists of the mayor and no fewer than 4 council members
- Often called the strong mayor form because the Mayor is granted by state law the right to exercise legislative as well as executive and administrative authority



Mayor-Council Form

Council Powers

- Serves as legislative body and makes policy
- Approves annual budget, which must be balanced
- Elects Mayor Pro-Tem
- Majority may call special meetings
- Appoints:
 - City Attorney
 - City Judge
 - Municipal Clerk



Mayor-Council Form

- Council Powers
 - May appoint an administrator to assist the mayor
 - Establishes departments and prescribes functions
 - May investigate departments
 - Establishes personnel policies
 - Has all powers not otherwise provided by law



Mayor-Council Form

- Mayor's Powers
 - Presides over council meetings by state statute
 - Acts and votes as member of council
 - Calls special meetings
 - Designates temporary judge
 - Prepares and reviews annual budget to council
 - Makes annual financial report to public and council



Mayor-Council Form

- Mayor's Powers
 - Acts as Chief Executive Officer
 - Hire and fires employees subject to city's HR policies
 - Supervises departments
 - Reports to council on operations of departments
 - Ensures faithful execution of laws



Council Form

General Information

- ❖ Second most used form of municipal government in S.C. (100 of 271 municipalities)
- ❖ Structure: 5, 7 or 9 members including mayor
- ❖ Sometimes called the weak mayor form which refers to the Mayor's lack of formal executive authority
- ❖ No separation of powers between the executive and the legislative functions
- ❖ Often called governance by committee because of shared powers



Council Form

Council Powers

- Exercises all legislative and administrative power
- Prepares and adopts a balanced annual budget
- Elects Mayor Pro-Tem
- Majority may call special meetings
- Appoints:
 - City Attorney
 - City Judge
 - Municipal Clerk
 - All Employees



Council Form

Council Powers

- Establishes all municipal policies
- May hire an administrator to assist council (define duties by ordinance)
- Establishes departments and prescribes functions
- May appoint officers to administer departments subject to council direction
- May investigate departments



Council Form

Mayor's Powers

- Presides at meetings of council by tradition not statute
- Calls special meetings
- Acts and votes as a member of council
- Designates temporary judge



Council Form

Mayor's Powers

- No formal authority under state law beyond that of serving as a member of council
- Performs administrative duties only if authorized by council
- May exercise "informal" authority as leader of council/staff and as spokesperson for the council



Council Form

CAO's Powers

- The chief administrative officer, if appointed by council, is called a City or Town Administrator
- The Administrator's powers are limited to those specifically delegated and prescribed by council
- The Administrator's authority may vary from city to city
- Council may appoint officers of the city, other than members of council, to administer departments.



Council-Manager Form

General Information

- ❖ Third most used form of municipal government in S.C. (34 of 271 municipalities)
- ❖ Structure: Mayor and 4, 6 or 7 council members
- ❖ Most utilized form nationally
- ❖ Conceived by the progressive movement
- ❖ Modeled after corporate management structure



Council-Manager Form

General Information

- ❖ The Council and Mayor are forbidden by law from interfering with the operation of the departments, offices and agencies under the direction of the manager
- ❖ No direct involvement in the hiring and firing of employees under the manager or directly dealing with or giving orders to those employees



Council-Manager Form

Council Powers

- Has all legislative and policy making authority
- Elects a Mayor Pro-Tem
- Must employ a manager - selected based on qualifications
- Appoints:
 - City Attorney
 - City Judge
- Appoints a temporary manager when necessary



Council-Manager Form

Council Powers

- Adopts a balanced annual budget
- Provides for annual audit
- Authorizes the issuance of debt
- Appoints boards
- Establishes departments and functions
- Investigates departments
- Adopts plats and official map



Council-Manager Form

Mayor's Powers

- Presides at meetings of council by tradition not statute
- Calls special meetings
- Acts and votes as a member of council
- Designates temporary judge



Council Form

Mayor's Powers

- No formal authority under state law beyond that of serving as a member of council
- Has no formal administrative powers
- May exercise "informal" authority as leader of council/staff and as spokesperson for the council



Council-Manager Form

City Manager's Powers

- The City Manager serves at the pleasure of council
- State statute defines the powers of the city manager
- The city manager serves as the chief executive officer and head of the administrative branch
- Empowered to appoint, remove and fix the salary of all employees



Council-Manager Form

City Manager's Powers

- Prepares, submits to council and, once approved, administers a balanced budget
- Prepares an annual financial report to council and advises council of the financial condition of the municipality
- Implements policies through administrative control of all departments, offices and agencies



Council-Manager Form

City Manager's Powers

- Appoints municipal clerk
- Recommends appointment to boards
- Advises council on the creation, change or abolition of departments
- Designates a temporary manager in his or her absence
- Performs any other duties prescribed by law or required by council

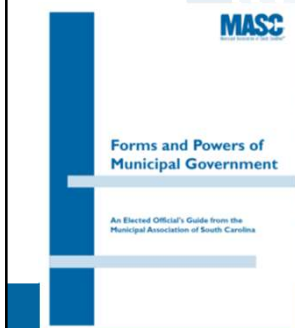


Change in Form of Government

- ❑ May only be implemented with approval of the voters via referendum
 - Ordinance Method
 - The municipal council calls for referendum by ordinance
 - Petition Method
 - Requires the signatures of at least 15% of the municipality's qualified electors
- ❑ Another referendum to consider a change in FOG may not be held for another 4-years following the vote



Resources



S.C. Code of Laws Title 5
Chapters 5,9,11,13

Municipal Association
of SC

www.masc.sc
Keyword: forms of government