

UPTOWN



a publication of the Municipal Association of South Carolina

Different Cities, Different Short-Term Rental Solutions

With companies like Airbnb and Vrbo establishing more short-term rentals, or STRs, in residential areas throughout South Carolina, many cities and towns have enacted regulations for these enterprises.

The regulatory framework often generates a huge amount of interest as it aims to balance the ability of property owners to rent spaces to overnight guests with the desires of neighbors concerned about the potential of STRs for disruption.

When cities craft STR ordinances, they do so in a way that meets their particular needs. An STR discussion that took place during Hometown Legislative Action Day brought together two mayors from opposite ends of the state — Mayor Stephen Murray of Beaufort and Mayor Robert Halfacre of Clemson. The STR concerns of a coastal city and those of a college city differ significantly, but both officials explained how their municipality’s planning processes led to an ordinance that suited the community.

Murray had two pieces of advice for his audience: those cities and towns that don’t have STR ordinances should start

working on one, and they should know that STRs can become a surprisingly contentious issue, with people expressing fear about the future of their neighborhood character.

In terms of what council action might attract the notice of residents, he said, “it will be crickets through the entire budget process, but mention short-term rentals or horse carriages or parking meters, and we’re going to have a packed house [in council chambers].”

Beaufort has a decades-long history of STR properties, but when the new online rental methods emerged, its council decided to get the process of making an ordinance started with a resident task force. Using an application process for membership, the city made certain it included some of those opposed to STR development, some of those in favor and some with a neutral position.

“We tasked them with looking into the state and national best practices, talking to neighbors to find out what they would accept and what they wouldn’t, going to the police department and pulling a call list for the operating short-term rentals,

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because there’s a lot of hyperbole around crime and litter [with STRs]. And in certain cases, that’s true, but for [Beaufort,] it’s typically retirees or families coming to see their folks graduate from Parris Island.”

Murray noted that traditional hotel operators felt that STRs created “an unfair playing field. They were collecting accommodations taxes, hospitality taxes, remitting them to the local government and to the state. It was generating this pot of marketing money that was driving people into the area. And we had all these short-term rental operators who were not complying and not paying into those funds. I thought that was unfair.”

Traditional property managers must also comply with a number of state regulations that STR owners and operators do not. From state licensure to the handling of renter deposits to rules on overbooking, the state regulations that traditional property managers face but them at a competitive disadvantage compared to STR owners and operators.

Beaufort’s finished ordinance established a STR cap — neighborhoods cannot have more than 6% of residential properties operate as STRs. Some exemptions to the cap apply, including vacant and abandoned properties being rehabilitated for use as an STR.

The law requires operators to have a business license, a STR license, and pay local and state accommodations taxes. STRs must have a local property manager, parking must be available and defined, and limitations on the number of guests and cars exist, determined by house type and number of bedrooms.

Beaufort manages compliance by using software to identify STRs being advertised without authorization. The city charges a \$1,000 fine for STRs being operated out of compliance.

The City of Clemson’s ordinance, also developed through public input, has property owners register their STRs, and then outlines the city’s requirements for STRs in areas like number of guests, parking and safety standards. For both Clemson and Beaufort, the city explains all the rules through their websites and informational packets.

The ultimate purpose of Clemson’s ordinance, Halfacre noted, is to provide for “what’s best for our residents, and to allow them to make some extra money, too.”

Halfacre stressed that every city has unique aspects that influence how STRs may develop, and therefore every city has unique regulatory needs.

“Every city is different. I grew up in Clemson, it’s evolved a lot,” he said. “Everybody always thinks of seven home football games. That’s what everybody comes to Clemson for, but not anymore,” he said. “[STR rentals] are being used for graduation from Clemson University. We have another university, Southern Wesleyan, and Tri-County Technical College in the area. We have other opportunities.”

Councilmember John Ducworth explained the evolution of Clemson’s approach to STRs. Recognizing that home football games are “an economic engine” for the area, the city defined STRs as properties rented for a period of no more than 25 days per year. Past that, property rentals are regulated differently. The logic is that seven home football weekends would equate to about 14 rental days per football season, with additional days to account for graduation weekends and some other events.

Debate about the best way to handle STRs continues at the General Assembly. The current bill H3253 would prohibit municipalities and other governing bodies from prohibiting STRs — a proposal also seen in previous sessions. The Municipal Association named protecting the authority of cities and towns to regulate STRs as one of its 2023 – 24 Advocacy Initiatives.

“This idea that the General Assembly would take away our ability to regulate short-term rentals in our jurisdictions is very scary to me,” Murray said. “I’m a proponent of short-term rentals, I think they have a place in all of our communities, but I also think they have to be regulated.”

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More Elected Officials Graduate From MEO, Advanced Institutes

NEWS BRIEFS

Jamie Helms, previously the assistant chief of professional services for the **Columbia Fire Department**, was named the new deputy director of the South Carolina State Firefighters' Association.

U-Haul's list of "growth cities" in the United States for 2022, as measured by moving truck rentals, includes **Myrtle Beach/North Myrtle Beach** at Number 7, and **Charleston/North Charleston** at Number 10. A new Conde Nast Traveler Readers' Choice Award announcement named **Charleston** the second most friendly city in the United States. **Port Royal**, meanwhile, was named as the most "underrated" city in South Carolina by the travel website Cheapism.

The **City of Columbia's** updated municipal flag, adopted in 2020, placed second in a Twitter-based voting competition of 80 municipal flags from across the nation, coming in only behind the flag of Lincoln, Nebraska.



The MEO Institute had 46 graduates in February. Not all are pictured.

During Hometown Legislative Action Day in on February 7, the Municipal Elected Officials Institute of Government and Advanced Institute together graduated 111 municipal elected officials, including 46 graduates of the MEO Institute and 65 graduates of the Advanced MEO Institute. Find press releases for all graduates from both programs at www.masc.sc (keyword: newsroom).

For decades the MEO Institute has worked to give elected officials the knowledge they need to help their municipalities operate responsibly, efficiently and effectively.

To graduate from the MEO Institute, officials must complete two daylong sessions and five other courses that they can take online or in person at any of several councils of governments area locations. The next in-person session, taking place on Tuesday, March 21, is "Basic Budgeting and Municipal Finance." The registration deadline is Monday, March 13.

Graduation from the Advanced MEO Institute requires completion of four of the six available courses. The institute offers in-person sessions every year in February and October. This fall's in-person session is an all-day event in October Columbia Marriott. The sessions are "Advanced Municipal Economic Development" or "Advanced Advocacy and Intergovernmental Relations." Registration opens In July.

The MEO Honor Roll recognizes the city and town councils that can count all members of their sitting council as graduates of the Municipal Association's MEO Institute. The municipalities receiving this recognition after the winter 2023 session are Arcadia Lakes, Atlantic Beach, Cheraw, Folly Beach, Greer, Hartsville, Inman, Jonesville, Moncks Corner, Newberry, Port Royal, Prosperity, Santee, Simpsonville, Surfside Beach, Walterboro and York.

Learn more about the MEO Institute and register for courses at www.masc.sc (keyword: MEO Institute).



The Advanced MEO Institute had 65 graduates.

Uptown: March 2023

A-Tax, H-Tax Funds Could Help Housing Affordability

by Scott Slatton, Director of Advocacy and Communications, Municipal Association of SC



South Carolina's workforce housing shortage is a well-chronicled problem that has proven difficult to solve. Housing that was once attainable for people working in the area where they live has been displaced by housing they cannot afford. Gentrification, conversion to short-term rentals and increasingly expensive real estate markets and construction costs have conspired to push workforce housing out of many cities and towns.

Despite these challenges, a number of efforts by state and local governments have sought to incentivize the development of workforce housing. South Carolina's Low Income Housing Tax Credit program has proven very popular with developers over the years. In FY 2022 the LIHTC program helped fund the development of 1,755 homes, according to the SC Housing Finance and Development Authority.

Municipal efforts to incentivize and develop workforce housing have been ongoing and will certainly remain a priority in the future.

Despite these successes, cities and towns still need more tools and flexibility to encourage developers to

build workforce housing. To that end, Lowcountry cities and towns worked with Sen. Tom Davis (R-Bluffton) to introduce S284. The bill seeks to add the development of workforce housing as an allowable use of state and local accommodations taxes and hospitality taxes.

A generation ago, the SC General Assembly enacted state and local accommodations taxes and the hospitality tax to fund the promotion of tourism and the economic development that comes with it. Cities and towns have used these taxes successfully to become tourist destinations and, in many cases, the permanent home of new residents. As these new residents seek homes in growing communities, they often displace the workers that the local tourism industry relies upon. To find attainable housing, tourism workers must move further away from their places of employment, which leads to a cascading set of other issues for them and their communities.

S284 would provide cities and towns with a reliable and flexible funding source to encourage workforce housing development for the very workers who are helping to sustain our state's

tourism economy. Potential uses of the funds could include land purchases, development credits, rent assistance and more. Bonding for long-term financing of projects is allowed in the bill.

The bill would not raise the taxes' rates nor would it displace any of the required or allowable spending already in state law. Regarding the state accommodations tax in particular, cities and towns must continue to fund tourism promotion and contract with a designated marketing organization. But like it does for the local accommodations and hospitality tax, the bill would add the development of workforce housing as an allowable use for the state accommodations tax.

Cities and towns across South Carolina are working hard to address the workforce housing shortage they all face. S284 offers local officials another flexible tool for them and their residents to use to help sustain a workforce that is vital to their economies.

Follow along with legislative action in the Association's From the Dome to Your Home weekly report at www.masc.sc (keyword: Dome) or with the Legislative Tracking System (keyword: legislative tracking).

Handling Nuisance Businesses



South Carolina law empowers municipalities to compel the closure of a business in cases where the business's operations harm or threaten the public's health, safety or welfare. Closing a business, however, comes with considerations ranging from public perception to the legal challenges of an appeals process. Sometimes city governments find success with efforts to communicate about the problems a business has created, stopping short of shuttering it outright. In December, a panel of municipal attorneys shared their experiences during the SC Municipal Attorneys Association Annual Meeting.

Several methods exist for closing nuisance businesses, including revoking the business license. The Municipal Association's model business license ordinance, available at www.masc.sc (keyword: standardization), provides for suspending or revoking the license of a business found to be a nuisance. Municipalities can also employ the "Abatement of Nuisances" law, found at SC Code Section 15-43-10, among other methods.

The panelists — Bob Coler, city attorney for Spartanburg; Jazmon Kearse, police advisor for the City of Columbia Police Department; and Jim Peterson, city attorney for Florence — described the types of businesses they have been involved in closing because of safety issues, typically bars and nightclubs.

Coler described the process the City of Spartanburg has used, beginning with a review of how many calls for police service for violent offenses a business has accumulated, a number he said is "often shocking" for those that the city pursues for closure.

Kearse described a similar process for Columbia — reviewing the number of citations or arrests for things like narcotics or gun violations, and comparing it to businesses of a similar size or business model. Columbia's ordinance allows the chief of police to declare a business to be a nuisance based on specific crime data, after which the business license is revoked. In these cases, the crime data for the business in question is a significant outlier, compared to its peers.

"We are able to show by just pulling all that information, that look, we've been here for these instances, these several times, so this is an issue," she said.

Seeking a closure is generally a final step, and the city will first send letters and have face-to-face meetings with business owners to alert them to the local government's concerns.

Coler noted that sometimes a problem comes out of a club that grows its customer base quickly, and finds itself with a crowded location with insufficient cameras, parking lot lighting, or panic bars installed on the back doors to keep armed patrons from sneaking in through unwatched doors. He said that Spartanburg has found success through encouraging business owners to purchase and use ID card readers, a precaution that can prevent violence.

"A lot of the people who cause problems in clubs don't want to leave a digital footprint," he said.

Specific and direct communication about the exact nature of the problem can help, whether it's something like too much activity at the business location after the time it is legally required to be closed, gun violence or assaults.

For the City of Florence, Peterson noted that relatively few businesses have gone all the way through the license revocation process because of the initial efforts for the city government to communicate with business owners.

"Before we ever start the process, we would contact the business and tell them that we were having problems," he said. "At that stage, we've had a few of them get really defensive and start saying, 'No, we're not going to do anything.' But most of them at that stage are just trying to resolve the problem."



Operating Vehicles Safely in an Emergency

A police cruiser can end up in a collision that becomes a significant insurance cost to its department when it's engaged in an eye-catching piece of police work, like giving pursuit to a fleeing vehicle. Even so, there are many other less exciting ways that a police vehicle can end up in a collision — rear-ended while performing a routine traffic stop, or even striking something on the way to an ordinary service call.

When officers respond to an emergency and activate their lights and sirens, they enter a situation that increases the risk of a collision. Part of this comes from navigating the vehicle in a way that differs from ordinary traffic rules, passing through red lights and traveling at greater speeds, but traffic conditions and weather are important factors as well.

Here are several considerations for minimizing the risks of driving in an emergency:

Navigating intersections

When responding to an emergency call, navigating through intersections is one of the most challenging and dangerous actions.

Officers responding to an emergency may legally proceed through a red light, but they must first establish the right of way. This means coming to a complete stop and waiting for all other traffic to stop. The driver should then proceed with caution while monitoring the other traffic. Even when the other vehicles at the intersection's green light have stopped, vehicles approaching the green light might not. In instances where officers must proceed across multiple lanes, they should follow the same process for each lane.

Review after a collision

In cases where a crash has happened, command staff will generally review any available in-car video to determine why the crash happened, and what steps could prevent a similar crash in the future. Command staff should also consider reviewing in-car video of calls for service where the vehicle moved through an area where crashes have occurred, but did not experience a crash, for indications of how the drivers navigated the area safely.

Training

As a training tool, departments can video examples where the officer followed the proper steps and driving techniques. This can be a valuable opportunity for

officers to see firsthand how to navigate a call on the streets of their own city or town. While online training or driving a course is helpful, nothing will compare to seeing the action in real time, especially when there's an opportunity to see the action on familiar roadways where officers drive daily.

By avoiding these types of losses, drivers can prevent damage to the municipal vehicle and property damage to a third-party claimant. Most importantly, preventing collisions will save lives. No matter how bad the call is, officers will not be of any help if they cannot reach the scene.

Members of the SC Municipal Insurance Trust and SC Municipal Insurance and Risk Financing Fund have access to a free four-hour defensive driving training course from the National Safety Council. If interested, contact Chris Radcliff, public safety loss control consultant, at 803.354.4764 or cradcliff@masc.sc.

Civility Message Gets National Traction

In 2021, the Municipal Association of South Carolina's board of directors named the restoration of civility in local government one of the organization's top priorities. The decision came in response to the growing trend of mocking, deriding or dismissing others — whether on the national stage or at city council meetings in South Carolina.

The Association formally rolled out its civility initiative during its 2022 Annual Meeting. Focusing on the importance of collaboration and consideration in the public sphere, the initiative has been prominently featured in Association meetings and in editorials published statewide. Civility pledges and civility resolutions now hang on the walls of the council chambers of in multiple cities like the City of Newberry and the City of Inman, and now the initiative's messages are gaining traction among municipalities and municipal leagues elsewhere in the United States.

Nationwide focus

Given the trend toward more heated exchanges — in person or online — which can spill over into threats or even violence in the worst cases, the Municipal Association of SC was not the first organization to begin developing resources for civility in local government.

However, the materials the Association developed in 2022 have been adopted and expanded upon by other municipal leagues. Groups as far afield as the League of Minnesota Cities and the Arkansas Municipal League have been making

use of these materials to push for local government conduct that works well and benefits all residents.

The Virginia Municipal League, for example, is sharing with its members the “pillars of civility” first developed by the Association. Intended as conversation starters to help local officials avoid the pitfalls of angry or dysfunctional public discourse, the pillars include items like “Be as eager to listen as to speak,” “Concentrate on facts, not theories,” and “Make your point about the issue, not the person.”

The Pennsylvania Municipal League, meanwhile, began circulating its own version of the civility pledge. The Municipal Association version, which can serve as anything from a posted item on the council chamber wall to a reminder at the top of an agenda, reads, “I pledge to build a stronger and more prosperous community by advocating for civil engagement, respecting others and their viewpoints, and finding solutions for the betterment of my city or town.”

The work has continued. The Arkansas Municipal League's 2023 Winter Conference in Little Rock opened with a keynote address exploring free and open discourse in American democracy, and the ways to keep it effective and useful even when it grows angry or strained.

Most recently in February, the Municipal Association and South Carolina School Boards Association announced a partnership for both groups to share the civility initiative with their members.

Civility resources

All of the Association's civility resources remain available on its website for public bodies to adopt and use. This includes a sample civility resolution, a ceremonial version of the sample resolution that councils can use for display, as well as a letter-size and poster-size version of the civility resolution.

Find these materials, as well as links to past Uptown articles and podcasts covering civility topics, at www.masc.sc (keyword: civility).

Civility.
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Municipal Association
of South Carolina™

LAW ENFORCEMENT POLICIES

VEHICLE PURSUIT AND EMERGENCY VEHICLE OPERATION

Vehicle Pursuit and Emergency Vehicle Operation Act 218, passed in 2022, updated and mandated a set of minimum standards that all law enforcement agencies must adopt and implement. The new standards, developed by the SC Law Enforcement Training Council, took effect in 2023. Departments may establish additional standards that are more restrictive, but not less restrictive.

The Association's Risk Management Services drafted model policies for each of the standards, available for use by all cities and towns at www.masc.sc (keyword: law enforcement model policies). Departments that are not SC Municipal Insurance Trust or SC Municipal Insurance and Risk Financing Fund members should reach out to the SC Criminal Justice Academy for guidance on policy questions.

The second model policy on the list is "Vehicle Pursuit and Emergency Vehicle Operation." The policy states that while a police department has a responsibility to apprehend criminals, it also has a "higher responsibility to protect and foster the safety" of everyone who encounters police vehicles engaged in a pursuit.

It requires officers who may enter into a pursuit to consider the risks to themselves and others as well as other factors. The procedure includes these steps:

Initiating the pursuit

Engaging in a pursuit would require that officers have a reasonable suspicion that a driver or passenger has committed a violent felony, and that "there is evidence of outrageous, reckless driving," which began before the officer entered a pursuit.

Pursuit restrictions

The policy names numerous restrictions on pursuits. Among other rules, they state that only a total of two vehicles may engage in a pursuit without supervisor authorization, and once the pursuit begins it may only continue with authorization from a supervisor. The supervisor must give approval for any roadblocks or tire deflation devices, as well as "boxing-in" methods. Pursuing officers may not ram the fleeing vehicle or drive immediately alongside it.

Environmental considerations

The policy requires that officers in a pursuit engage in "a continuous evaluation" of several factors, including the time of day and week, road and traffic conditions, the speed and conditions

of the vehicles, and the officer's driving abilities.

Responsibilities of officials

This includes the responsibility of the primary and secondary vehicle driver, the supervisor and the communications center. For the primary driver, it includes receiving approval, activating warning devices, giving specific notifications and updates, and discontinuing the pursuit in certain circumstances.

Use of force and termination of pursuit

This portion addresses when the officer may use firearms and seek approval for roadblocks or other devices.

Reasons for discontinuation of pursuit

This could be by order, because of excessive danger, when the fleeing vehicle's location becomes unknown or when those not involved suffer an accident.

The policy also gives rules for pursuits involving multiple agencies or jurisdictions, a report-and-review process and ongoing training.

Learn more about the policies at www.masc.sc (keyword: Act 218).



Addressing Executive Session Issues After a Vote

The SC Freedom of Information Act names some exceptions to the requirement that the meetings of public bodies be open to the public, allowing them to enter executive session only when necessary and only for stated reasons. They must return to open session to take any vote, and the actions they take at that point raise a question — how do they publicly address a matter that they had initially discussed confidentially?

A public statement will depend on what kind of action was taken. SC Code Section 30-40-70 gives the available reasons for executive session, which should be announced and described specifically during the motion to enter executive session:

1. Discussion of employment, appointment, compensation, promotion, demotion, discipline or release of an employee, or an appointment to a public body. There is no requirement to name the person or entity being discussed.
2. Discussion of negotiations incident to proposed contractual arrangements, discussions of a proposed sale or purchase of property, receipt of legal advice, settlement of legal claims or discussions of the public agency's position in adversary situations.
3. Discussion regarding the development of security personnel or devices.
4. Investigative proceedings or allegations of criminal misconduct.
5. Discussion of matters concerning the proposed location, expansion or provision of services encouraging the location or expansion of industries or other businesses in the area served by the public body.

Council action following some of these are more likely to generate interest among residents and the news media. Consider, for example, an executive session to discuss incentives for an economic development project. The council then votes to approve the incentives in open session. SC Code

Section 30-4-40(a)(9) allows the body to withhold information about the project until the industry accepts the incentives and the project is announced. During or after these steps, news outlets will often give it significant coverage, publicizing the businesses to open, or the jobs to be created.

Other types of executive session — like a firing or disciplinary action for an employee who reports to the council, or criminal misconduct — may make the council more reluctant to address the issue publicly. Council should remember that silence on a major news item can undermine public trust, and should be prepared to provide an appropriate statement.

A recent example of how much attention can come from these actions came in November 2022, when the newly elected board of the Berkeley County School District terminated its superintendent. Significant and at times heated news coverage of the decision, focusing on the question of the reason for the terminations, unfolded. Eight days later the board issued a 39-page statement on the issue.

Here are some points to consider:

Consult the city or town's attorney. Councilmember statements in a legal matter can create liability for the municipality, and so they should be aware of how to address the issue carefully and appropriately.

Provide a statement about the action. Speculation thrives in the absence of an official statement, and while the statement should be carefully developed, it still needs to happen. It can be a relatively simple statement — in the case of a termination, it could simply be providing the written separation agreement.

Learn more about executive session in the Public Official's Guide to Compliance with the S.C. Freedom of Information Act at www.scpres.org.

What to Know About Charging Fees for FOIA Requests

The SC Freedom of Information Act requires public bodies to develop and post online a schedule of fees for the actions that go into providing a response to a request for information — things like searching, retrieving, redacting and copying. When creating such a schedule, there are some restrictions and considerations that cities and towns should apply.

Waiver of fees

Although cities and towns may charge for FOIA requests, they do not have to do so. The law in SC Code Section 30-4-30 states that public bodies can provide documents either for no charge or a reduced charge when the body determines that this “is in the public interest” and is “primarily benefitting the general public.” Providing information to the news media to keep residents informed of their government’s operation can be an example of this.

It’s important to note that the legislative intent of the FOIA fee schedule was to create uniformity and transparency in how fees are applied. Local governments should aim for consistency about when and how they waive fees. Fees charged should help the municipality recover meaningful costs in fulfilling requests — they should not be used in an attempt to discourage FOIA requests altogether.

Hourly charges

FOIA allows public bodies to charge for time spent searching, retrieving and appropriately redacting requested documents, but does not allow for charges for time spent determining whether a requested document is subject to disclosure. The charge cannot exceed the hourly wage of the lowest-paid employee who has the skills needed to fulfill the request.

Notably, the employee in question might differ depending on the type of request, so cities and towns do not have to name a specific hourly rate in the policy. A particular request might require database searching to fulfill, and the IT person necessary to perform the tasks may have a higher hourly rate than the lowest-paid employee who could fulfill other types of requests.

Copying charges

FOIA states that copying charges cannot be greater than the “prevailing commercial rate” for creating copies. It also states that the charges cannot be applied to records transferred to the requestor electronically — for example, by email.

A posted fee schedule might list the cost of black-and-white copies or color

copies by page, or might list the cost of a thumb drive or other physical device used to upload the information.

Charging a deposit

Public bodies can require a deposit to be paid for furnishing the records, but do not have to do so. The deposit can be no greater than 25% “of the total reasonably-anticipated cost.”

Proactive steps

When addressing FOIA-related issues, municipal officials should always remember that they can be proactive and post commonly sought-after public information on the city’s website — meeting agendas and minutes, ordinances, planning documents and financial reports, among others. This can reduce staff time fulfilling requests for the information, can reduce the need to calculate fees in some cases, and can help bolster public trust as well.

Learn more in the SC Press Association’s Public Official’s Guide to Compliance with the S.C. Freedom of Information Act, available at www.scpres.org.

Are Agencies Required to Release Body-Worn Camera Footage?



In 2015, South Carolina became the first state to adopt a law requiring the use of body-worn cameras by law enforcement officers, as stated in SC Code Section 23-1-240. Under the law and the implementing guidelines, “[u]niformed officers whose primary function is to answer calls for service and interact with the public, or officers who have a reasonable expectation that they will,” must wear body-worn cameras. State law also requires officers to activate body-worn cameras “[w]hen a uniformed officer arrives at a call for service or initiates any other law enforcement or investigative encounter between an officer and a member of the public.”

Using these cameras generates video footage, and the existence of that documentation creates questions, especially when people request the footage under the SC Freedom of Information Act. City and town officials often have questions about the legal requirements for retaining the footage — especially given the expenses of storing the electronic data — and whether they must release the footage when requested.

Retention requirements

For retention, the adopted guidelines provide that recordings that are “non-investigative, non-arrest, and are not part of any internal investigation” must be retained for a minimum of 14 days. For other recordings, the government must retain them in accordance with the ordinary retention periods provided by the SC Preservation of Evidence Act or any applicable expungement laws.

Disclosure requirements

The public disclosure question is more complex. An agency may choose to release body-worn camera footage “in its discretion.”

Before releasing the footage, however, the agency should consider the privacy interests of the subjects of the recording, especially juveniles and victims. In some cases, the release of body-worn camera footage might violate other state laws.

Considering when an agency must release body-worn camera footage, the law states that the footage is not a public record

subject to disclosure under FOIA. An agency is not obligated to provide body-worn camera footage in response to a FOIA request.

Notably, this rule excluding body-worn camera footage from FOIA does not apply to dashboard camera footage because that footage does not fall under the definition of “body-worn camera.” Unless the footage is otherwise exempted under FOIA, that type of footage would have to be released in response to a FOIA request.

Although FOIA does not require the release of body-worn camera footage, state law lists certain entities and persons that may have a right to receive the footage when they request it. For example, the SC Law Enforcement Division, the Attorney General, and circuit solicitors are entitled to receive body-worn camera footage for any “legitimate criminal justice purpose.”

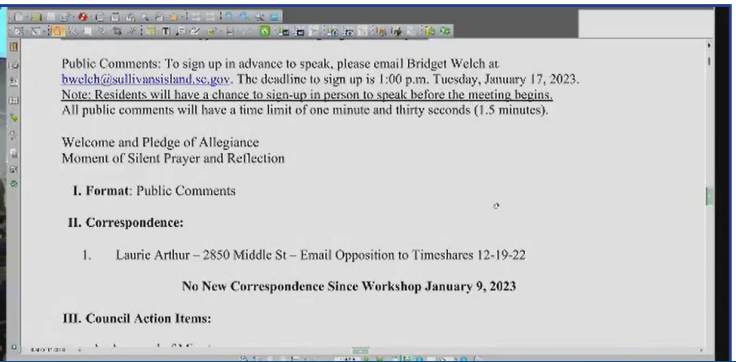
State law also lists several people who are entitled to the footage pursuant to the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Civil Procedure or a court order. These are

- a subject of the recording;
- a criminal defendant or civil litigant, if the recording is relevant to the case;
- a person whose property has been seized or damaged by a crime to which the recording is related;
- a parent or legal guardian of a minor or incapacitated person in the recording; and
- an attorney representing any of these people.

Many local attorneys have concluded that the law requires disclosure to these people only through the court system, either by subpoena in a civil action or prosecution or by other court order. In other words, in the absence of formal legal proceedings or a court order, the agency is not required to release the footage, even to the people identified in the law. However, the agency may, in its discretion, release the footage to the requestor.



Online video of Sullivan's Island Town Council meetings features both a running shot of council chambers as well as the agenda. Photo: Town of Sullivan's Island.



Promoting Transparency Through Technology

Whether it is livestreaming public meetings or populating websites with easy-to-access information, technology has opened up myriad possibilities for making the business of government more transparent.

Cities and towns of every size have used technological tools to help residents have a better understanding of council actions and more insight into the workings of their government.

The Town of Batesburg-Leesville, for example, keeps its website up-to-date with the municipality's work, offering a full view of its spending decisions and finances — something Town Manager Ted Luckadoo said is key to keeping residents informed.

"It's important because we are using their tax dollars, their money for water and sewer services, their sanitation money and business license money from our business owners. They deserve the right to know how we are using their money," Luckadoo said. "We have tried to label our website with very easily identifiable tabs so anyone can find the information quickly. If you're interested in meeting information, you can find the agendas, approved minutes and a link to the video of that meeting very quickly."

Batesburg-Leesville uses social media to advertise events and push out information quickly, but relies on its website for items like financial reports and upcoming and previous meeting information. The information is archived back to 2014 when the website was upgraded.

Luckadoo said residents have acknowledged the town does a good job offering accessible information.

"There have been many times where people come into the office and want to know how hospitality tax is being spent or some other funds. We take the time to show them how this information can be found on the website," he said. "Once shown, they almost

always have been surprised at how easy it is to see where the money is going, and have been appreciative of the ability to quickly look that up moving forward."

He said it's important for towns to offer information to all residents, regardless of their level of interest.

"We have to acknowledge that there is a lot of apathy that exists among many citizens and they simply don't wish to follow in detail what their local government entity is doing. However, there are citizens that care deeply about what we are doing, and for those, it is easier to be overly transparent and be proactive at putting all the information we can out there," Luckadoo said.

He added that for those who want to express distrust or criticism can have their distrust reduced a little with a demonstration of transparency.

"We have citizens who may not like what we're doing at times, but they trust that we are being transparent," he said.

Like an increasing number of municipalities in South Carolina, the Town of Sullivan's Island gives its residents a way to watch their council at work, even when they can't come to the meetings in person. The town livestreams its meetings so residents can follow the actions of council as decisions are made.

"In a representative democracy, it is essential for citizens to voice their thoughts to elected officials," said Town Administrator Andy Benke. "Government should provide feedback to its constituents. For many years the council and staff have struggled to increase resident participation in the process of governing the town. Likewise, when a decision was made by council it seemed that the information took some time to filter out to the community. Residents were often enthusiastic about the process and the outcome of local government decisions, but attendance at meetings was generally poor."

The council and staff set a goal to inform residents of the council's work and try to stimulate an "appetite to participate, hopefully in person, in the government process of making decisions for the community," he said.

Livestreaming meetings is a plus for those who want to follow the town's actions, but may be too busy with work and family schedules to attend in person. Livestreaming meetings gained even more popularity when the COVID-19 pandemic upended life, and gave the work of government a viable way to keep going at a time when the pandemic seemed to disrupt everything.

"Following meetings online allowed residents the ability to maintain an awareness of decisions made by the town and enjoy the comfort of knowing government continued to function," Benke said.

He added that there is little staff time involved with livestreaming or recording a meeting, while the town continues to identify the latest technology, equipment and storage options for the process.

"Most residents have spoken very positively about the ability to watch council meetings in real time. Others have requested the ability to dialogue with council in a live format, but staff has yet to identify adequate technology for that process," he said.

But he has no doubt that livestreaming is a positive thing for the Charleston County beach town, likening it to the way that C-SPAN makes the work of the United States Congress more accessible.

"It opens a virtual door at town hall for those who might not be able to attend a meeting and hopefully the process stimulates their interest in local government," he said.

Another part of keeping residents informed is providing current information about the laws of a municipality.

For Briarcliffe Acres, an oceanside town nestled between Myrtle and North Myrtle Beach, the process of cataloguing new laws and publishing those online is handled by Municode. The national service digitally publishes the municipal codes of more than 100 cities and towns in South Carolina, giving residents the chance to easily see the town's laws.

Town Clerk Jennifer Newbold said Briarcliffe Acres codified its ordinances in 2010 into Municode. As the town passes ordinances, Newbold sends them to Municode and they are available to access immediately.

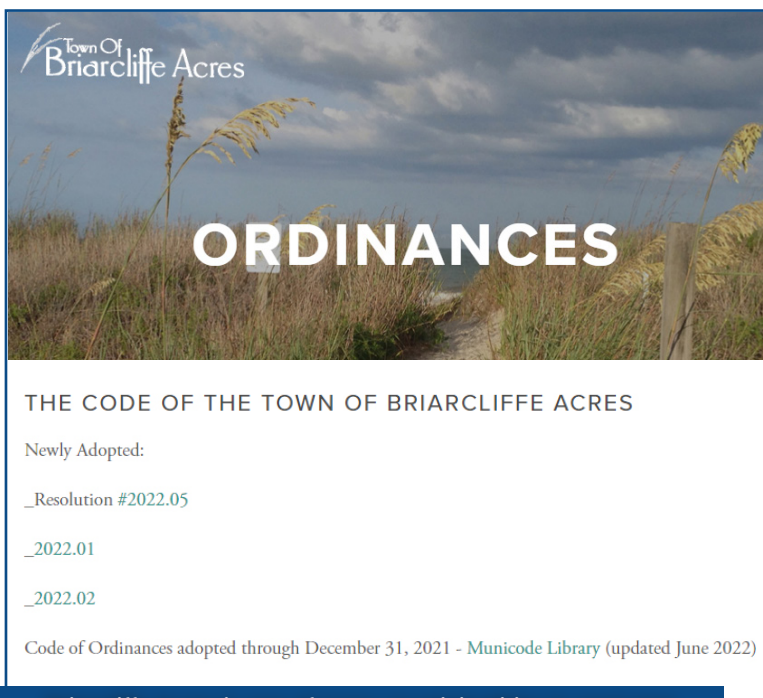
"It's important to have that transparency, especially with the hustle and bustle, the building that's gone crazy. We are a unique town. We have no businesses, only single-family, one-dwelling-per-lot residences. We have no hotels. We have a maximum of two stories and 35-foot height requirements," she said. "With all the new building and change in codes, it's important for anyone — contractors, architects, anyone — to have that information up front."

Along with building regulations, the town's codes cover everything from emergency declaration procedures for hurricanes to tree ordinances.

Once an ordinance is adopted, she emails a word document to Municode and the new or updated laws are posted online. A link is available on the town's website.

Her advice for cities and towns looking to make their municipal code available online: "Visit our website and look how easy it is — all you do is click on the link. And you can send links to people, email to people, print. You can copy and paste and save and index. For someone who doesn't have a lot of time, it's a valuable time-saving tool."

And having the information available to the public quickly and easily helps in another way. "It means people can't say, 'I didn't know.'"



Briarcliffe Acres is one of many municipalities to post new and codified ordinances on its website.

Photo: Town of Briarcliffe Acres.

Community Input Strengthens Comprehensive Plans

South Carolina law requires cities and towns to develop a comprehensive plan that incorporates community input on how to handle future development and growth. Ten overarching elements named in the law guide the comprehensive planning process. Many municipalities across the state — including Anderson, Chapin and Hanahan — illustrate how to foster public engagement in this process.

In Berkeley County, growth is top of mind for the City of Hanahan, which recently updated its “Hanahan 2040: Pathway to the Future” comprehensive plan. The 20-year plan is revisited with community involvement every 10 years.

“We had a ton of input from our citizens,” said City Administrator Courtney Soler. “This was one of the most important things to all of us – we really wanted our citizens to be engaged, and we wanted them to have many different formats of ways to engage with the plan.”

City officials set up a series of four open houses, including one with online capabilities to allow participation from home. A public survey also ran for 90 days to elicit additional community feedback. To garner more responses, a QR code linked to the survey was put on one of the fire trucks, and QR codes were handed out to residents. Signage was on display at events around town and at city hall, and the city promoted the effort through social media as well.

Once the survey closed, staff presented a summary to the planning commission from which the plan’s vision statement, guiding principles and goals were developed. The plan identified four opportunity areas, focusing on community character, public services, growth management and value of land.

Hanahan has seen immense growth as the Charleston real estate markets surge, and that plays an important role in how the city will use its plan.

“Hanahan is somewhat built out, so [the North Rhett area] is really the only place that has the opportunity to be develop. One of the major keys of this comprehensive plan is [asking] — how do we continue that growth despite us being almost built out?” Soler said. “It’s one of our main priorities here in the city to say, ‘We hear what you’re saying, public, we love to hear from you.’”



Community meetings were part of the process of developing Anderson’s “Plan This City” comprehensive plan in 2022. Photo: City of Anderson.

In the Upstate, downtown Anderson is seeing a tremendous amount of growth, with the addition of 59 new businesses added in the past four years, a 99.4% apartment occupancy rate, and 2,000 new single-family homes. To plan for this and future growth over the next 20 years, the municipality launched its “Plan This City” comprehensive plan initiative last fall. The project is anticipated to take 18 to 24 months.

“The City of Anderson has gone through iterations of development and planning in the past, and we’re experiencing a lot of growth and a lot of growth pressure,” said Assistant City Manager Andrew Strickland.

City council tasked the project’s steering committee to revamp everything from the development code to its subdivision and zoning ordinances. Building upon its current downtown master plan, the comprehensive plan will outline important key elements to support the city’s growth.

“We have two components. The first is a comprehensive plan and the second piece of that — it kind of runs concurrently to some degree — is a whole new unified development ordinance,” Strickland said.

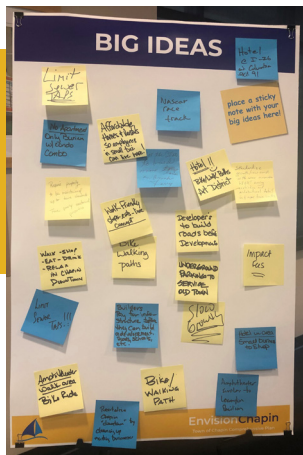
The process includes a dedicated website which outlines ways that the community can get involved, from attending meetings and events, to participating in its online questionnaire. The site features a function called “map.social,” which allows residents to drop a pin on a map where issues need to be addressed.

“We’re just in the thick of things now, the first piece being the public engagement, before our consultants fully dive

into developing the plan and the UDO,” said Mary Haley Thompson, director of strategic projects. “We’re meeting with a lot of different groups to hear what the needs are, what the challenges are, what areas they want to see developed so that our consultants have all that input to be the guiding force behind the plan that they develop.”

In Lexington County, the Town of Chapin passed its new “Envision Chapin” comprehensive plan last December. Serving as a guiding document for the town as it experiences continual growth, the community played a large role in the two-year planning process alongside the comprehensive plan committee and consultants.

“For the Town of Chapin, it was really important that we had a significant amount of public support as well as engagement, so we really did a good job of working with our public partners and our community members to make sure that from the very beginning of the project and throughout the development of the comprehensive plan that they were engaged and that we were soliciting their input,” said Town Administrator Nicholle Burroughs.



The “EnvisionChapin” comprehensive plan community sessions invited stakeholders to submit what they want to see in the town’s evolution. Photo: Town of Chapin.

To elicit public engagement, the town hosted small-group listening sessions including community leaders from the faith-based community, government officials, various industry partners, developers, and local business owners, to discuss concerns, opportunities and strengths.

The town launched a community survey through its website, social media and email sent to residents who signed up for email notifications, and received more than 600 responses.

“For a small town like ours, [getting] 600-plus responses was absolutely incredible, and that was due to a lot of effort on our part — publicizing what we’re doing, explaining the comprehensive plan process, and giving the opportunity to community members to provide input,” said Burroughs.

As the town neared the end of the project, it hosted a drop-in community meeting where residents could provide further insight on findings regarding development and land management.

“We really wanted to make sure that the public had input into those areas, and it was a great opportunity for the community to come in and to meet our staff,” Burroughs explained.

A key goal, highlighted throughout the planning process, was the need for growth strategies, according to Burroughs.

“There was a lot of concern from the public regarding the amount of rapid growth we have experienced up until now, and the surrounding area has experienced up until now, and how that growth was going to impact the infrastructure in our area, as well as what the future was going to look like,” she said.

The unified development and zoning ordinance was one of the strategies implemented to address this growth.

“The Town of Chapin is really, really proud of the comprehensive plan document that we were able to develop, but we’re even more proud of the engagement that we’ve had with the community and the input that the citizens provided.”

In many parts of the state, surging population and business development have put pressure on municipal governments as their communities figure out how they want to evolve. Prioritizing public input in the comprehensive plan process can reassure residents that they have knowledge of this process, and a voice in it.



Open house sessions gave residents an opportunity to participate in the “Hanahan 2040” comprehensive plan. Photo: City of Hanahan.



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Calendar

For a complete listing of the Association's training opportunities, visit www.masc.sc to view the calendar.

MARCH

2 SC Association of Stormwater Managers First Quarter Meeting. Cooperative Conference Center, Columbia. Topics include state and federal funding opportunities for stormwater and the City of Rock Hill's education and outreach program.

2 SC Association of Municipal Power Systems Associate Member Lunch. Sewell's, Columbia.

8 SC Business Licensing Officials Association Spring Academy. Cooperative Conference Center, Columbia. Course B topics include business licensing procedures, the SC Freedom of Information Act and communication skills.

13 - 15 SC Utility Billing Association Annual Meeting. The Beach House, Hilton Head Island. Topics include customer service skills, fraud prevention, time management, and an active shooter training.

21 Municipal Elected Officials Institute of Government: Basic Budgeting and Municipal Finance. Council of Governments locations.

23 Municipal Technology Association of SC Spring Meeting. Cooperative Conference Center, Columbia. Topics include cybersecurity updates, multi-state information sharing, civility in local government, GIS and drone technology, and the IT impact of the changing workforce landscape.

APRIL

14 Municipal Court Administration Association of SC Spring Meeting. Cooperative Conference Center, Columbia.

18 Risk Management Services Competent Person Trenching and Excavation Training. Municipal Association of SC, Columbia.

18 Business Licensing Essentials - Short Term Rentals. Virtual.

19 - 21 Municipal Clerks and Treasurers Institute, Year 1, Session B. Hilton Columbia Center, Columbia.

27 SC Municipal Human Resources Association Spring Meeting. Cooperative Conference Center, Columbia.

MAY

16 Risk Management Services Law Enforcement Training. Cooperative Conference Center, Columbia.

16 Business Licensing Essentials - Appeals and Delinquents. Virtual.

17 - 19 SC Community Development Association Annual Meeting. Hilton Myrtle Beach Resort.

JUNE

1 SC Association of Stormwater Managers Second Quarter Meeting. Cooperative Conference Center, Columbia.

4 - 7 SC Association of Municipal Power Systems Annual Meeting. Embassy Suites, Myrtle Beach.

20 Business Licensing Essentials - Coin and Amusement Devices, SC Department of Revenue. Virtual.

27 - 28 Municipal Court Administration Association 101 Session A. Municipal Association of SC, Columbia. Topics include charges, bonds and court basics.