



# UPTOWN

a publication of the municipal association of south carolina

## Listening to the People

### Public Officials' Accessibility Takes Many Forms



**M**unicipal government is the government closest to residents' daily lives, since the decisions of local elected officials have an immediately observable effect on the communities where constituents live and work.

Residents, therefore, need to be able to contact their mayor and councilmembers to raise issues of concern, but exactly how much elected official accessibility should exist is a frequent question.

#### Contact information

A city or town website should list a phone number and city-hosted email address for each councilmember.

"Remember that when you're elected to public office, you move into a position where people should be able to get in touch with you," said Charlie Barrineau, a field services manager for the Municipal Association. "It helps residents get to know their elected officials when the municipality includes a portrait photo and profile — covering the kinds of organizations you're involved in, your areas of focus as a councilmember, and background information."

#### Social media

Some social media accounts of city and town governments will periodically post profiles of their councilmembers to introduce them to residents, which can include written responses to a slate of questions or video of the councilmember, alongside contact information.

Elected officials sometimes create their own social media accounts in their official capacity to serve as an information channel. They should take care to remain as civil in the online sphere as they are everywhere else, and avoid attacking fellow elected officials or others. Angry residents may try to draw them into extended debates on social media. While social media responsiveness can be useful, officials should avoid lengthy and unproductive exchanges, and invite constituents to communicate in person or off social media when appropriate.

By encouraging others on social media to express their opinions on public issues, officials are likely creating a public

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*President:*  
**Mayor Rick Osbon**, Aiken

*Executive Director:*  
**Todd Glover** tglover@masc.sc

*Managing Editor:*  
**Meredith Houck** mhouck@masc.sc

*Editor:*  
**Russell Cox** rcox@masc.sc

*Editorial Assistant:*  
**TJ Lundeen** TLundeen@masc.sc

*Contributing Writers:*  
**Page Ivey, Megan Sexton,  
Eric Shytle, Sara Whitaker**



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forum subject to the First Amendment, and should refrain from blocking users or deleting comments based on their viewpoint. Social media activity in an official capacity may be subject to the SC Freedom of Information Act.

Officials should also coordinate any communication from their personal channels with the city’s official channels and with each other. For example, a mayor that communicates regularly with the public without looping in their fellow councilmembers can lead to friction on council.

**Public comment during meetings**  
Public comment periods during council meetings can provide a meaningful way for residents to address the leaders of their local government, but cities and towns should use them carefully — those making public comments might behave disruptively, or the presiding officer might handle speakers inconsistently and create resentment.

Cities that choose to have public comment periods need to clearly set rules and expectations: when during the meeting the public may speak, whether speakers may comment on issues outside of the agenda, whether

speakers must sign up in advance, what time limits are in place, and whether there is any discretion for council to extend speaking time. Councils will sometimes adopt rules by ordinance to authorize the presiding officer to stop public comments that either the chair or majority of council finds to be uncivil or disruptive. Councilmembers should also avoid a back-and-forth discussion with public speakers during public comment periods.

Many cities and towns now livestream their public meetings, and this opens the opportunity for those watching to enter their comments through email or chat features.

“Increasingly, the public is expecting the ability to have input in council meetings without attending in person, so officials need to be having conversations about when and how they may move in that direction,” said Ashley Kellahan, a field services manager for the Municipal Association. “The conversations should ask what kind of equipment the city wants to buy, what online platform they want to host it on, and who on staff will be operating it. Once the process becomes consistent and useful, the audience can grow, and really make public engagement more effective.”

## 2023 HLAD, MEO Institute Coming in February

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ometown Legislative Action Day will take place Tuesday, February 7, the day before the Municipal Elected Officials Institute of Government and Advanced Institute. This makes attending both sessions convenient for participants.

Here are the dates attendees will need to know to register by the deadline:

# Complete the 2023 Compensation Survey

In the middle of 2022, South Carolina was posting an unemployment rate of 3.2%, according to the U.S. Bureau of Labor Statistics, creating an environment where employers must compete for new hires, and must pay careful attention to their compensation.

The Municipal Association of SC helps cities and towns with an annual report of the wages and salaries paid to their employees and elected officials, but the data relies on reporting from the municipalities. At the beginning of every year, the Association asks each municipality to update its compensation through an online survey.

Competitive pay serves as one of the most critical tools helping cities and towns attract and retain employees. Local governments must compete for job candidates who are also being targeted by state agencies, county governments and the private sector. Data on current salary ranges can help cities and towns maintain an edge.

The Association makes the data from its compensation survey available through its website, [www.masc.sc](http://www.masc.sc). Municipal staff can use this online tool to make sure that their compensation scale is on par with other municipalities with comparable populations and budgets. The report is

helpful when looking at one-off comparisons or in years between formal studies, but it does not provide all the data of a full class and compensation study.

Responding to the survey is optional, but the Association encourages all municipalities to complete it every year, since widespread participation makes the data more useful. In 2022, only 45% of SC's 271 cities and towns completed the survey, so while there may be other municipalities from a region to compare, the report does not provide a complete picture.

*The 2023 survey will be available for data entry from January 3 to February 24. For more information, visit [www.masc.sc](http://www.masc.sc) (keyword: compensation survey), and for questions, contact Sara Whitaker at [swhitaker@masc.sc](mailto:swhitaker@masc.sc) or 803.933.1240.*

## NEWS BRIEFS

The **City of Orangeburg**, which opened its North Road recreation complex in 2019, was selected to host the 2024 Dixie Youth Baseball Division 1 and Division 2 AA Coach Pitch World Series.

Members of the Municipal Court Administration Association of SC recently elected their 2022 – 2023 board of directors. They are President **Kirsten Pressley**, City of Greer; Vice President **Brittany Burns**, Town of Pine Ridge; Second Vice President **Patricia McTeer**, Town of Hampton; Members at-Large **Sarah Farrow**, City of Beaufort; **Brenda Armstrong**, City of Charleston; **Pam Larson**, City of Greenville; and Past President **Kimberly Poulin**, City of Anderson.

*Condé Nast Traveler* named the **City of Beaufort** among its 27 most beautiful towns in America for 2022.

**Registration brochure available on Municipal Association website**  
Thursday, December 1

**Hotel reservations deadline**  
Friday, January 13

**For the Columbia Marriott, make hotel reservations** by calling 1.800.593.6465 or 1.803.771.7000 and ask for the Municipal

Association of SC HLAD rate of \$172 plus taxes and fees.

**For the Hyatt Place Columbia, make reservations** by calling 1.888.492.8847 and ask for the Municipal Association of SC HLAD rate of \$154 plus taxes fees.

**Registration deadline for HLAD and MEO Institute** Friday, January 27

**Hometown Legislative Action Day**  
Tuesday, February 7 | Columbia Marriott

**Municipal Elected Officials Institute of Government, Advanced Institute and Advanced Continuing Education**  
Wednesday, February 8 | Columbia Marriott

# Update Your Elected Official and Staff Information With the Municipal Association



Each fall, the Municipal Association of SC asks every city and town to review, update and verify its listed information using the Municipal Information Dashboard, which feeds information to the Association’s Municipal Directory. This year, the deadline for doing so is Monday, November 21.

Aside from this annual update campaign, cities and towns should update their information with the Association throughout the year. Updating frequently helps the Association effectively engage with municipalities on key issues affecting their operations and residents. With accurate and up-to-date contact information, the Association can provide local municipal staff with

- updates on the legislative action at the State House that can have a major impact on local government operations;
- registration opportunities for meetings, conferences and workshops, including the Association’s Annual Meeting and Hometown Legislative Action Day; and
- other training opportunities from the Association’s affiliate organizations and Risk Management Services.

The South Carolina Municipal Directory is available online at [www.masc.sc](http://www.masc.sc) (keyword: municipal online directory), as well as in print. It features contact information for all 271 municipalities. It also lists out the specific form of government for each city and town and the regular schedule of council meetings and the names of all elected officials and key staff positions.

The online version of the directory allows users to search for municipalities based on characteristics like the county in which the municipality is located, its population, or which state representatives and state senators serve it.

The Association allows only one person from each municipality to handle the annual update — the municipal clerk or the clerk’s designee — as a way of maintaining the accuracy of all submitted information. For assistance, or to make a new designation for the person responsible for the update, contact Joanna Ayers at [jayers@masc.sc](mailto:jayers@masc.sc) or 803.933.1259.

## Municipal Information Dashboard: frequently asked questions

- **Question: Do I go ahead and add elected officials if they have not been sworn in yet?**  
Answer: Yes. When adding the official, users can select a date in the future on which the official will take office. Adding them now will ensure they will be included in the city’s listing in the printed directory. It will also alert the Association’s field services managers that the city has a new elected official so they can deliver an information packet.
- **Question: If our city had no changes this year, do we still have to verify the information through the Municipal Information Dashboard?**  
Answer: Yes, please review the information to verify it is accurate.

- **Question: How long does this take?**  
Answer: The time will vary depending on the size of the city and the number of changes. For smaller cities with few changes, the process should take only a few minutes.
- **Question: May I designate someone else to provide the information?**  
Answer: Yes. Call 803.933.1297 to transfer permission to access the Municipal Information Dashboard. Clerks should not allow others to use their login number and password.
- **Question: What if I need to make changes after the deadline?**  
Answer: The Municipal Information Dashboard is available to make changes throughout the year. The Association encourages clerks to make updates as changes occur, such as the elections of new mayors and councilmembers, and the hiring of new key personnel, like managers, administrators and department heads.

## November 21

The deadline for clerks or the designee to update their information on the Municipal Association Dashboard is Monday, November 21.



# MCTI Graduates Three New Officials



The South Carolina Municipal Clerks and Treasurers Institute gained three new graduates in September. MCTI is a three-year program providing municipal clerks and treasurers with skills critical to their profession.

The newest graduates are Margaret Harvey, clerk/treasurer, Town of Swansea; Amanda Salka, town administrator, Town of Summerton; and Noel Steele, water clerk, Town of Ridge Spring.

Graduation from the program requires participants to complete more than 120 hours of classroom instruction on topics such as business license management, accounting and municipal law.

Completion of MCTI satisfies the education requirements for the certifications offered by the International Institute of Municipal Clerks and some of the requirements for the Association of Public Treasurers of the United

States and Canada certification. Those seeking IIMC's Certified Municipal Clerk designation also need to complete a capstone project. MCTI is scheduled as six sessions, each taking place over two and a half days. Participants can begin the program at any point and are encouraged to attend sessions consecutively.

Learn more about the program at [www.masc.sc](http://www.masc.sc) (keyword: MCTI).

## Business Licensing Essentials: Local Business License Renewal Center Walkthrough

Every month in 2022, the Municipal Association's Local Revenue Services is hosting "Business Licensing Essentials," a series of virtual training sessions. The sessions focus on the methods for administering business license taxes correctly, efficiently and in a way that makes life easier for those doing business inside a city or town.

The November session, taking place on November 9 at 10 a.m., focuses on the Local Business License Renewal Center. Act 176, the SC Business License Tax Standardization Act, requires



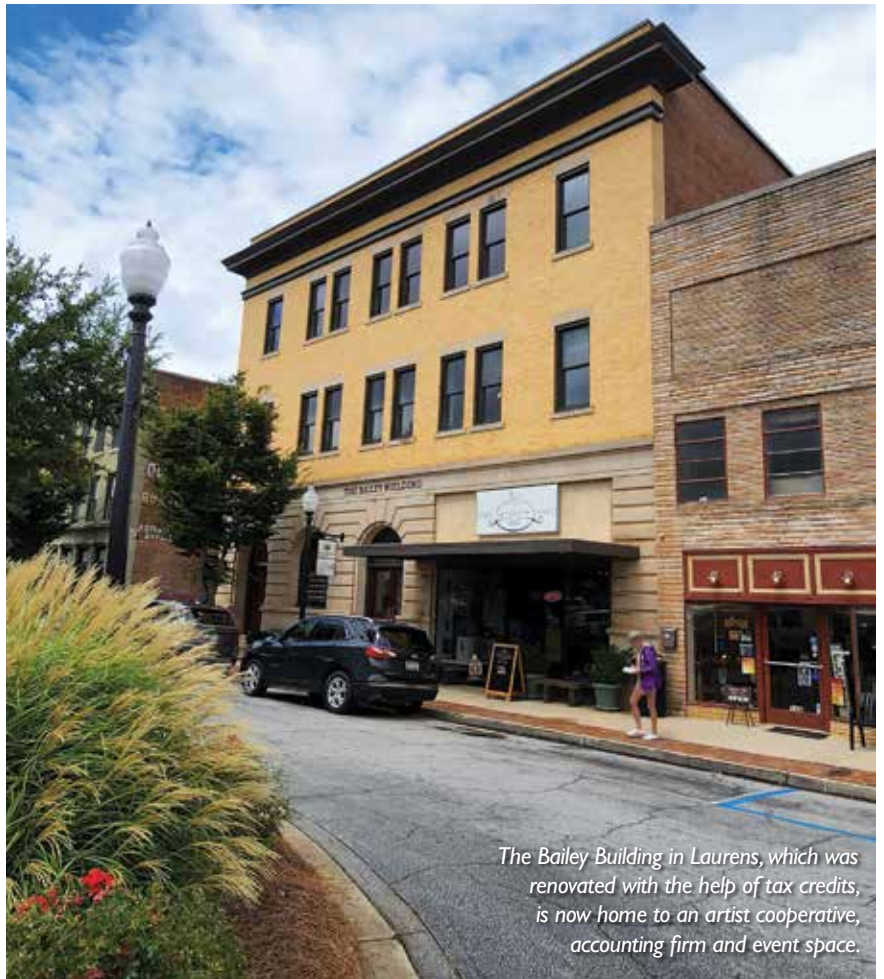
jurisdictions with a business license tax to accept license renewal payments from businesses through this online payment portal. Business owners can use the Renewal Center to renew their business licenses in every municipality and county where they operate, all using a single

payment, which simplifies and streamlines their business license experience.

This session will cover how cities and towns operate their account within the Renewal Center, so that it may collect business license tax payments on their behalf. In addition to this session, the Association's website has articles, videos and podcasts with more information on using the Renewal Center at [www.masc.sc](http://www.masc.sc) (keyword: Renewal Center).

Learn more and find the recordings of past meetings online at [www.masc.sc](http://www.masc.sc) (keyword: business licensing essentials).

# Tax Credits Help Resurrect Historic Storefronts



*The Bailey Building in Laurens, which was renovated with the help of tax credits, is now home to an artist cooperative, accounting firm and event space.*

The accounting firm of Love Bailey & Associates had outgrown its space in downtown Laurens, leading Gary and Apryl Bailey to hunt for a new location. They found a bank building on the historic courthouse square, a grand structure dating to 1907, but the space had an issue — its upper floors became vacant in the 1970s, and had grown dilapidated.

They purchased what is now known as the Bailey Building, intending to renovate it by using numerous revitalization tax credits.

“We are not real estate developers,” Gary Bailey said. “We went in thinking, ‘Oh, we can probably restore this for \$500,000.’ Not even close.”

After construction and furnishings, the price came to about \$2.5 million, but with the federal, state and Abandoned Buildings tax credits, the project succeeded, and is now a showcase of revitalization for the historic courthouse square, home to the accounting firm, an artist cooperative, and a top floor event space known as the Palmetto Room.

The Baileys presented the project at a Main Street South Carolina training session that took place in Laurens this August. Gary noted that they redeveloped the building “exactly as it was built,” and with Apryl overseeing the design aspects, they were even able to include light fixtures that visitors thought must have been original.

The federal historic rehabilitation tax credit can offset 20% of qualified expenses of rehabilitating a commercial building. South Carolina’s state historic tax credit can do the same thing to offset the state corporate income tax — up to 10% of the qualified expenses.

South Carolina also has the SC Abandoned Buildings Revitalization Act. It requires that the building be mostly empty and nonoperational as a business space for at least five years. It requires certain thresholds of investment and then provides a credit of 25% of actual expenses up to \$500,000 per year.

Tax credits must be used within a set time frame — the Baileys reallocated the

state credits to other entities before they would expire — but they can be stacked together in a way that can make expensive revitalization projects feasible.

Also at the Main Street South Carolina training event, Barrett Holmes presented on two structures his family has contributed to the downtown renaissance, including the Midtown Building, which now houses a local coffee shop as well as office spaces.

Holmes noted that the structure from the 1880s had been kept in relatively good condition over the decades and the project preserved architectural elements like original beadboard ceilings, plaster walls, and original pine floors that were laboriously extricated from layers of vinyl. The floor showed elements like paint can rings from the building’s history as a paint store, and a worn-down foot path from the location where a counter had long stood.

“That piece of history is still there. You can’t go to Lowe’s and buy a floor like that,” he said.





*The renovated storefront space in The Midtown Building in Laurens is now home to Courthouse Coffee.*

The Swofford Building had not been as lucky — abandoned for 15 or more years, and with a leaky roof that caused a cascading collapse of the interior. Structural engineers declared it beyond repair.

Holmes' consultations, however, showed that hope for the building remained, although its time had run short when it was purchased. After heavy

rainfalls, he had observed water pouring into the building.

"I was watching big sections of heavy brickwork move. They were moving inches. I said, we've got to get this going now or we're going to lose the backside of this building," he said.

The rebuilding of the space was nearly complete with Main Street training participants toured it. Offices now fill

the second floor while the storefront will house The Tailored Oak, a steak restaurant.

"It will bring new life to the area," Holmes said.

*More information on tax credits can be found in the Main Street South Carolina Economic Incentives Toolkit and tax credit video at [www.masc.sc](http://www.masc.sc) (keyword: Main Street SC).*

# Federal Cybersecurity Funding Could Help SC Cities and Towns

In June 2022, after several years of damaging and worsening cybersecurity attacks on state and local governments, Congress passed the State and Local Government Cybersecurity Act. The law provides \$1 billion in funding over four years for states and local entities to develop and implement cybersecurity plans, and requires partial matching from states.

Of that funding, 80%, which would be \$800 million in total, would need to go to local entities, including municipal governments; and 25%, or \$250 million in total, would need to go to rural communities.

While these funds could help protect against the highly expensive ransomware



attacks that have hurt local government operations around the nation, accessing the funds would require state government drawing down the federally available funds. The state would need to establish a State Planning Committee and determine what state agency would have the

capacity to develop the Cybersecurity Plan required by the law. There would also need to be plans for how distribution could work, as has happened in recent years with the distribution of American Rescue Plan dollars through a SC Department of Administration contractor.

Accessing these funds could benefit from local entities advocating with the Office of the Governor, but to do so, local officials need to understand how the funding would work and the steps that would need to take place. The National League of Cities' Risk Information Sharing Consortium developed a guide to help with this, located at <https://risc.nlc.org/resource/cyber-federal-funding>.

# Who Can Preside Over Council Meetings?



**P**arliamentary procedure requires that meetings must have a presiding officer, and Robert's Rules of Order provides specific duties for this presiding officer.

Duties for this role come from Section 47.7 of Robert's Rules. Among other things, the presiding officer

- opens the meeting,
- determines that a quorum is present,
- announces the order of business,
- recognizes members who are entitled to the floor, and
- states and puts to vote motions that come before the body.

By tradition, the mayor ordinarily presides at meetings of council. In some cases, a council may desire to name a member other than the mayor to preside at meetings. Can the council do so?

## Rules under the different forms of government

In South Carolina, there are three forms of government for cities and towns: mayor-council, council and council-manager. State law provides general rules for all forms of government in Title 5, Chapter 7 of the SC Code. Individual chapters of Title 5 provide rules specific to each form of government.

For all three forms of government, state law provides that mayor pro tempore

acts as mayor during the absence or disability of the mayor. If the mayor's office becomes vacant, the mayor pro tempore serves as mayor until a successor is elected. At meetings where the mayor is not present, the mayor pro tempore presides by default.

Can the council provide different rules for meetings where the mayor is present?

In the mayor-council form of government, Section 5-9-30(3) provides that the mayor has the power "to preside at meetings of the council and vote as other councilmen." Because state law specifically commits this power to the mayor in the mayor-council form, the South Carolina attorney general opined in 2012 that local ordinances cannot name a different presiding officer in the mayor-council form of government.

Attorney general opinions have also informed the issue of presiding at meetings in the other forms of government. In 1995, the attorney general opined that in the council-manager form, local ordinances can name a presiding officer other than the mayor. On the other hand, in 2014 the attorney general opined that in the council form, local ordinances cannot name a presiding officer other than the mayor. Because neither form of government has state law specifically stating that the mayor is the presiding officer,

confusion resulted from these attorney general opinions.

On August 25, 2022, the attorney general clarified the issue. Recognizing that neither the council nor the council-manager of government specifically requires that the mayor must be the presiding officer, the attorney general overruled the 2014 opinion.

Now, as interpreted by the attorney general, the mayor is entitled to preside at meetings in the mayor-council form of government, but the council can name a different presiding officer in the council and council-manager forms of government.

## More information

For more information about South Carolina's forms of municipal government, see the Municipal Association's handbook *Forms and Powers of Municipal Government*, found at [www.masc.sc](http://www.masc.sc) (keyword: forms of government).

The Association also presents on this issue frequently, including in sessions of the Municipal Elected Officials Institute of Government, and at the upcoming SC Municipal Attorneys Association Annual Meeting and Continuing Legal Education Seminar, taking place in Columbia on Friday, December 9. Learn more on the Association's website (keyword: Association Training Calendar).





# Follow the Rules With Planned Development Districts

**P**lanned development districts provide a valuable way for cities and towns to be flexible in their regulation of a mixed-use development, giving them an opportunity to influence the design of new development projects to help them meet the community's needs. However, these districts, which were once known as "planned unit developments," are sometimes misunderstood as a zoning tool, and so cities and towns should take care to use them properly.

SC Code Section 6-29-270 explains that PDDs "allow flexibility in development that will result in improved design, character, and quality of new mixed-use developments and preserve natural and scenic features of open spaces."

## Mixed use

The "mixed use" requirement — residential, commercial, industrial and institutional — is key. SC Code Section 6-29-720, which explains multiple types of authorized planning tools, indicates that a PDD is "a development project comprised of housing or different types and densities and of compatible commercial uses, or shopping centers, offices parks, and mixed-use developments."

Court cases have found that this mixed-use element is not optional. The 2010 SC Supreme Court case *Sinkler*

*v. County of Charleston* invalidated a Wadmalaw Island PDD on the grounds that it did not provide for mixed use and instead simply allowed for smaller lot sizes than would otherwise be allowed for the area's agricultural classification.

## Changes over time

PDDs are established with their own text amendment to the zoning ordinance and accompanying map. Local governments and developers usually negotiate PDDs with a proposed development in mind, providing site-specific rules like the property's uses, setbacks, lot sizes and density.

Most PDDs take years to build out. The passage of time and changes in development conditions often make the originally approved plan unsatisfactory for remaining undeveloped phases. For example, after building an initial residential component of a PDD, the developer might determine that the remaining phases should have a different mix of residential and commercial than described in the original plan.

In this situation, the developer must choose between complying with the original, unsatisfactory plan or requesting a formal amendment to the PDD, which can be a burdensome, time-consuming and uncertain process. In approving a

PDD, cities and towns should balance the sound public policy of making the PDD as specific as possible against the possible need for future flexibility.

## Precise language

SC Code Section 6-29-270 names multiple types of zoning techniques, and PDDs are only one of them. Others include "cluster development," which allows for a reduction of lot sizes as a way to preserve open spaces; the "conditional uses" in which the city or town can add conditions to the limitations found in the existing zoning, among others.

Whether the municipality decides to pursue a PDD for an area or another zoning technique, it should make sure that the language used in its zoning ordinance amendment matches with the language in the state law, and the stipulations it sets up matches with what the law describes. In other words, if the municipality wants to use the planned development district technique, it needs to pass an ordinance using the words "planned development district," and provide for mixed use.

*Learn more about zoning tools, powers and administration in the Municipal Association's Comprehensive Planning Guide for Local Governments, found at [www.masc.sc](http://www.masc.sc) (keyword: Planning Guide).*

Florence's City Center Market, which makes use of the frame of an old warehouse structure, is located in the city's Food, Artisan and Warehouse District. Photo: City of Florence.



# Overlay Districts Drive Desirable Development

For the past decade, the cities of Charleston and Folly Beach, Town of James Island and Charleston County have collaborated on standards and goals for one corridor — the Folly Road overlay district — that crosses all their jurisdictions and impacts residents in each municipality. An overlay district is one that applies an additional layer of standards to all areas within a defined boundary, regardless of the underlying zoning district.

The staffs and elected officials in the different jurisdictions have set mutual goals, adopted similar zoning ordinances, crafted winning grant proposals and worked to keep their neighbors as well as their own residents informed about development along that corridor.

“If a project is coming to Folly Road that requires a public meeting, notification goes to residents of all four jurisdictions,” said Folly Beach City Administrator Aaron Pope. “That has really been a great cooperative tool.”

That notification has the benefit of involving more residents, but that can also create challenges as residents of the different jurisdictions have different ideas about what they want.

When encouraging resident engagement, said James Island Town Administrator Niki Grimbball, “the residents of James Island may not be on the same page as the planning department of the City of Charleston.”

The benefits have become apparent with the creation of bike lanes and a

consistent sidewalk path for the whole of the corridor. The effort has also boosted neighborhood preservation and helped shape a commercial core for the road from roughly Maybank Highway to the Atlantic Ocean.

The municipalities and county hired an outside consultant who manages the day-to-day of the overlay district, but each jurisdiction contributes staff and elected officials to the steering committee. The district also has a board for zoning appeals that is a quasi-judicial entity that makes final decisions when development proposals are rejected.

“One great thing is we are starting to see tangible results,” said James Island Planning Director Kristen Crane. “We have two joint applications for grant funding for



Fountain Inn used an overlay district to guide business development on its Highway 418 corridor. Photo: City of Fountain Inn.



our big goal of getting the sidewalk all the way down the corridor ... People can see it and see the value of it and that is building momentum as it goes.”

In the City of Florence, the overlay districts don't involve multiple jurisdictions, but they do provide a way to define the characteristics of certain neighborhoods and corridors, and allow in only those uses that would enhance those traits.

“We had adopted the core of downtown as a district, and within that are the smaller arts and cultural, downtown central and historic districts,” said Florence Planning Director Jerry Dudley. “Those were the first overlay districts that defined the downtown area and the layers of targeted revitalization.”

One of the early successes for these character-based districts was the development of Hotel Florence in the heart of the city's historic downtown. The city has added more overlays in the past 13 years, and now has seven distinct districts.

“Within Florence, there are a lot of different eras of development, and the overlays have allowed us to maintain the character of each one,” said Clint Moore, assistant city manager for planning, research and development.

The overlays can also be used to address other issues.

Florence's Food, Artisan and Warehouse district, for example, was created to help address the issue of a food desert — that is, an area where a significant population does not have ready access to healthy, affordable food.

Development in the area includes a Save-A-Lot grocery store, which the city helped finance with grants along with the Palmetto Housing Authority, and a city-developed health and wellness

campus, including a community center. The city also allocated \$3.7 million in tax increment financing funds to create the City Center Market, a city-owned and operated farmers market with rentable commercial kitchen space. The investments are revitalizing a district and bringing in private development as well.

“You don't see that a lot — a zoning ordinance to combat a food desert,” Dudley said. “But it's important to understand why you are putting it in place.”

While the results are visible all around the city, Moore said, there is a steep education curve for landowners and some local developers.

“Even though we feel that we have created an ordinance that works for our residents, our local developers have been slow to adopt them,” Moore said. “We're still trying to educate and work with them, but that's been one of the largest hurdles.”

For the City of Fountain Inn, which has seen its population double during the past 10 years, the overlay district was intended to guide certain types of development to its Highway 418 corridor north of Interstate 385 and away from its historic Main Street district.

And it has worked so well that the city has amended its original overlay plan to limit the number of similar businesses within a set distance in order to bring a diversity of offerings to the area.

“Businesses want to be around other like businesses,” said City Administrator Shawn Bell.

That tendency can be valuable — to a point. The city doesn't want to see that stretch of road simply turn into an interstate exit where drivers pull off for a quick meal at a fast food restaurant then

return to the road.

Last year, the city council passed new rules for the district, requiring certain types of businesses, including car washes, dollar stores and nightclubs, to be a set distance apart. The distance requirement limits the potential number of each type of business in the district.

“We were starting to get a lot of inquiries on that corridor that would have made it more of a stop on the interstate, which we don't want,” Bell said. “We didn't want three car washes in a row. We wanted some diversity on that corridor ... I'm not a huge fan of interfering with the free market, but we have put a lot of effort into that corridor and we didn't want it to turn into a lot of LULUs [locally undesirable land uses].”

The original overlay is nearly 10 years old, and the changes made late last year were the first major alterations. Trying to keep a consistent set of rules is key to working with businesses that want to locate along the corridor, Bell said.

“The development community likes to know what the rules are upfront. If you have those rules spelled out and they are reasonable, the businesses don't bat an eye,” he said. “They just don't want you to change them midstream.”

Overlays require communication, collaboration and patience, but over time they have significant potential to help cities and towns pursue the kinds of development that best fits their community's needs.



Officials cut the ribbon on a Folly Road bus stop. Folly Road is home to a multijurisdictional effort to improve transportation and shape development. Photo: City of Folly Beach.



# Coping With Growth

## Population Increases Challenge Services, Staff Capacity

Many leaders would prefer a growing city over a stagnant one, but that doesn't mean growth is simple for municipalities to navigate — particularly when it happens quickly in cities that may not be ready for an increase of buildings and residents.

The Town of Pendleton is one such hotspot. Steven Miller has served as its town administrator for nearly 10 years.

“Right now, we're having a massive amount of growth, and we're having some difficulties dealing with it. It's not always easy all the time with all the subdivisions going in,” Miller said. “Part of it is just coping with the amount of change when it's coming fast. [For example], how are you going to get enough personnel and equipment in to handle 1,500 more homes in the next five years?”

That sentiment is echoed by Shane Sligh, the town administrator in Pageland,

where growth is spilling in from nearby Charlotte and Monroe, N.C.

“We've had quite a few growing pains, that will be the first thing I'll say,” he said.

Many small cities and towns around South Carolina have seen rapid growth, fueled by new industries moving in, the addition of remote workers who want to live in smaller communities or new residents who are willing to commute to nearby cities. In many instances, that combination translates into a need for housing developments, roads, utilities and other services.

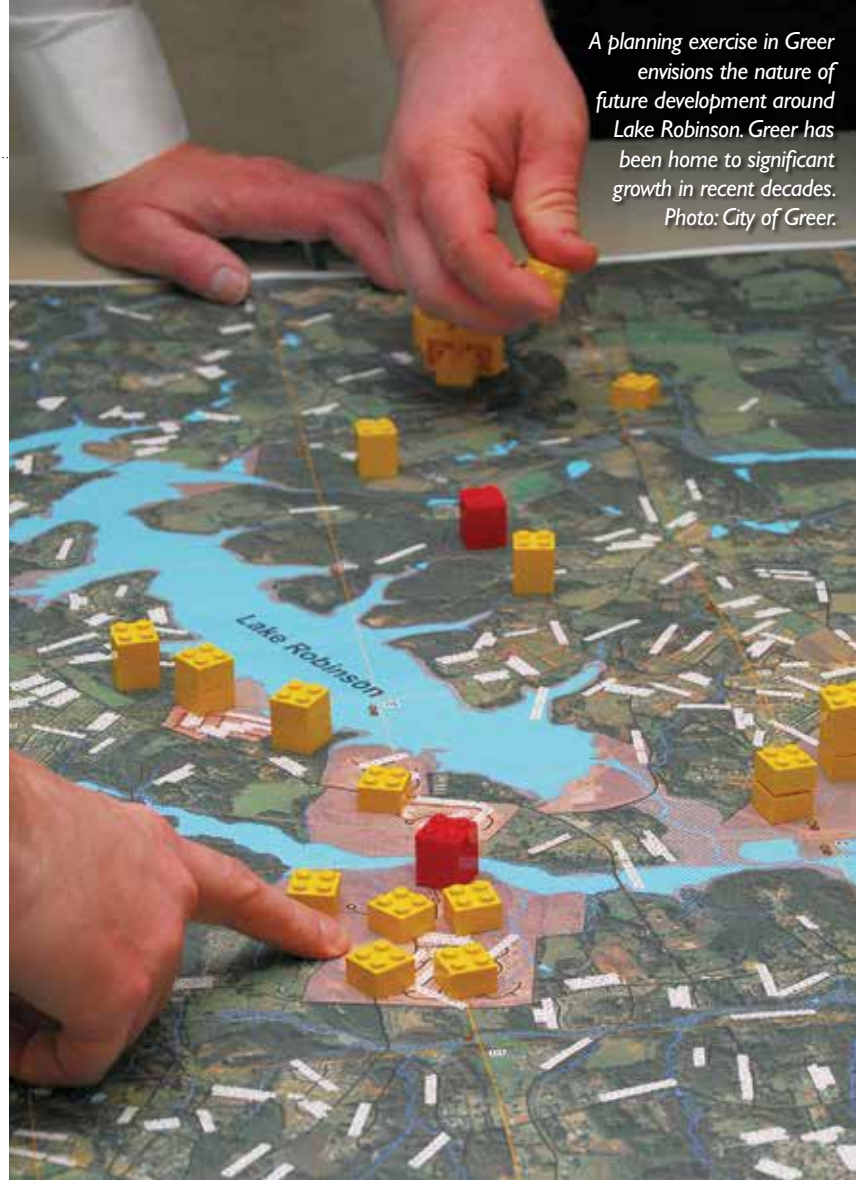
Growth can pump in more resources, but also puts more pressure on municipalities. And a key for managing the growth involves understanding how to plan for it — including land-use management and staffing in municipal offices.

In Pendleton, located in Anderson County in the bustling Upstate, large

manufacturing facilities are located in or just outside of town. One of those, Arthrex Manufacturing, expects to add 2,500 employees in the next two or three years, with plans for the campus to grow to 9,000 workers in the next 20 to 30 years.

With an attractive downtown and easy access to Interstate 85, Pendleton is also close to Clemson University and is home to a Tri-County Technical College campus. Parts of the town are bordered by thousands of acres of protected land, locking in development. And while the town is still small, it is clearly growing. The population jumped from 2,800 to 3,400 in the most recent census, but with roughly 30 building permits issued each month, Miller estimated the population is around 4,000 now.

Pendleton has addressed the growth by contracting out some services and attracting, hiring and retaining a capable



A planning exercise in Greer envisions the nature of future development around Lake Robinson. Greer has been home to significant growth in recent decades. Photo: City of Greer.

municipal workforce. The town, which has about 30 full-time employees, also brings in consultants for temporary work, including developing a large tax incremental financing district. Pendleton is preparing to put out a bid to rewrite all of its development ordinances, updating the regulations to make it a performance-based Unified Development Ordinance system.

A few years ago, Pendleton contracted out its wastewater treatment operation to ClearWater Solutions, something Miller called “the best thing we’ve ever done.”

The city also contracts out its key employee recruitment process, hiring an outside human resources firm to find candidates for top positions. It also helps that the council has made employees’ pay competitive with much larger towns so it has been able to hold on to employees, something Miller credits as “a key to our success.”

“We have people with a lot of knowledge on planning boards and committees. We actually have a full-time planner here, which most cities our size do not have.

And we have an ongoing contract with a planning consultant who also is a landscape architect, too. So he can talk about design, which makes our boards feel a whole lot more comfortable,” he said.

Another Upstate city, Greer, has seen explosive growth over the past two decades, as the BMW plant and its suppliers, along with other international corporations, expand their workforces, City Administrator Andrew Merriman said.

The city’s planning and zoning office is currently creating a Unified Development Ordinance, updating zoning ordinances and subdivision regulations to address growth. It also works on smart growth strategies such as mixed-use development, creating walkable neighborhoods through sidewalks and trails, creating a range of housing options and preserving green space for recreational opportunities. Greer has had two years of record housing construction since the 2020 census, which marked the population at 35,308.

“Greer City Council understands that we are a service industry and has approved expanded and new full-time and part-time positions to stay ahead of the growth. This is particularly important for emergency



Crews install streetscape enhancements along North Mechanic Street in Pendleton. Photo: Town of Pendleton.

services as our residential construction and population expand. The city’s annual budget is directly tied to our growth,” Merriman said.

Pageland, a town of 2,456 people as of 2020, is experiencing an influx of new residents who are either working from home or commuting to the Charlotte and Monroe, N.C. areas.

“Everything’s wanting to come in and we’re trying to manage all of that,” Sligh said. “Some of what we’re managing is, ‘where’s the money coming from for us to provide additional services?’”

The town is completing a study to determine what type of impact fees it can apply to provide services for the new developments. While there is a new wastewater treatment plant, Pageland also studying the need to increase its water capacity, he said.

The town will also contract out a parks and recreation master plan to determine if Pageland needs more parks or equipment.

Each of the three municipalities has advice for cities dealing with growth — and growing pains.

In Greer, Merriman noted that it’s “important to plan and prepare for growth before it arrives. Bringing

partners to the table keeps stakeholders on the same page and permits growth for the best interest of all.”

In Pageland, Sligh stressed the importance of working through the process diligently and patiently.

“Make sure you’re doing what’s right for the community. Not because it’s on your doorstep, but because it is what’s right for the community,” he said.

In Pendleton, Miller noted the importance of bringing in consultants to talk through issues and also building relationships with county leaders and the area’s state legislative delegation, something that is especially important with large projects and road funding. He also advised investing in staff and finding knowledgeable employees who are able to help elected officials understand the decisions they have to make.

“We’re beside the City of Clemson, which is a much larger jurisdiction,” Miller said. “Our joke here is that whatever Clemson did six months ago, we’ll have to do in six months. So, if you have somebody that’s much bigger and has grown faster than you, you can look at what they did through certain times and get an idea of what’s going to happen to you.”



# Keep the Official Zoning Map Updated



The South Carolina Comprehensive Planning Act allows local planning commissions to prepare and recommend — and local elected councils to approve — “zoning ordinances to include zoning district maps and appropriate revisions thereof” within a city or town.

In other words, the official zoning map shows the correct zoning designation of all parcels in a municipality. Interested parties consult the official zoning map to make land use decisions for such parcels.

In practice, cities and towns often make incremental amendments to their zoning ordinance without systematically conforming the official zoning map to such amendments, but they should keep the map up to date.

## Zoning amendments

Zoning ordinances, as established in the South Carolina Comprehensive Planning Act, are to be prepared by local planning commissions and recommended to local elected councils for approval. This includes the “zoning district maps and appropriate revisions thereof.”

The zoning ordinance usually comprises

- a regulatory section that establishes the permitted uses, conditional uses and other conditions of development within designated zoning districts; and
- a map that divides all parcels into these zoning districts.

By consulting the map, a resident or developer should be able to determine what land use may be made of any given parcel.

Amendments to the zoning ordinance fall into two categories:

- Text amendments, which amend the regulatory section of the zoning ordinance. For example, a text amendment might add a permitted use to a zoning designation.
- Map amendments, which change the zoning designation of one or more parcels without changing the applicable regulatory text. Map amendments usually result from individual requests that a parcel be rezoned.

The Act requires that text and map amendments follow the same procedure used for the original approval of a zoning ordinance.

## Updating the map

Often, the planning department is the custodian of the official zoning map. When a city or town approves map amendments without updating the official zoning map to conform, the map can become inaccurate. The language of the Act does not state the way that officials should keep their maps updated as these changes come along, but they do need to make updates to keep the map current and reliable.

The law spells out the way for councils to pass map amendments, but does not require a specific procedure to formally update the official zoning map, so different municipalities handle official zoning map updates differently.

Municipalities handle map updates in different ways. Some follow a policy of making amendments to the official

zoning map each time the council passes a map amendment ordinance. Others handle the map amendment and the update to the official zoning map as separate ordinances, and the council passes both at the same time. Finally, some approve map amendments without any specific reference to the official zoning map, leaving official zoning map updates to happen when council chooses to take this action.

The official zoning map always needs to reflect the current zoning designations of every parcel. Ideally, the municipality would update and republish the official zoning map each time a map amendment ordinance occurs in one of two ways:

- including the update to the official zoning map in the ordinance approving the map amendment, or
- adopting a separate ordinance updating the official zoning map.

Some municipalities lack the resources to update and republish the official zoning map every time a map amendment occurs. For these, the Municipal Association of SC suggests a periodic update and republication, happening on a regular schedule to prevent the map from falling out of date.

This process is similar to making regular updates of the local code of ordinances. Municipalities do not republish their code of ordinances every time they enact a new ordinance, but they do conduct recodification periodically to ensure that all local ordinances are included in the published code of ordinances.





# Managing the Risks of Land Use Regulations

When cities and towns adopt planning and zoning regulations, staff and officials can run into legal and political issues. Handling these concerns appropriately means paying careful attention to the law. Anytime a controversial project is moving forward where lawsuits may occur, planning and zoning staff need to work closely with legal counsel.

Here are some of the basics for land use regulation risk management:

## Unequal treatment

Consistent decision-making, and consistent application of a municipality's ordinances, go a long way toward preventing issues with planning and zoning. Land use lawsuits most commonly occur in situations where plaintiffs claim they are receiving unequal treatment.

A common cause of such a lawsuit is "spot zoning." In the 1963 case *Bob Jones University, Inc. v. City of Greenville*, the SC Supreme Court invalidated "spot zoning," which it defined as giving a small land parcel a classification entirely unlike the zoning for surrounding areas in a way that benefits the owners of that property and harms other property owners.

Decisions can also be challenged in instances where they are said to be "arbitrary and capricious," which can lead to claims under the U.S. Constitution involving equal protection, substantive due process or takings. Takings claims involve a possible violation of the Fifth Amendment and are typically not covered by insurance.

## Political input

A review of a local newspaper's headlines and letters to the editor when a major development project is advancing will readily show that development is always a source of public interest and discussion. Often, these projects lead to controversy, which can become a problem when elected officials become significantly involved, or when they are trying to influence staff decisions and recommendations.

Members of the city or town council, as well as other decision-makers like planning commission members or board of zoning appeals members, should avoid making public statements about how specific regulatory decisions are made. This includes public statements such as

talking to reporters about specific cases outside of public meetings or social media statements. This can help demonstrate that the regulatory decisions or recommendations they make were based on an unbiased application of the relevant ordinances.

## Stating the basis for decisions

Generally, a land use decision that ends up in litigation will not be rejected by the court unless the decision made has no rational or valid basis, or the decision is based on an incorrect interpretation or application of the municipality's planning and zoning ordinances. Because of this, planning boards that make recommendations and councils that act on those recommendations need to be able to explain how they arrived at their decisions using only the relevant ordinances.

*The Municipal Association's Comprehensive Planning Guide for Local Governments covers many legal issues involved in zoning, including spot zoning, exemptions, nonconforming uses and others. Learn more at [www.masc.sc](http://www.masc.sc) (keyword: planning guide).*



1411 Gervais Street | PO Box 12109  
 Columbia, South Carolina 29211  
 Tel: 803.799.9574 | Fax: 803.933.1299  
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# Calendar

For a complete listing of the Association's training opportunities, visit [www.masc.sc](http://www.masc.sc) to view the calendar.

## NOVEMBER

**1 Communications Workshop.** Municipal Association of SC, Columbia. Topics include podcasting, crisis communication, city branding and social media engagement.

**3 SC Association of Stormwater Managers Fourth Quarter Meeting.** Cooperative Conference Center, Columbia. Topics include audience-focused communication about stormwater and updates from the SC Department of Health and Environmental Control.

**9 Business Licensing Essentials – Local Renewal Center Walkthrough.** Virtual.

**10 Risk Management Services Annual Member Meeting.** Cooperative Conference Center, Columbia. Topics include loss control best practice as well as fraud and embezzlement prevention.

**16 – 18 SC Municipal Human Resources Association Annual Meeting.** Marina Inn at Grande Dunes, Myrtle Beach. Topics include class and compensation surveys, staff support after an employee death, office exercising, active threat training, and creative strategies for recruitment and retention.

## DECEMBER

**9 SC Municipal Attorneys Association Annual Meeting and Continuing Legal Education Seminar.** Marriott, Columbia. Topics include land use and code enforcement.

**14 Business Licensing Essentials – Year in Review.** Virtual.

## 2023 FEBRUARY

**7 Hometown Legislative Action Day.** Columbia Marriott. Find more information on page 2.

**8 Municipal Elected Officials Institute of Government.** Columbia Marriott.

Topics for Session A include an overview of local government planning and zoning; conducting public meetings; and strategic planning. Topics for Session B include municipal annexation, business license tax administration, and ethics and public accountability. Courses also include Advanced Continuing Education, as well the Advanced MEO Institute topics of public safety policy and administration and municipal utility policy and administration.

**14 – 17 International Institute of Municipal Clerks Region III/Municipal Finance Officers, Clerks and Treasurers Association Spring Academy.** Wild Dunes Resort, Isle of Palms.

## MARCH

**8 SC Business Licensing Officials Association Spring Academy.** Cooperative Conference Center, Columbia.

**13 – 15 SC Utility Billing Association Annual Meeting.** The Beach House, Hilton Head Island.