Town Council Workshop

March 8, 2018

Package Contents

Section One — Outline of topics mentioned over the past several months

Section Two — Town of Surfside Beach Code of Ordinances, Chapter 2, Article II, Town Council

Section Three — Town of Surfside Beach Code of Ordinances, Chapter 5 Elections

Section Four — South Carolina State Code Chapter 15, Nominations and Elections for Municipal Offices

Section Five — Town of Surfside Beach Code of Ordinances, Chapter 2, Section 2-1 Form of Government

Section Six — South Carolina Code of Laws, Chapter 5, Selection of forms of Municipal Government (Also includes Chapters 9, 11, and 13 setting out each form of government.)
Council Discussions – Council concurred to schedule the workshop at the February 27th meeting. These are topics that have been mentioned over the past several months:

- Term Limits, TOSB Section 2-18, page 1 of 13
- Council and Mayor’s Pay – TOSB Section 2-20, page 2 of 13
- Forms of Government – TOSB Section 2-1 and SC Code Chapters 5 and 11
- Election Filing Fees – TOSB Chapter 5, Section 5-31(3), page 3 of 8 (fees have not increased since the town was established.)
- Time of meetings – TOSB Section 2-36, pages 4 of 13 and following
  - (d) Meetings on election day. Would Town Council like to consider changing the wording to state that when “town elections” fall on meetings days? Changing the day to Monday is confusing for many of our citizens, and the meetings would not interfere with the election process.
- Council Rules of Order
  - signing documents – no existing statute, policy or procedure
  - addressing the council – TOSB Section 2-40, page 7 of 13
  - staying on topic
  - Robert’s Rules of Order, Newly Revised
  - Parliamentarian, TOSB Section 2-51, page 9 of 13 and following
- Clarifying codes setting agenda – TOSB page 5 of 13 and following
  - Authority to add items to the agenda; various agenda types; business or discussion. Since 2012, the practice has been to bring new matters for discussion to determine whether council is interested in the matter as a business item. Town Code was amended by Ordinance #14-0781 to add Section 2-139(b)(9) Town Council Discussion.

| 8/28/2012 | Town Council Discussion added to agenda to provide a platform for members to bring concerns and/or issues that should be discussed before adding to business | No Objections |

- Mayor Pro Tem Election, Section 2-46, page 8 of 13 and following
  - State Code - should be elected by Town Council
  - if the elected mayor pro tempore is the candidate with highest number of votes in the most recent election, then it is recommended that the term should be the second two years of office
- “Appearance of Citizens” – the language implies that speakers are at the meeting “recognized by the moderator,” page 11 of 13
  - Do you want speakers only to speak for themselves (no third party comments or readings?)
- Any other matters relating to Town Council that members wish to discuss
ARTICLE II. - TOWN COUNCIL

DIVISION 1. - GENERALLY

Sec. 2-16. - Composition and election of town council.

The town council shall be composed of a mayor and six (6) councilmembers who shall be elected at large at an election held as provided in section 2-1 and as provided in the applicable state law.

(Code of 1969, § 2-50)

Cross reference— Elections generally, Ch. 5; method of election of mayor and town council, § 5-51.

Sec. 2-17. - Qualifications for mayor and town council.

To be eligible for the position of mayor or of councilmember of the town, a person shall be a duly qualified resident and qualified elector of the town at the time of filing for candidacy under the constitution and statutes of the state. Proof thereof shall be furnished pursuant to section 5-31 hereof. Any person elected to town council shall reside within the corporate limits of the town during his tenure.

(Code of 1969, § 2-51; Ord. No. 04-0535, 8-24-04; Ord. No. 06-0600, 6-27-06)

Cross reference— Qualifications and filing of candidates for mayor and council, § 5-31.


Sec. 2-18. - Term of mayor and council.

The mayor and members of council shall hold office for the period of four (4) years or until their successors shall be duly elected and qualified.

(Code 1969, § 2-52)


Sec. 2-19. - Oath of mayor and council.
The mayor and councilmembers before entering upon the duties of their respective offices shall take the following oath:

"I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this state, to exercise the duties of the office to which I have been elected and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this state and of the United States. As mayor (or councilmember) of the Town of Surfside Beach, I will equally, fairly, and impartially, to the best of my ability and skill, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect according to law the purposes for which I have been elected. So help me God."

(Code 1969, § 2-53)


Sec. 2-20. - Compensation and benefits of town council.

(a) Compensation.

(1) Effective April 1, 1992, the annual salary of the mayor shall be the sum of seven thousand two hundred dollars ($7,200.00).

(2) Effective May 10, 2006, the annual salary of the town councilmembers shall be the sum of six thousand dollars ($6,000.00).

(b) Expense reimbursement. Any member of town council may receive payment for actual expenses incurred in the performance of their official duties, subject to:

The Town of Surfside Beach will reimburse town councilmembers for reasonable business travel expenses incurred while attending the annual retreat, official town business, and training. All business travel must be approved in advance by the town administrator. Councilmembers whose travel plans have been approved may request the town clerk to submit registration requests and make travel arrangements. The actual costs of travel, lodging, and other expenses directly related to accomplishing business travel objectives will be reimbursed by Surfside Beach.

Expenses that generally will be reimbursed and require a receipt include the following: Airfare or train fare for travel in coach or economy class or the lowest available fare; car rental fees, only for compact or midsized cars; cost of negotiated rate for accommodations at the host lodging
hotel or motel; fares for shuttle or airport bus service, where available, costs of public transportation for other ground travel; taxi fares, when there is no less expensive option; mileage costs for use of personal vehicles at the current IRS mileage rate.

Travel days per diem. When authorized to travel on official business whereby overnight lodging is required, councilmembers shall receive a flat rate per diem of eighty dollars ($80.00) per day, which shall be considered taxable income, to cover the costs of meals, tolls, parking, snacks, tips, and all other incidental expenses. Receipts for these expenses are not required.

Note: Personal entertainment and personal care items are not reimbursed. Councilmembers who are involved in an accident while traveling on business should promptly report the incident to the town administrator. Vehicles owned, leased, or rented by Surfside Beach may not be used for personal use without prior approval. A family member or friend may accompany councilmembers on business travel when the presence of a companion will not interfere with successful completion of business objectives. Pursuant to S.C. Code 1976, § 5-7-170, the Town of Surfside Beach shall not pay any expenses for a travelling companion.

When travel is completed councilmembers desiring reimbursement for mileage should submit total mileage to the town clerk within thirty (30) days. Requests for reimbursement that are not made in a timely manner may be denied. Abuse of this business travel expense policy, including falsifying expense reports to reflect costs not actually incurred, is prohibited.

(Code 1969, § 2-54; Ord. No. 91-0302, 3-19-91; Ord. No. 05-0588, 1-10-06; Ord. No. 09-0658, 3-10-09; Ord. No. 11-0708, 10-25-11; Ord. No. 13-0754, 8-27-13)

Cross reference— Ordinances establishing salaries of town officers and employees saved from repeal, § 1-10(3).


Sec. 2-21. - Election and duties of mayor.

The mayor shall be elected at large from the town, in the manner provided by state law. The mayor shall be recognized as the head of the town for all ceremonial purposes and by the governor for purposes of military law. He shall preside over the meetings of the town council, be ex officio chairman of all appointed committees, but shall have no regular administrative duties.
He should exercise all powers and authority vested in him by the town charter in the laws of the state and the ordinances of the town. He should ensure that all negligence, carelessness and positive violations of duty is investigated and the proper remedial measures are taken.

(Code 1969, § 2-61)

Cross reference—Powers of mayor during state of emergency, § 2-217; method of election of mayor and town council, § 5-51; mayor as trustee of firemen's insurance and inspection fund, § 6-27.

Sec. 2-22. - Time of entering and leaving office.

Time of entering and leaving office. The elected mayor and members of council shall take office immediately after approval of the minutes for the previous meeting during the regular meeting scheduled on the second Tuesday of May. The mayor and members of council shall remain in office until after approval of the minutes for the preceding meeting during the regular meeting scheduled on the second Tuesday of May during the election year in which his term expires or until each successor is elected and qualified.

(Code 1969, § 2-62; Ord. No. 93-0332, 7-6-93; Ord. No. 95-0367, 9-5-95; Ord. No. 04-0535, 8-24-04)

Secs. 2-23—2-35. - Reserved.

DIVISION 2. - MEETINGS[3]

Sec. 2-36. - Time of meetings.

(a) Regular meetings. Beginning February 2007, the regular meetings of town council shall be held at Town Hall in council chambers on the second and fourth Tuesday each month, at 6:30 p.m., unless some other hour is fixed, except during the month of December when the regular meeting shall be held on the second Tuesday at 6:30 p.m., unless some other hour is fixed.

(b) Reserved.

(c) Special meetings. Special meetings of the town council may be called by the mayor in cases of emergency, or when in the mayor's judgment the good of the town requires it. Special meetings may also be held when notice is given in writing, signed by at least four (4) members of town council. Notice shall state the time and
place of such meeting. If a quorum (see section 2-38) is present, the meeting shall proceed with all the validity of a regular council meeting or a special meeting called by the mayor.

(d) Meetings on election day. Any town council meeting, regardless of type, that falls on an election day shall be moved to the Monday immediately prior to the regular scheduled date at the regular hour and meeting place.

(Code 1969, § 2-70; Ord. No. 93-0327, 2-16-93; Ord. No. 95-0366, 9-5-96; Ord. No. 01-0464, 11-27-01; Ord. No. 06-0609, 10-24-06; Ord. No. 07-0620, 3-13-07; Ord. No. 15-0809, 10-13-15)

Sec. 2-37. - Minutes.

The town clerk shall keep minutes of all public meetings which shall be a matter of permanent public record. At each regular council meeting, the minutes of the previous regular meeting must be presented for approval. Minutes of special meetings, workshop meetings, and retreat meetings, shall be presented for approval at the next regular meeting as soon as practical. Minutes do not constitute the official record of a meeting until approved by town council.

(Code 1969, § 2-71; Ord. No. 02-0477, 5-28-02)

Sec. 2-38. - Quorum.

Immediately at the hour appointed for the meeting, the mayor shall take the chair, and if a quorum is present, shall proceed to business. In the event of the absence of the mayor, the mayor pro tempore shall take the chair. It shall be necessary that four (4) councilmembers be present to constitute a quorum.

(Code 1969, § 2-72; Ord. No. 15-0809, 10-13-15)


Sec. 2-39. - Agenda and order of proceedings.

(a) Agenda. Matters to be considered by council at a regular meeting or special meeting shall be placed on a written agenda publicly posted by the town clerk. Workshops shall be advertised by public notice. The town clerk must be notified of items to be placed on the agenda no later than Wednesday at 5:00 p.m. during the week immediately preceding the scheduled meeting. S.C. 1976 Code § 30-4-80
requires agendas of meetings and workshop notifications to be posted at least twenty-four (24) hours prior to a scheduled meeting with emergency meetings being an exception. Agenda items may be added by any member of town council, the town administrator, or the town clerk. Department directors may submit agenda items with approval of the town administrator. Any changes to the agenda, such as tabling, moving an item to be heard first, or deferring an item, may be made by motion presented during the meeting when that agenda is presented for approval.

(b) **Regular meetings.** The order of proceedings of the town council for regular meetings shall be:

1. Call to order.
2. Invocation and Pledge of Allegiance.
3. Public hearing (add if applicable).
4. Agenda approval.
5. Approval of minutes of the last regular meeting of town council and other meetings as applicable.
6. Public comments—Agenda items.
7. Communications.
9. Town council discussion.
11. Town council comments.

(c) **Special meetings.** The order of proceedings of the town council for special meetings shall be:

1. Call to order.
2. Public comments—Agenda items.
4. Adjournment.

(d) **Workshop meeting.**

1. Call to order.
2. Workshop item (council may accept public comments during workshop).
(3) Adjournment.

(e) Scheduled executive sessions shall be published as a "Public Notice" on the agenda, and pursuant to subsection 2-52(e) be called to order prior to the regular meeting on the meeting day.

(Code 1969, § 2-73; Ord. No. 02-0477, 5-28-02; Ord. No. 03-0504, 8-12-03; Ord. No. 05-0578, 10-11-05; Ord. No. 06-0609, 10-24-06; Ord. No. 07-0620, 3-13-07; Ord. No. 10-0687, 7-27-10; Ord. No. 12-0720, 7-10-12; Ord. No. 14-0781, 7-8-14; Ord. No. 15-0805, 6-23-15)

Sec. 2-40. - Addressing the council.

Every member of the town council when about to speak shall address the mayor as "Mr. Mayor" and in speaking shall avoid all disrespect to the town council and all personalities. The member shall confine himself to the subject under consideration.

(Code 1969, § 2-74)

Sec. 2-41. - Recognition of speakers.

The mayor, when addressed by a member who rises in order, shall name the member using no title but that of "Mr.". The member who shall rise first in order shall be first heard.

If several members rise about the same time, the mayor shall decide who shall speak first. No member shall speak more than twice on the same question except to explain without the consent of the council.

(Code 1969, §§ 2-75, 2-77)

Sec. 2-42. - Voting requirements.

(a) All actions of council shall be by majority vote of members present at a public meeting, including regular, special, and workshop meetings, including suspension of a rule of order; provided that an ordinance amending rules of order shall be adopted by a majority of members serving.

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

(c) A roll call vote may be required by any member of council.

(d) The vote on every question shall be recorded in the minutes.
(e) No member of council may leave the council chamber while in public session without permission of the mayor.

(f) No member shall have more than one vote, nor shall any member vote by proxy, mail, telephone, facsimile, electronic, or absentee vote.

(Code 1969, § 2-76; Ord. No. 02-0477, 5-28-02)

Sec. 2-43. - Reasons for voting may be recorded.

Any member of the town council may, if he desires, have his reasons for voting for or against any measure recorded in the minutes.

(Code 1969, § 2-78)

Sec. 2-44. - Interested member or mayor not to vote.

(a) No member of the town council or the mayor shall participate in discussion or vote on any question of a private nature which he is personally or pecuniarily interested.

(b) Nothing in this section shall abate or diminish the obligations of any member of the town council or the mayor to avoid conflicts of interest prohibited by state law or the Code of Ordinances of the town.

(Code 1969, § 2-79; Ord. No. 10-0688, § A, 9-14-10)


Sec. 2-45. - Mayor's power to vote.

The mayor shall vote on all questions coming before the town council.

(Code 1969, § 2-80)

State Law reference— Each member of the council including the mayor shall have one (1) vote, S.C. Code 1976, § 5-11-30.

Sec. 2-46. - Mayor pro tempore election and duties.
(a) **Election.** During every general election year immediately after newly elected officials are sworn in, the town council shall nominate the council candidate receiving the highest number of votes for office, or other nominees, for the position of mayor pro tempore for the two (2) years following, and shall serve as mayor pro tempore until the next general election after which the town council candidate receiving the highest number of votes for office, or other nominees, shall be nominated as the new mayor pro tempore.

(b) **Duties.** It shall be the duty of the mayor pro tempore, and the mayor pro tempore shall be vested with all the powers, duties and responsibilities attached to the office of mayor, to act as mayor during the temporary absence or disability of the mayor or when the mayor is incapable of performing the duties of office, whether by reason of death, resignation, removal or permanent disability, or for any other reason, and until the new mayor shall have been elected and qualified.

(c) **Absence or inability of mayor and mayor pro tempore.** During the absence or inability to act of both the mayor and the mayor pro tempore, the duties of the mayor shall be performed by such councilmember as town council shall elect by duly approved motion during a special or regularly scheduled council meeting.

(Ord. No. 12-0715, 6-11-12)


Sec. 2-47. - Reserved.


Secs. 2-48—2-50. - Reserved.

DIVISION 3. - RULES OF ORDER FOR COUNCIL MEETINGS

Sec. 2-51. - Quorum and rules of order.
(a) A majority of council members serving constitutes a quorum (see section 2-38) for the conduct of business at any meeting. The mayor or mayor pro tempore shall preside, except when both are absent the members present shall elect a presiding member. A member present but disqualified from voting on a question by state law due to a conflict of interest shall be counted for purposes of a quorum (see section 2-38.)

(b) Except as otherwise required by state law or this Code, all proceedings shall be governed by Robert's Rules of Order, Newly Revised Edition. The town administrator shall act as parliamentarian. Questions of order shall be decided by the mayor without debate, subject to appeal of the council.

(Ord. No. 02-0477, § 1, 5-28-02; Ord. No. 15-0809, 10-13-15)

Sec. 2-52. - Executive sessions.

(a) By majority vote in a public meeting, council may hold an executive session as permitted by the South Carolina Freedom of Information Act, S.C. Code 1976, § 30-4-70.

(b) No vote or formal action shall be taken in executive session.

(c) Minutes of executive sessions shall not be taken unless required by a majority vote of council. Minutes of executive sessions shall not be public records.

(d) It shall be unlawful for a member of council or person in attendance to disclose to another person or make public the substance of a matter discussed in executive session.

(e) Scheduled executive sessions. Town council shall be called to order for the purpose of holding a scheduled executive session prior to the regular meeting on the published meeting day. This Code does not prevent town council from entering into an executive session, if during the course of business during a meeting, retreat, or workshop it is determined that an executive session is appropriate pursuant to the Freedom of Information Act Section 30-4-70, et seq.

(Ord. No. 02-0477, § 2, 5-28-02; Ord. No. 05-0573, 9-27-05; Ord. No. 15-0805, 6-23-15)

Sec. 2-53. - Motions.

(a) A motion may be made orally or in writing; however, a motion shall be reduced to writing at the request of any member of council.
(b) A motion to reconsider must be made by a member who voted with the majority, and it must be made at the same or next succeeding meeting.

(c) A substitute motion may be made only for purposes of restating and clarifying a pending motion and amendments; it may not be used to introduce a new or alternative proposal.

(Ord. No. 02-0477, § 3, 5-28-02)

Sec. 2-54. - Appearance of citizens.

(a) Public comments—Agenda Items. Any citizen of the municipality or guest may speak on agenda items at a regular council meeting upon being recognized by the moderator during the public comments—agenda items portion of the meeting as provided in subsection 2-39(b)(6). Comments are limited to three (3) minutes per speaker, and must be germane to agenda items.

(b) Public comments—General. Any citizen of the municipality or guest may speak at a regular meeting on a matter pertaining to municipal services and operation, except personnel matters, upon being recognized by the moderator during the public comments—general portion of the meeting as provided in section 2-39 regardless of whether the citizen or guest has already spoken during the public comments—agenda items portion of the meeting. Comments are limited to five (5) minutes per speaker.

(Ord. No. 02-0477, § 4, 5-28-02; Ord. No. 05-0578, 10-11-05; Ord. No. 14-0781, 7-8-14)

Sec. 2-55. - Hearings by committee.

Council may appoint a special committee to assist in or hold a public hearing for council at any time upon any matter pending before it. Minutes or reports of hearings held by special committee shall be filed with the town clerk as a public record.

(Ord. No. 02-0477, § 5, 5-28-02)

Sec. 2-56. - Ordinances required.

(a) Council shall act by ordinance in all matters required by law to be done by ordinance, including:

(1) Adopt or amend an administrative code or Code of Ordinances, establish,
alter, or abolish any municipal department, office, or agency;

(2) Provide a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violations;

(3) Appropriate funds; adopt a budget; levy taxes, except as otherwise provided with respect to the property tax levied by adoption of a budget, pursuant to public notice; assess property for improvements or establish service charges for services;

(4) Grant, renew, or extend franchises, licenses, or rights in public streets or public property, and close abandoned streets, after public newspaper notice and public hearing;

(5) Authorize the borrowing of money;

(6) Annex area to the municipality;

(7) Sell or authorize the conveyance or lease of any lands of the municipality; and

(8) Amend or repeal any ordinance described in items (1) through (7) above.

(b) In matters other than those referenced to in this section, council may act either by ordinance or resolution.

(Ord. No. 02-0477, § 6, 5-28-02)

Sec. 2-57. - Resolutions.

(a) Introduction of resolutions. A voice motion is considered to be the introduction of an oral resolution which requires no written record other than a notation in the minutes of the meeting. A resolution proposed in writing shall be introduced in the same manner as an ordinance.

(b) Adoption of resolutions. Written resolutions may be adopted on one reading unless a public hearing is set by majority vote of council members present.

(Ord. No. 02-0477, § 7, 5-28-02)

Sec. 2-58. - Codification of ordinances.

All ordinances shall be codified and updated annually in a loose-leaf Code of Ordinances, except those adopted by reference and maintained in separate volumes, and copies shall be available for public inspection and purchase at reasonable cost.

(Ord. No. 02-0477, § 8, 5-28-02)
Secs. 2-59, 2-60. - Reserved.
TOWN OF SURFSIDE BEACH CODE OF ORDINANCES

Sec. 2-20. - Compensation and benefits of town council.

(a) Compensation.

(1) Effective April 1, 1992, the annual salary of the mayor shall be the sum of seven thousand two hundred dollars ($7,200.00).

(2) Effective May 10, 2006, the annual salary of the town councilmembers shall be the sum of six thousand dollars ($6,000.00).
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<th>Council Form of Government</th>
<th>Population</th>
<th>#FTE</th>
<th># Mtgs Mo</th>
<th>Annual Budget</th>
<th>Payroll</th>
<th>%Payroll to Budget</th>
<th>Mayor $Annual</th>
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|                           |            |      |          |               |         |                   |              |          |
|                           |            |      |          |               |         |                   | $9,973   AVERAGE of ALL SALARIES |
| Area Neighbors            |            |      |          |               |         |                   |            |          |
| Georgetown (Mayor/Council)| 9,163      | 165  | 1        | $36,415,854   | $6,772,862 | 19%               | $8,250      |          |
| North Myrtle Beach (C/Mgr.)| 132,752   | 350  | 2        | $80,160,007   | $30,818,666 | 38%                | $43,625     |          |
| Myrtle Beach (C/Mgr.)     | 27,109     | 830  | 2        | $175,924,329  | $61,737,998 | 35%               | $50,000     |          |

AVERAGE
STATE OF SOUTH CAROLINA  
COUNTY OF HORRY  
TOWN OF SURFSIDE BEACH )  

AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH  
OF TOWN CODE OF ORDINANCES  
§2-20 COMPENSATION OF MAYOR AND TOWN COUNCIL  
BE AMENDED TO INCREASE SALARIES AND PROVIDE  
FOR TRAVEL POLICY  

WHEREAS, the Mayor and Town Council of the Town of Surfside Beach, in council duly  
assembled, in order tc increase the salary for councilmembers; and  

WHEREAS, South Carolina Code Section 5-7-170 states that an ordinance establishing or  
increasing council salaries does not go into effect until the commencement date of the terms or two or  
more members elected at the general election following the ordinance’s adoption; and  

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Section 2-20 is hereby  
amended and shall henceforth state:  

Section 2-20. Compensation and Benefits of Town Council.  

A. Compensation.  

(1) Effective April 1, 1992, the annual salary of the mayor shall be the sum of seven thousand  
two hundred dollars ($7,200.00).  

(2) Effective May 10, 2006 the annual salary of the town councilmembers shall be the sum of six  
thousand dollars ($6,000).  

B. Expense Reimbursement.  

Any member of town council may receive payment for actual expenses incurred in the  
performance of their official duties, subject to:  

The Town of Surfside Beach will reimburse Town Councilmembers for reasonable business travel  
expenses incurred while attending the annual retreat; official town business, and training. All business  
travel must be approved in advance by the town administrator. Councilmembers whose travel plans have  
been approved may request the town clerk to submit registration requests and make travel arrangements.  

The actual costs of travel, lodging, and other expenses directly related to accomplishing business  
travel objectives will be reimbursed by Surfside Beach. Councilmembers are expected to limit expenses  
to reasonable amounts, i.e., amounts the council member would normally spend if he or she were paying. Expenses that generally will be reimbursed include the following: Airfare or train fare for travel in coach or  
economy class or the lowest available fare; Car rental fees, only for compact or mid-sized cars; Cost of  
negotiated rate for accommodations at the host lodging hotel or motel; Customary and standard parking  
garage fees; Fares for shuttle or airport bus service, where available, costs of public transportation for  
other ground travel; Taxi fares, when there is no less expensive option; Mileage costs for use of personal  
vehicles at the current IRS mileage rate; Up to $60 per day towards cost of meals and gratuities; Charges  
for telephone calls, fax, and similar services required for business purposes; Charges for one personal  
telephone call each day; Charges for laundry and valet services only on trips of five or more days; Any  
other expense deemed appropriate in the town’s discretion.  

Note: Personal entertainment and personal care items are not reimbursed. Mileage expenses  
for travel less than 50 miles from home or in Horry and Georgetown Counties is not reimbursable.  
Councilmembers who are involved in an accident while traveling on business should promptly report the  
incident to the town administrator. Vehicles owned, leased, or rented by Surfside Beach may not be used
like having to rush through on second reading of an ordinance to make a decision. The ordinance at 
hand is really to permanently remove the moratorium in R-2, and in his opinion, the issue was being 
muddied. The first time he saw this recommendation was five minutes before the meeting started. He 
would like planning and zoning to have the opportunity to consider the recommendation.

Ms. Tuttle also liked the concept from a visual aesthetic standpoint. She thought the firewall in 
the open space would be a negative as far as the aesthetics and the visuals. The 12-feet between the 
lower living level certainly meets the non-firewall requirement of the single-family. They are certainly 
closer than 12-feet down in the R-3 district. Her first thought would be that this would be a workable plan.

Mr. Merryman said to clarify that staff was not in any way trying to rush council on any of this. 
This is a situation where a definition was written; two attorneys reviewed it; planning and zoning reviewed 
it, and as usual, a developer found a loophole. His position is that a firewall is a firewall. Mr. Elder 
articulated a pretty good position to him this afternoon as this plan was being discussed, that this kind of 
meets both needs. It doesn’t allow the developers to completely make a mockery, “my words,” out of the 
definition. Yet, it does give developers some wiggle-room to use some architectural creativity. He 
wanted to make sure that everyone understood that this came up since this is second reading and the 
mandatorium issues that are afoot, and he believed that depending on what is done tonight, staff could not 
stop that interpretation, because he believed it has some legal basis in legal research and information 
from other municipalities. Mr. Elder said that type construction has been allowed in other municipalities; 
the town can always disagree with it. He was not legal counsel, but believed the town council could 
prohibit that type construction.

Mayor Hyman asked if the project was presented to planning and zoning before second reading if 
that would stop all construction until second reading if the ordinance. Mayor Hyman said as far as he was concerned, this design had nothing to do with the 
moratorium. Mr. Martin wanted to clarify the motion on the floor. Mr. McKown said he withdrew his 
motion in its entirety. Mrs. Herrmann said that if the ordinance is referred back to planning and zoning, it 
still has protection from first reading. Mayor Hyman said that was exactly right. Mr. Elder asked if the 
ordinance could be adopted as written, and then changes made to the definition as necessary. Several 
councilmembers said yes. Mrs. Hiatt asked if at least one side of the building had a 20-foot wall, if that 
would solve anything as far as safety. Mr. Elder said the firewall is designed to protect both sides of the 
property.

Mr. McKown moved adopt second reading as amended. Ms. Tuttle seconded. Mayor Hyman 
said the amendment was to include a 20-foot firewall. Several councilmembers agreed that was correct. 
All voted in favor. MOTION CARRIED.

ii. #05-0588 to Amend §2-20 Compensation of Mayor and Town Council. Mr. Merryman 
presented the issue paper at the December 13th meeting, and was adopted with an amendment that the 
mayor’s salary be increased to $9,600 that is reflected in the ordinance presented. No other changes 
were made. Mr. McKown moved to adopt second reading with an amendment that the mayor’s salary 
remain the same and only the councilmembers’ salaries change. Mrs. Hiatt seconded. Mr. McKown said 
the motion was offered in respect of the mayor’s comments as presented in the newspaper that he did not 
want a salary increase. Councilmembers Hiatt, Martin, McKown, and Tuttle voted in favor. Mayor 
Hyman, Mayor Pro Tem Truett, and Councilmember Samples voted against. MOTION CARRIED.

iii. #05-0589 to Amend §17-315 to Exempt Signs Subject to the Federal Highway 
Beautification Act. Mr. Merryman presented second reading that insures that Town Code does not 
conflict with federal and state law. Mr. Truett moved to adopt second reading as presented. Mr. McKown 
seconded. Mayor Hyman, Mayor Pro Tem Truett, and Councilmembers Hiatt, Martin, McKown, and 
Tuttle voted in favor. Mr. Samples voted against. MOTION CARRIED.

B. Discussion: Amendments to Council Meeting Minutes Policy. Mr. Merryman presented 
the issue paper that is on file. Howard Duvall, Linda Edwards, and David DuRant all recommend that any 
changes to draft minutes be made in the next council meeting. Mr. Truett believed that an amendment
Mr. Truett said this discussion was held at the last meeting. As long as first reading was adopted before the moratorium was over that it would take affect. He asked if that was true. Mrs. Herrmann said that Mr. DuRan, the town attorney, has repeatedly confirmed that once the council adopts first reading, if a permit is requested, the builder must conform to the requirements set forth in the first reading and they would be allowed to proceed. However, the council is still entitled to and has the option to make changes at second reading. Adopting first reading of the recommended ordinance does give the town the protection it desired to control the density, heights, and other concerns in the R-2 district. If a plan was submitted before second reading when a change might be adopted, then the project would have to be modified to conform to the amendment. Mr. Merryman said that was also checked with the Municipal Association with a variety of issues, and when there is a first reading approved by council, then that in effect becomes law.

Mr. Samples said for the record, "The requirements which were adopted in first reading tonight in R-2 will apply for new building permits."

Mr. Truett said the moratorium expires December 20th, so the changes go into effect the 20th, not necessarily tomorrow. The moratorium is still in effect until the 20th, correct? Mrs. Herrmann said adoption of first reading of Ordinance #05-0587 effectively ends the moratorium; however, council may choose to restrict new permits until the moratorium end date. Adoption of first reading allows permits to be issued under the regulations set forth in first reading. If council wishes to end the moratorium, the proposal to extend the moratorium for two months should be defeated. Mr. Truett said technically the moratorium would be over after tonight. Mrs. Herrmann said that was correct.

Ordinance #05-0586 DEFEATED, no motion offered.

iii. #05-3588 to Amend §2-20 Compensation of Mayor and Town Council.

Mayor Hyman noted that the motion adopted by council was to amend only council salaries; no consideration would be given to the mayor's salary. Mr. Merryman presented the issue paper that is on file. Mr. McKown moved to adopt first reading as presented with an amendment to increase the mayor's salary to nine thousand six hundred dollars. Mrs. Hiatt seconded. Councilmembers Hiatt, Martin, McKown, and Tuttle voted in favor. Mayor Hyman, Mayor Pro Tem Truett, and Councilmember Samples voted against. MOTION CARRIED.

iv. #05-0589 to Amend §17-315 to Exempt Signs Subject to the Federal Highway Beautification Act.

Mr. Merryman presented the issue paper that is on file. The proposed amendment was presented to the planning and zoning commission who recommended its adoption by town council, and would make the town code comply with Federal law. Mr. Truett moved to adopt first reading as presented. Mr. Martin seconded.

Mr. McKown said planning and zoning did recommend adoption of the ordinance, but they recommended it without understanding it. In fact, he believed Mr. Merryman was out that day and they were asking staff some questions about it that the members were trying to answer themselves. He wanted an explanation himself in regards to Federal Highway Beautification Act, their questions were and they elaborated on it fairly long, and wanted to know if this applies strictly to billboards that are the subject of an on-going lawsuit or all signs along Business 17. Mr. Merryman said his only comment was that there was an issue at the planning and zoning meeting, but the language is any sign subject to the Federal Highway Beautification Act. Clearly the emphasis on this is billboards. In theory, there may be some other signs to which it would apply. Mrs. Evans said it was her understanding that the code only applied to billboard regulation. Other municipalities and the zoning attorney have been contacted for additional information that would be provided to council when she received it.

Mr. Samples asked for clarification that the town code is written in a manner that is inconsistent with and therefore unenforceable with Federal law. He asked if this in anyway changed the number of
ISSUE PAPER FOR COUNCIL CONSIDERATION

Meeting Date: December 13, 2005  
Prepared by: Jan Lewis  
Department: Administration  
Date: December 9, 2005

Subject: First Reading of Ordinance 05-0588 to Amend Compensation of Mayor and Town Council to state §2-20 to Compensation and Benefits of Town Council.

Town Council Pay Issue: During the town council meeting on 11-22-05 by a majority vote, I was directed to identify an appropriate amount for a pay raise for Town Council Members. The amount recommended, consistent with my comments on that evening, is $6,000 annually, $500 monthly.

Recently the issue of Town Council Pay has been a topic of discussion. I have conducted a detailed analysis of this issue. Included is a table that shows certain council salary statistical data from other communities in the Grand Strand.

As Town Administrator, I work closely with the other municipalities, and attest that regardless of “size,” the issues facing Surfside Beach are as complex and challenging as those facing the other communities in this area. In a sense, they are more challenging to the decision making body (Town Council), as a smaller community our resources must be better managed to ensure cost-effective allocation to high priority issues. Recently a visitor to the Grand Strand noted: “This Town [Surfside Beach] has a very different look and feel.” Stated as a compliment, the first-time visitor was quite accurate – and the different look and feel is no accident. It is quite clear that the Mayor, Town Council and those who preceded them have made a strong commitment to prevent Surfside Beach from going the way of our neighbors where people and vehicle density, infrastructure, and other issues have become major concerns. Like the rest of the Grand Strand, the Town has potentially serious water quality issues, development-density issues, and the same level of public (crime) concerns that now characterize the entire county. The level of decision making facing Council requires the same level of work, research and thought as required of any other area City/Town Councils; and the results of those decisions can be just as damaging or just as protective of quality of life as those by our neighbors.

Surfside Beach is a fiscally well-managed Town. The Council’s pay-as-we-go approach is to be applauded. Recent audit reports are quite favorable and in view of the above, the issue of Town Council salary is a reasonable matter to discuss; and an increase seems possibly overdue. Having watched the process first-hand, it is hard to imagine that anyone is interested in the position of Council Member due to the money - whether the monthly amount is $300 or $500, which is recommended. Neither amount would be enough to get the level of commitment that a Council Member must make to their community. The last increase was 12 years ago, a long enough period for us to consider this issue in a fair manner. The table below compares area salary and population amounts.

<table>
<thead>
<tr>
<th></th>
<th>Surfside Beach</th>
<th>Georgetown</th>
<th>Conway</th>
<th>N. Myrtle Beach</th>
<th>Myrtle Beach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor</td>
<td>$7200</td>
<td>$7500</td>
<td>$11,200</td>
<td>$16,400</td>
<td>$20,000</td>
</tr>
<tr>
<td>Council</td>
<td>$3600</td>
<td>$4800</td>
<td>$6,500</td>
<td>$8,000</td>
<td>$15,000</td>
</tr>
<tr>
<td>Population</td>
<td>5,200</td>
<td>8,900</td>
<td>12,000</td>
<td>13,000</td>
<td>26,000</td>
</tr>
</tbody>
</table>

The Town Council Travel Policy was adopted November 12, 2002 and is included for your consideration and amendment as is required to be included in the Code by Sec. 5-7-170 as stated in the MASC Handbook.

Action: Adopt First Reading as presented.

Reviewed By Town Administrator
November 22, 2005 Regular Meeting

Amended per motion of 12/13/05

Council after consideration of an ordinance proposing changes pursuant to the R-2 moratorium. Mr. Truett seconded. Mr. Samples asked if the extension of the moratorium required two readings and was subject to the pending ordinance doctrine. Mrs. Herrmann said that was correct. All voted in favor. MOTION CARRIED.

B. Discussion.

i. Chamber of Commerce 5-Percent Reserve Fund for Surfside Beach Use.

Mr. Merryman explained that there is around $8,200 held by the Chamber for the town’s use. It was suggested by council that the funds could be used to pay for town brochures. Using the funds would not damage the town in any manner, but would provide additional brochures for fiscal year 06-07. Mr. Martin moved to direct staff to have the reserve funds directed towards the 06-07 brochure. Ms. Tuttle seconded.

Mr. McKown asked if councilmembers or staff had input on the brochure design. Mr. Martin said it was the town tourism brochure, designed by staff. The Chamber distributes the brochure for the town and the funds are for printing costs. Mr. McKown asked if these were general funds. Mr. Martin said it was funds required by the Chamber to be used for Surfside Beach purposes.

Mr. Truett said the funds were to be used for Surfside Beach purposes and asked what other type activities could the fund be used for. Mr. Merryman did not know of any other events of value that would benefit the town. Ms. Evans said the funds could be used for an out-of-market idea that the Chamber could help with. Mr. Merryman noted that the billboard contract expires next year, and those funds could be diverted for brochure printing or other town advertising. Ms. Evans said the funds might be used for a specific convention or trade show.

Mr. Martin said as background information that when the brochure was developed about five years ago, the reserve funds were used. The brochure is very popular with town businesses, particularly the beachfront hotels and rental agencies have benefited directly from it. He believed using reserve funds would allow other uses of accommodations tax money.

Mr. Samples asked if the intention was to offset the $25,000 budget for brochures by the reserve funds. Mr. Martin said yes.

All voted in favor. MOTION CARRIED.

ii. Councilmember Salary Increase.

Mr. Merryman said during the last council meeting there was a discussing comparing salaries of Surfside Beach councilmembers to neighboring municipalities. He was directed to research the issue, which results were included in his administrative report. His research was limited to coastal cities including Surfside Beach and the cities of Georgetown, Conway, Myrtle Beach, and North Myrtle Beach. Generally, the town’s council salaries are the lowest in the area. Annually, councilmembers are paid $3,600. Georgetown’s city councilmembers are paid $4,800; Conway, $6,500; Myrtle Beach, $15,000. The size of the community was considered and he used the most current population counts available. Surfside Beach has about 5,500 residents, and salaries were compared to respective populations. He reiterated that any information that comes to his attention that he believed merited investigation, he intended to do very fairly and very objectively. The size of the community is clearly an issue. After serving as administrator for the past nine or 10 months, and having been the former public safety director, the issues that fact the Town of Surfside Beach are just as difficult and are exactly the same as those facing neighboring municipalities. The town has tried to upgrade public safety salaries to hire a better-qualified, higher caliber officer. The same is true of the town’s firefighters, Surfside Beach is a small community compared to its neighbors, but speaking as former public safety director and as administrator, through networking with other town administrators, the town has the same issues as the others. In fact, the City of Myrtle Beach is tracking the town’s moratorium progress in hopes that it could recommend
November 22, 2005 Regular Meeting

Amended per motion of 12/13/05

actions based on the town’s, because it has the same density issues. Mr. Merryman said he was not trying to endorse this issue, but reiterated that the town’s size was not the only issue.

Mayor Hyman did not believe that any member served for the money paid. He said service was for the love of the town and its residents. Comparing North Myrtle Beach, Myrtle Beach, and Conway, in his opinion, did not make much sense because those councils held many more meetings than the town’s council. The council is a policy maker, it was not elected to run the town business. He did not support a salary increase now, nor did he agree with a proposal a few years ago when the question was presented.

Based on the administrator’s comments and the fact that an increase has not been adopted for town council since 1993, 12 years, Mr. McKown moved to direct staff to adjust the existing ordinance of the salaries to a fair comparable salary increase that it can bring back to council. Mrs. Hiatt seconded.

Mr. Samples said for the record, “I agree with everything that Mayor Hyman said.”

Mr. Truett said that Mr. Merryman was correct in that the town is small. Georgetown council is paid $400 a month; the town’s council is paid $300 a month. The City of Georgetown has 9,000 residents and a $30 million budget. He did not believe the town council salary was disproportionate compared to that information.

Councilmembers Hiatt, Martin, McKown, and Tuttle voted in favor. Mayor Hyman, Mayor Pro Tem Truett, and Councilmember Samples voted against. MOTION CARRIED.

iii. Councilmember Cellular Telephone Policy.

Mr. Merryman said the issue of whether councilmembers should receive town issued cellular telephones has come to his attention on several occasions. Cost would be $600 per year per councilmember, or $4,200 per year for seven phones, if everyone wished to receive a cell phone. He had no other comments regarding the topic, and said that individual councilmembers had ideas as to how they would use a town issued cell phone, to whom the numbers would be issued to, and so forth. He was contacted routinely by various councilmembers on a weekly basis; other than that he had no way to know of individual councilmember needs on this particular issue.

Mr. McKown was uncertain as to why this topic was presented, because he believed the administrator could issue a phone to a councilmember that needed it. Many councilmembers said that if a town issued phone was available they would not accept it. He personally would not accept it, but he did believe that those members that cannot afford or do not have a cell phone should be issued a town cell phone. He supported allowing councilmembers that wanted a cell phone to have one. He personally wanted to go on record, “I don’t want one. I don’t need one. But, I, again, if a councilmember does need a phone, I think that the town should have supply one.”

Mrs. Hiatt said the telephone is the way that councilmembers contact the administrator; basically he likes for his contacts to be made by phone. A lot of us are not at home when we need to get in touch with him or he needs to call us. Mrs. Hiatt said, so I would like to make a motion for a policy to make it optional for the mayor or the council to be issued a cell phone, if they want one. Mr. McKown seconded.

Mr. Martin asked if the $4,200 was based on all councilmembers receiving a cell phone. Mr. Merryman said yes. Mr. Martin said the mayor already has a cell phone. Mr. Merryman said that was correct. Mr. Martin said that should not be included in the calculation; and the actual cost would only be for those members that chose to receive a phone.

Mr. Truett said he received information today from North Myrtle Beach, Myrtle Beach, Georgetown, and Conway that none of their councilmembers have cell phones.

Mr. Martin said while they do not have cell phones, they do have laptop computers, which are a little more expensive than a cell phone. Mrs. Hiatt reiterated Mr. Martin’s comment.
Chapter 5 - ELECTIONS\textsuperscript{[1]}

ARTICLE I. - IN GENERAL

Sec. 5-1. - Qualifications for voting.

All electors of the town must meet the qualifications of residency and must be at least eighteen (18) years of age. The qualifying period of residency is thirty (30) days in the town. Proof of residency within the town shall be presented by any person seeking to vote.

(Code 1969, § 2-30)


Secs. 5-2—5-15. - Reserved.

ARTICLE II. - ADMINISTRATION\textsuperscript{[2]}

Sec. 5-16. - Appointment of municipal election commission.

(a) All municipal elections shall be conducted by a municipal election commission composed of three (3) electors who shall be residents of the town and who shall be appointed by the town council.

(b) The terms of the members are six (6) years except of those first appointed one (1) shall serve a term of four (4) years and one (1) a term of two (2) years.

(c) They shall be vested with the functions, powers, duties as set forth by the statute laws of this state.

(d) Each municipal election commissioner and the town clerk shall complete training required pursuant to S.C. Code § 5-15-90.

(Code 1969, § 2-1; Ord. No. 04-0534, 7-27-04; Ord. No. 12-0716, 7-25-12)

Cross reference— Boards, committees, commissions generally, § 2-61 et seq.


Sec. 5-17. - Oath of municipal election commission.
The municipal election commission must take and sign the oath as prescribed by section 26 of article III of the state constitution. The oath shall be filed in the office of the town clerk.

(Code 1969, § 2-2)

Sec. 5-18. - Appointment of managers of elections.

For all general, runoff, and special municipal elections, the municipal election commission shall appoint for each precinct in the town three (3) managers of election for the first five hundred (500) electors registered to vote at the town precincts and one (1) additional manager for each five hundred (500) electors registered to vote in the town precincts above the first five hundred (500) electors. Exception: for purposes of determining the number of poll workers at Precinct #2 (See town Code § 5-59), the number of electors in Precinct #4 shall be added to the number of electors in Precinct #2. Said poll managers shall take an oath of office prior to serving.

(Code 1969, § 2-3; Ord. No. 13-0763, 10-22-13)


Sec. 5-19. - Duties of election managers.

The election managers shall conduct the election according to the law. Immediately upon the closing of the polls, they shall proceed to count publicly the votes cast and shall continue such count without interruption until completed. Upon completion of the counting, they shall make a statement of the whole number of votes cast, together with the number cast for each candidate for mayor and town council and transmit this information to the municipal election commission.

(Code 1969, § 2-5)


Secs. 5-20—5-30. - Reserved.

ARTICLE III. - CANDIDATES

Sec. 5-31. - Qualifications, filing, and fees.

(1)
Qualifications. Candidates for mayor and town council must be qualified registered electors and permanent residents of the town at the time of filing and during terms of service as mayor or councilmember, and shall provide proof thereof by presenting a voter's registration card dated at least thirty days (30) prior to filing for office, and a South Carolina driver's license at the time of filing. If the candidate does not hold a driver's license, other proof may be submitted, i.e., official South Carolina identification card issued by the Department of Motor Vehicles, utility bills, bank statements, etc. It shall be within the town clerk's discretion to determine whether proof is adequate.

(2) Filing for regular elections. Candidates shall appear in person in the town clerk's office and file a statement of candidacy during each election year beginning on the second Monday in January and ending on Friday of that same week between the hours of 9:00 a.m. and 4:00 p.m. or by appointment scheduled with the town clerk while filing is open. Candidates shall file statements of economic interest and campaign disclosure forms pursuant to sections 5-32 and 5-33 of this Code.

(3) Fees. Candidates shall pay filing fees in the amount of fifty dollars ($50.00) for the office of mayor and twenty-five dollars ($25.00) for the office of council until such time as town council amends said fees by ordinance.

(4) Special elections. For special elections, candidates shall appear in person in the town clerk's office and must file not later than 12:00 noon forty-five (45) days prior to the election. Filing for special elections shall be opened as soon as it is determined a special election is required and the election date established.

(5) Notice of filing. An advertisement shall be placed in a newspaper of general circulation two (2) weeks before the filing period begins in a newspaper of general circulation in the town at least five by seven inches (5" x 7") in size that notifies the public of the dates of the filing periods, the offices which may be filed for, the place and street address where filing may be made, and the hours that an authorized person will be present to receive filings.

(6) Candidate certification. Should any candidate fail to comply with the terms of this section, said candidate shall not appear on the ballot. The town clerk shall certify all candidates to the municipal election commission the day following the close of filing for candidates.

(Code 1969, § 2-13; Ord. No. 01-0467, 1-8-02; Ord. No. 04-0534, 7-27-04; Ord. No. 06-0600, 6-27-06)
Cross reference— Qualifications of mayor and town council, § 2-17.


Sec. 5-32. - Statement of economic interests.

(a) Elected officials and employees. No elected official, regardless of compensation, may take the oath of office or enter upon his official responsibilities unless he has filed a statement of economic interests in accordance with the provisions of this chapter and S.C. Code § 8-13-1111. Elected officials, and town employees so required, shall file annual statements of economic interests pursuant hereto.

(b) Candidates for town council. Candidates for town council shall comply with the South Carolina Code of Laws in regard to filing statements of economic interest.

(Code 1969, § 2-15; Ord. No. 05-0573, 9-27-05; Ord. No. 12-0716, 7-25-12; Ord. No. 14-0778, 6-9-14)


Sec. 5-33. - Campaign disclosure form.

Candidates for town council shall comply with the South Carolina Code of Laws in regard to filing campaign disclosure forms.

(Code 1969, § 2-15; Ord. No. 05-0573, 9-27-05; Ord. No. 12-0716, 7-25-12; Ord. No. 14-0778, 6-9-14)


Secs. 5-34—5-50. - Reserved.

ARTICLE IV. - ELECTION PROCEDURE

Sec. 5-51. - Method of election of mayor and town council.

The mayor and members of the town council shall be elected from the town at large.

(Code 1969, § 2-11)
Cross reference— Election of town council, § 2-16; election of mayor, § 2-21.


Sec. 5-52. - Nonpartisan general elections.

All regular and special elections for the offices of mayor and town council shall be nonpartisan elections pursuant to S.C. Code 1976, § 5-15-62.

(Code 1969, § 2-10)

Sec. 5-53. - Run-off election.

A second election shall be conducted pursuant to S.C. Code 1976, § 5-15-62 two (2) weeks after the general or special election if necessary.

(Code 1969, § 2-23)

Sec. 5-54. - General elections.

A municipal general election shall be held on the first Tuesday after the first Monday in April in each even-numbered year. The mayor and members of council shall be elected to four (4) year terms. Staggered terms for members of council shall be maintained by the election of three (3) members in each general election. In the event of a tie vote for any office, a runoff election shall be held pursuant to S.C. Code 1976, § 5-15-125 two (2) weeks following the general election. Special elections, when required to fill vacancies, shall be held pursuant to S.C. Code 1976, § 7-13-190.

(Code 1969, § 2-12; Ord. No. 95-0363, 6-6-95; Ord. No. 05-0573, 9-27-05)

Sec. 5-55. - Special elections.

Special elections shall be ordered from time to time as occasion demands and when required or permitted by law and shall be ordered and conducted in the manner as prescribed by law.

(Code 1969, § 2-16)

Sec. 5-56. - Notice of elections—Published.

(1) *Regular and special town council elections.* Public notice will be given not less than sixty (60) days prior to a general election or a special election to fill unexpired terms. The advertisement shall be published a second time two (2) weeks after the first publication.

(2) *Elections to conduct referenda.* Notice of special elections to conduct referenda as authorized by law shall be given as stipulated by statute. Notice of bond elections shall be published in some newspaper having general circulation in the town on not less than two (2) occasions. The first publication shall appear not less than fifteen (15) days prior to the holding of the special election and the second publication shall appear within the week prior to the special election.

(Code 1969, § 2-17; Ord. No. 04-0534, 7-27-04)


Sec. 5-57. - Same—Contents.

Such public notice shall specify:

(1) The occasion of the holding of the election;
(2) The location of the several polling places;
(3) The qualifications imposed upon persons desirous of voting;
(4) The amount of bonds to be issued; and
(5) A brief description of the purpose for which the proceeds of bonds shall be applied.

(Code 1969, § 2-17)

Sec. 5-58. - Boundary lines for precincts.

(a) There shall be three (3) precincts within the town limits and these precincts shall be designated as Surfside Beach #1, Surfside Beach #2, and Surfside Beach #4.

(b)
Pursuant to S.C. Code § 8-7-320(B) the precinct lines defining the precincts in paragraph (a) hereof are shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Office of Research and Statistics of the State Budget and Control Board designated as document P-51-04.

(c) Pursuant to S.C. Code § 7-7-320(C) the polling places for the precincts listed in paragraph (a) hereof must be determined by the Horry County Board of Registration and Elections with the approval of a majority of the Horry County Legislative Delegation.

(Code 1969, § 2-18; Ord. No. 06-0600, 6-27-06; Ord. No. 12-0716, 7-25-12)

Sec. 5-59. - Places of election.

The town shall have two (2) locations for conducting elections. Surfside Beach #1 precinct voters shall vote at the Dick M. Johnson Civic Center located at 829 Pine Drive, Surfside Beach, and Surfside Beach #2 precinct voters shall vote at the Surfside United Methodist Church at 800 13th Avenue North, Surfside Beach. For all Town of Surfside Beach municipal elections only, Surfside Beach #4 precinct voters shall vote at the Surfside United Methodist Church at 800 13th Avenue North.

(Code 1969, § 2-19; Ord. No. 88-0261, 8-2-88; Ord. No. 94-0355, 12-6-94; Ord. No. 06-0600, 6-27-06; Ord. No. 12-0716, 7-25-12)

Sec. 5-60. - Voting hours.

The polls shall be open from 7:00 a.m. to 7:00 p.m.

(Code 1969, § 2-20; Ord. No. 86-0234, 9-2-86)


Sec. 5-61. - Declaration of results.

The election managers shall certify the results to the municipal election within one (1) day of the election and the commission shall declare the results not later than three (3) days following the election. Those candidates securing a majority of the votes cast shall be duly elected. Newly
elected officers shall not be certified until at least forty-eight (48) hours after the closing of the polls. In case a contest is filed, the incumbents shall hold office until such contest is finally determined.

(Code 1969, § 2-22)

CHAPTER 15
Nominations and Elections for Municipal Offices

SECTION 5-15-10. Municipal primary, general and special elections conducted mutatis mutandis.
Municipal primary, general and special elections shall be conducted pursuant to Title 7, mutatis mutandis, except as otherwise provided for specifically in Chapters 1 through 17.


SECTION 5-15-20. Methods of election of council; mayor elected at large; qualifications.
Each municipality in this State shall provide by ordinance for the election of its council. Councils shall select any one of the following methods of election of council:
(1) Members of the council elected from the municipality at large.
(2) One member elected from each ward of the municipality by the qualified electors of the ward. Candidates seeking office from a particular ward shall be residents of the ward during their entire terms of office.
(3) Some members elected from wards as provided for in (2) and the remainder elected from the municipality at large.
(4) Members required to be residents of particular wards but be elected from the municipality at large.
(5) Some members may be required to be residents of particular wards and others may be residents of the municipality without regard to a particular ward and all members shall be elected from the municipality at large.
Regardless of the form adopted by the municipality, the mayor shall be elected at large.
Mayors and councilmen shall be qualified electors of the municipality and, if they are elected subject to residential or ward requirements as provided in this section, they shall be qualified electors of the ward prescribed for their election qualification.


SECTION 5-15-30. Procedure for changing number of or method of election of council members.
If by action of a majority of council, or if fifteen percent of the registered municipal electors present to the municipal election commission a duly executed petition on which none of the signatures is more than six months old, in which an election is sought to change the number of council members to a number authorized by the form of government under which the municipality is then operating or to change the method of election of council members, then the municipal governing body shall call a referendum not later than ninety days nor earlier than thirty days after the petition has been certified and delivered to the governing body by the municipal election commission. A petition must be certified as valid or rejected by the municipal election commission within sixty days after it has been delivered to the commission. There may be only one question framed by the municipal governing body for the referendum in a format similar to that provided by Section 5-5-40, and no other election on the same question may be held for two years after that time. If more than one petition is received before publication of a notice of special election, the change sought in the petition bearing the highest number of qualified signatures must be submitted on the ballot. A change receiving a majority of the votes cast is effective at the next general election of the municipality.


SECTION 5-15-40. Terms of office of mayor and councilmen.
The mayor and councilmen of each municipality shall be elected for terms of two or four years. Unless otherwise provided by ordinance, four-year terms shall be set so that not more than one-half of the council and mayor shall be elected in the same general election; provided, that in the first election after
incorporation of a new municipality or adoption of a form of government pursuant to Section 5-5-10, one-half of the councilmen may be elected for terms of two years and one-half of the councilmen and mayor may be elected for terms of four years if necessary to establish staggered terms. Two-year terms shall not be staggered.

HISTORY: 1962 Code Section 47-92; 1975 (59) 692; 1977 Act No. 81, Section 1A.

SECTION 5-15-50. Establishment of municipal ward lines and time for general and special elections; public notice of elections.

Each municipal governing body may by ordinance establish municipal ward lines and the time for general and special elections within the municipality. Public notice of the elections shall be given at least sixty days prior to such elections.


SECTION 5-15-60. Municipality to adopt method of nominating candidates for and determining results of nonpartisan elections.

Each municipality in this State shall adopt by ordinance one of the following alternative methods of nominating candidates for and determining the results of its nonpartisan elections:

(1) The nonpartisan plurality method prescribed in Section 5-15-61;

(2) The nonpartisan election and runoff election method prescribed in Section 5-15-62;

(3) The nonpartisan primary election and general election method prescribed in Section 5-15-63. If nonpartisan elections are not provided for, nomination of candidates for municipal offices may be by party primary, party convention or by petition in accordance with the provisions of this chapter, the applicable provisions of the state election laws and the rules of municipal political party organizations not in conflict therewith.


SECTION 5-15-61. Determination of election results under nonpartisan plurality method.

In conducting nonpartisan elections and using the plurality method, election results shall be determined in accordance with the following rules:

(1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.

(2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.

HISTORY: 1962 Code Section 47-94.1; 1977 Act No. 81, Section 1.

SECTION 5-15-62. Determination of election results under nonpartisan election and runoff election method.

(a) Except as otherwise provided in this section, results in nonpartisan municipal elections in municipalities using the election and runoff election method shall be determined by a majority of the votes cast. A majority within the meaning of this section shall be determined as follows:

(1) When more than one person is seeking election to a single office, the majority shall be ascertained by dividing the total votes cast for all candidates by two. Any excess of the sum so ascertained shall be a majority and the candidate who obtains a majority shall be declared elected.

(2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, the majority shall be ascertained by dividing the total votes cast for all candidates by the number of officers to be filled and by dividing the result by two. Any excess of the sum so ascertained
shall be a majority and the candidates who obtain a majority shall be declared elected. If more candidates obtain a majority than there are offices to be filled, those having the highest vote (equal to the number of offices to be filled) shall be declared elected.

(b) If no candidate for a single office receives a majority of the votes cast in the first election or if an insufficient number of candidates receives a majority of the votes cast for a group of offices, a runoff election shall be held as herein provided:

(1) If no candidate for a single office receives a majority of the votes cast in the first election, a second election shall be conducted two weeks later between the two candidates receiving the largest number of votes in the first election who do not withdraw. The candidate receiving a majority of the votes cast in the runoff election shall be declared elected.

(2) If candidates for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes cast in the first election, a second election shall be conducted two weeks later between one more than the number of candidates necessary to fill the vacant offices. The candidates receiving the highest number of the votes cast in the second election equal in number to the number to be elected shall be declared elected.

HISTORY: 1962 Code Section 47-94.2; 1977 Act No. 81, Section 1.

SECTION 5-15-63. Determination of election results under nonpartisan primary election and general election method.

(a) In municipalities whose elections are nonpartisan and which use the nonpartisan primary election and general election method, there shall be a primary election to reduce the field of candidates to two candidates for each position to be filled, if when the filing period closes there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary election shall be held for that office and the candidates shall be declared nominated.

(b) In the primary election the two candidates for a single office receiving the highest number of votes and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated.

(c) In the election, the names of those candidates declared nominated without a primary election and those candidates nominated in the primary election shall be placed on the ballot. The candidate for a single office receiving the highest number of votes shall be elected. Those candidates for a group of offices receiving the highest number of votes, equal in number to the number of positions to be filled, shall be declared elected.

HISTORY: 1962 Code Section 47-94.3; 1977 Act No. 81, Section 1.

SECTION 5-15-70. Duty of governing body of municipality to enact ordinances relating to time requirements for nominations, primaries and the like.

Each municipal governing body shall determine by ordinance the time for filing nominating petitions, holding primary elections or conventions, the time for entry of candidates for nominations in municipal party primary elections or conventions, the time for closing of entries, and the time and manner of filing by candidates in nonpartisan elections. The municipal governing body may determine by ordinance that either filing a statement of candidacy or a petition with the municipal election commission is required to place the name of the candidate on the ballot in nonpartisan general elections. However, no candidate’s name may be placed on the ballot by petition in a general election conducted in accordance with the provisions of Section 5-15-63. If the municipal council determines that the petition method is used, the percentage of electors required on these petitions may not be less than five percent of the qualified electors of the geographical area of the office for which he offers as a candidate.

When a candidate’s name is to be placed on the ballot by virtue of a primary election or convention, the party concerned shall certify the candidacy to the municipal election commission not later than sixty days
prior to the election. When the filing by statement of candidacy is authorized, the individual candidate shall file the statement with the commission not later than sixty days prior to the election and the commission shall place the name of the candidate upon the ballot. If the petition method is authorized, the candidate shall file the necessary petition with the municipal clerk seventy-five days prior to the general election concerned and the clerk shall deliver the petition to the commission. The commission shall examine the petition and determine its validity not later than sixty days prior to the general election concerned and when so validated, the commission shall place the name of the petition candidate upon the ballot.

For nonpartisan special elections, if the petition method is authorized, the candidate shall file the petition with the municipal clerk not later than twelve o’clock noon, sixty days prior to the election. The commission shall determine the validity of the petition not later than forty-five days prior to the election and when so validated, shall place the candidate’s name on the ballot. If the statement of candidacy is authorized, these statements must be filed not later than twelve o’clock noon, forty-five days prior to the election.

For partisan special elections, petitions must be submitted pursuant to Section 7-13-190(B).


SECTION 5-15-80. Results of political party primaries; protests and contests.

The results of any political party primary shall be declared by the party conducting the election. Protests and contests shall be filed in writing with the municipal party chairman within two days after the day of the declaration of the results of the election and the municipal party executive committee shall determine such protests within five days after the filing thereof. From the decision of the municipal party committee an appeal may be made to the Board of State Canvassers of Municipal Primaries as provided in Section 7-17-580. Notice and grounds of appeal must be filed in writing with the chairman of the Board of State Canvassers of Municipal Primaries within five days following the date on which the decision of the municipal committee is declared.

Any appeal thereafter shall be to the court of common pleas of the county in which the municipality is situate. Notice and grounds of appeal shall be served on the opposing parties or their attorneys within ten days following the decision of the Board of State Canvassers of Municipal Primaries.


SECTION 5-15-90. Municipal elections conducted by municipal election commission; composition of commission and terms of members; training and certification program.

(A) All municipal elections held under the provisions of this chapter must be conducted by a municipal election commission composed of three electors who must be residents of the municipality and who must be appointed by the municipal governing body. The terms of the members are six years except of those first appointed one shall serve a term of four years and one a term of two years.

(B)(1) Each municipal election commissioner and each staff person designated by the commission, shall complete, within eighteen months after a commissioner’s initial appointment or his reappointment after a break in service, or within eighteen months after a staff person’s initial employment or reemployment following a break in service, a training and certification program conducted by the State Election Commission. When a commissioner or staff person has successfully completed the training and certification program, the State Election Commission shall issue the commissioner or staff person a certification, whether or not the commissioner or staff person applies for the certification.

(2)(a) The provisions of this section do not exempt a member or staff person from completing the training and certification program required in item (1).

(b) A member appointed or reappointed after a break in service before the effective date of this section or a staff person employed or reemployed after a break in service before the effective date of this section shall successfully complete a training and certification program by the latter of:
(i) eighteen months after the member's appointment or reappointment after a break in service or
the staff person's employment or reemployment after a break in service; or
(ii) ninety days after the effective date of this section.

(c) On and after the effective date of this section, a member appointed or reappointed after a break
in service or a staff person employed or reemployed after a break in service shall complete the training and
certification program required in item (1) within eighteen months after the member's appointment or
reappointment after a break in service or staff person's employment or reemployment after a break in
service.

(3) If a member does not fulfill the training and certification program as provided in this section, the
municipal governing body, upon notification, shall remove that member from the board unless the
municipal governing body grants the member an extension to complete the training and certification
program based upon exceptional circumstances.

(4) Following completion of the training and certification program required in item (1), each
commission member, and staff person designated by the commission, shall take at least one training course
each year.

Effect of Amendment
The 2010 amendment added the subsection designators and added all the text following subsection (A), and
made other nonsubstantive changes in subsection (A).

SECTION 5-15-100. Functions, powers and duties of municipal election commission.

The municipal election commission shall be vested with the functions, powers and duties of Municipal
Supervisors of Registration if no such supervisors have been appointed pursuant to Section 7-5-640, and
shall also have the functions, powers and duties of commissioners of election, as set forth in Section 7-5-10
and other provisions of Title 7. The municipal election commission shall insure proper books of registration
are provided for each ward or precinct, shall prepare and distribute ballots and election materials, appoint
managers of election for each polling place and otherwise supervise and conduct all municipal, special and
general elections. The managers shall certify the results of the election to the commission within one day
and the commission shall declare the results not later than three days following the election.

Nominees in a party primary or party convention and nominees by petition shall be certified to the
municipal election commission within the time specified herein and when so certified, the commission shall
place the names of such nominees upon the ballots.

Code Commissioner's Note
At the direction of the Code Commissioner, the reference to Section 7-13-70 in the first paragraph was
changed to Section 7-5-10, to correct the reference in light of 2014 Act No. 196, which repealed Section
7-13-70 and amended Section 7-5-10.

SECTION 5-15-110. Filing with municipal election commission of nomination petition by candidates
named by petition.

Candidates for municipal offices in any partisan or nonpartisan general election nominated by petition
shall file the necessary petition with the municipal election commission seventy-five days before the general
election concerned. The commission shall examine the petition and determine its validity not later than
sixty days before the general election concerned. A nomination petition must bear the signatures of not less
than five percent of the qualified electors of the geographical area of the office for which he offers as a
candidate.

HISTORY: 1962 Code Section 47-99; 1975 (59) 692; 1977 Act No. 81 Section 4; 1988 Act No. 387, Section
2; 1998 Act No. 412, Section 2.
SECTION 5-15-120. Vote counting.

Immediately upon the closing of the polls at any municipal election, the managers shall count publicly the votes cast and make a statement of the whole number of votes cast in such election together with the number of votes cast for each candidate for mayor and councilman and transmit this information to the municipal election commission. In partisan elections the person securing the highest number of votes for mayor shall be declared elected and the councilmen shall be selected by the following methods:

(a) When all councilmen are to be elected at large, the persons receiving the highest number of votes in number equal to the number to be chosen shall be declared elected.

(b) When the councilmen are to be elected from each ward and are required to be residents of that ward, the person receiving the highest number of votes in that ward shall be declared elected.

(c) When some councilmen are to be elected from each ward and required to be residents of that ward and the remainder of the councilmen to be elected at large, those persons receiving the highest number of votes in each ward shall be declared elected and those persons running at large who receive the highest number of votes in number equal to the number to be chosen at large shall be declared elected.

(d) When all councilmen are to be elected at large, but required to reside in a particular ward, the person receiving the highest number of votes for the seat to be filled shall be declared elected.

(e) When all councilmen are to be elected at large, but some are required to be residents of particular wards and other councilmen may not be so required, the person receiving the highest number of votes for the seat to be filled shall be declared elected.

Newly elected officers shall not be qualified until at least forty-eight hours after the closing of the polls and in the case a contest is finally filed the incumbents shall hold over until the contest is finally determined.

HISTORY: 1962 Code Section 47-100; 1975 (59) 692; 1977 Act No. 81, Section 5.

SECTION 5-15-125. Municipal elections resulting in tie.

If any municipal election results in a tie, the municipal election commission or the municipal party committee shall conduct a runoff election to break the tie two weeks following that election. In the tie-breaking runoff, the laws of this State apply, mutatis mutandis. If the date for the tie-breaking runoff election falls on a legal holiday, it must be set for the same day of the first week following which is not a legal holiday. If a tie-breaking runoff election is required, any remaining municipal elections required are postponed for two weeks. If the date of a postponed election falls on a legal holiday, it must be set for the same day of the first week following which is not a legal holiday.


Within forty-eight hours after the closing of the polls, any candidate may contest the result of the election as reported by the managers by filing a written notice of such contest together with a concise statement of the grounds therefor with the Municipal Election Commission. Within forty-eight hours after the filing of such notice, the Municipal Election Commission shall, after due notice to the parties concerned, conduct a hearing on the contest, decide the issues raised, file its report together with all recorded testimony and exhibits with the clerk of court of the county in which the municipality is situated, notify the parties concerned of the decisions made, and when the decision invalidates the election the council shall order a new election as to the parties concerned.

Neither the mayor nor any member of council shall be eligible to pass on the issues arising in any contest in which he is a party.


SECTION 5-15-140. Contesting election results; appeal from decision of municipal election commission.
Within ten days after notice of the decision of the municipal election commission, any party aggrieved thereby may appeal from such decision to the court of common pleas. Notice of appeal shall be served on the opposing parties or their attorneys and filed in the office of the clerk of court within ten days. The notice of appeal shall act as a stay of further proceedings pending the appeal.


SECTION 5-15-145. Transfer of authority to conduct municipal elections to county elections commission.
(A) Municipalities are authorized to transfer authority for conducting municipal elections to the county elections commission. County elections commissions are authorized to conduct municipal elections.
(B) As a condition of the transfer of authority to conduct elections pursuant to this section, the governing bodies of the municipality and the county must agree to the terms of the transfer and enact ordinances embodying the terms of that agreement. The municipal ordinance must state what authority is being transferred and the county ordinance must accept the authority being transferred.
(C) When the total responsibility for the conduct of a municipal election is transferred to a county election commission, pursuant to the provisions of this section, the municipal election commission is abolished.
(D) If the municipality, by ordinance transfers a portion of the responsibilities for the conduct of a municipal election to a county election commission, the municipality shall not abolish the municipal election commission.
(E) A municipality which by ordinance transfers authority for conducting municipal elections to the county election commission is authorized by ordinance set the filing dates for municipal offices, and the date by which candidates must be certified to the appropriate authority to be placed on the ballot, to run concurrently with the filing dates set by law for countywide and less than countywide offices or other filing dates as may be mutually agreed upon between the municipality and the county election commission.

HISTORY: 1992 Act No. 289, Section 1; 1996 Act No. 443, Section 1; 1998 Act No. 412, Section 3.

SECTION 5-15-150. Oath of office for mayor and councilmen.
The mayor and councilmen, before entering upon the duties of their respective offices, shall take the oath prescribed by the Constitution and also the following oath, to wit:

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


SECTION 5-15-160. Term of office of commissioner of public works may be extended.
Notwithstanding any other provisions of law, a municipal council is authorized by ordinance to provide that the term of office of any commissioner of public works of any municipality of this State which now expires at a time other than the time of the general election for municipal officials in such municipality shall be extended until fifteen days after the general election for municipal officials of such municipality next succeeding the expiration of such commissioner’s present term of office.
No municipal council shall adopt an ordinance as provided by this section unless it has been requested by the Board of Commissioners of Public Works of such municipality.
The term of office of each succeeding commissioner shall be for a period of six years, and until his successor is elected and qualified.


Any and all actions taken by a commissioner of public works whose term of office expired prior to the adoption of the ordinance provided for by Section 5-15-160 are ratified, validated and confirmed.

HISTORY: 1981 Act No. 169, Section 3.
Sec. 2-1. - Form of government.

The council form of municipal government, with a mayor and six (6) councilmembers who shall be elected at large for a term of four (4) years as provided in S.C. Code 1976, § 5-11-10 et seq., is hereby adopted for the Town of Surfside Beach to be effective on April 1, 1976 or as soon thereafter as prescribed by state law.

(Ord. No. 76-0067, 1-6-76; Ord. No. 76-0084, § 2-52, 8-3-76)
CHAPTER 5
Selection of Forms of Municipal Government

SECTION 5-5-10. Forms of municipal government; selection of form of government made by ordinance of municipal council.

The forms of municipal government in this State shall be as follows:
(a) the mayor-council form provided for in Chapter 9;
(b) the council form provided for in Chapter 11;
(c) the council-manager form provided for in Chapter 13.

All municipalities shall adopt one of these forms in the manner prescribed in this chapter.

The selection shall be made by ordinance of the municipal council after at least one public meeting. The form selected shall be the form most nearly corresponding to the form in effect in the particular municipality on March 1, 1974, as determined by the municipal governing body; provided, however, that those municipalities which adopted a new form of government through a referendum after March 1, 1974, and prior to June 1, 1975, shall adopt the form selected by the referendum.

If a municipality failed to adopt one of the above forms of government within fifteen months of December 31, 1977, it shall be considered to have forfeited its articles of incorporation, until such time as the municipality adopts one of these forms of government and certifies the adoption to the office of the Secretary of State. Upon certification by the governing body of the municipality of the adoption of one of the forms of government to the office of the Secretary of State, the articles of incorporation for the municipality shall be reinstated. All actions taken by the governing body municipality during the period of forfeiture shall be deemed to have been ratified by the governing body of the municipality upon reinstatement of the articles of incorporation. The reinstating municipality must not be contiguous to any existing municipality.


SECTION 5-5-20. Petition or ordinance calling for special election to determine form of government after date of official council action.

After the date of official council action if a petition executed by fifteen percent of the qualified electors is presented to the municipal governing body, certified by the county election commission, for an election to determine or change the form of government or if the municipal governing body shall by ordinance call for such an election, the municipal governing body shall conduct a special election not later than ninety days nor earlier than thirty days after the receipt of the certified petition or the passage of the council ordinance; provided, however, that no referendum shall be held pursuant to ordinance of the municipal council sooner than two years following the date the form of municipal government is initially selected pursuant to the provisions of this chapter.


SECTION 5-5-30. Determination of form of government by governing body effective until changed by election; subsequent elections.

Until changed by an election, the selection of the form of government as initially determined by the governing body by ordinance shall remain effective. The ordinance selecting the form of government shall be filed in the office of the Secretary of State who shall issue an appropriate certificate of incorporation to the municipality. No other such election shall be held for a period of four years after an election is held pursuant to Section 5-5-20.

SECTION 5-5-40. Preparation of election ballot; majority of votes cast by qualified electors required to effect change in form of government.

In any election to determine a change of a form of government of a municipality, the question must be framed by the governing body and printed on the prepared ballot in the following form: "Shall the municipality of (name of municipality) change its form of government from (form selected by council or by prior election) to (form or forms requested by petition or by ordinance)?
Yes [ ]
No [ ]

Those in favor of the question shall deposit a ballot with a check or cross mark in the square after the word 'YES', and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word 'NO'."

To effect a change in the form of government a proposed form must receive a majority of the votes cast by the qualified electors of the municipality in the election.


SECTION 5-5-50. Notice, expenses and conduct of elections.

Notice of all special elections relating to a change in form of government shall be published at least three weeks in advance in a newspaper of general circulation in the municipality in which such election is to be held. The municipality shall pay all expenses incurred in the conduct of any election. Elections shall be conducted in accordance with the provisions of general law regulating special elections as they apply to referendums in this State, mutatis mutandi.


SECTION 5-5-60. Service of existing members of governing body after adoption of or change to one of alternate forms of government.

Upon initial adoption of or on any change to one of the alternate forms of government, all members of the existing governing body shall continue to serve their elected terms and until their successors are elected and qualify.

HISTORY: 1962 Code Section 47-29.2; 1975 (59) 692.
CHAPTER 9
Mayor-Council Form of Government

SECTION 5-9-10. Applicability of Chapter 7.
Except as specifically provided for in this chapter, the structure, organization, powers, duties, functions and responsibilities of municipal government under the mayor-council form shall be as prescribed in Chapter 7.


SECTION 5-9-20. Structure of mayor-council form of government; election of council members.
(a) Under the mayor-council form of government there shall be a municipal council composed of a mayor and not less than four council members.
(b) The members of council shall be elected in accordance with Chapter 15.


SECTION 5-9-30. Responsibilities and powers of mayor.
The mayor shall be the chief administrative officer of the municipality. He shall be responsible to the council for the administration of all city affairs placed in his charge by or under Chapters 1 through 17. He shall have the following powers and duties:
(1) to appoint and, when he deems it necessary for the good of the municipality, suspend or remove all municipal employees and appointive administrative officers provided for by or under Chapters 1 through 17, except as otherwise provided by law, or personnel rules adopted pursuant to Chapters 1 through 17. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer’s department, office or agency;
(2) to direct and supervise the administration of all departments, offices and agencies of the municipality except as otherwise provided by Chapters 1 through 17;
(3) to preside at meetings of the council and vote as other councilmen;
(4) to act to insure that all laws, provisions of Chapters 1 through 17 and ordinances of the council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed;
(5) to prepare and submit the annual budget and capital program to the council;
(6) to submit to the council and make available to the public a complete report on the finances and administrative activities of the municipality as of the end of each fiscal year; and
(7) to make such other reports as the council may require concerning the operations of municipal departments, offices and agencies subject to his direction and supervision.


SECTION 5-9-40. Establishment of municipal departments, offices and agencies by council; employment of administrator to assist mayor; offices and agencies under direction of mayor administered by officer appointed by mayor; annual budget.
The council may establish municipal departments, offices, and agencies in addition to those created by Chapters 1 through 17 and may prescribe the functions of all departments, offices and agencies, except that no function assigned by law to a particular department, office or agency may be discontinued or assigned to any other agency. The mayor and council may employ an administrator to assist the mayor in his office.
All departments, offices and agencies under the direction and supervision of the mayor shall be administered by an officer appointed by and subject to the direction and supervision of the mayor.
The council shall adopt an annual budget for the operation of the municipality and capital improvements.

CHAPTER 11
Council Form of Government

SECTION 5-11-10. Applicability of Chapter 7.
Except as specifically provided for in this chapter, the structure, organization, powers, duties, functions and responsibilities of municipal government under the council form shall be as prescribed in Chapter 7.


SECTION 5-11-20. Structure of council form of government; election of mayor and members of council.
(a) Under the council form of government there shall be a municipal council composed of five, seven or nine members including the mayor.
(b) The mayor and members of the council shall be elected in accordance with Chapter 15.


SECTION 5-11-30. Legislative and administrative powers of municipality vested in municipal council.
All legislative and administrative powers of the municipality and the determination of all matters of policy shall be vested in the municipal council. Each member of council, including the mayor, shall have one vote.


SECTION 5-11-40. Establishment of municipal departments, offices or agencies; employment of administrator; administrative officers appointed and controlled by council; annual budget; taxes.
(a) The council may establish municipal departments, offices or agencies in addition to those created by Chapters 1 through 17 and may prescribe the functions of all departments, offices and agencies. The council may hire an administrator to assist the council.
(b) All departments, offices and agencies may be administered by an officer appointed by and subject to the direction and supervision of the council.
(c) The municipal council shall adopt annually, prior to the beginning of the fiscal year, operating and capital budgets for the operation of city government and shall in such budgets identify the sources of anticipated revenue including taxes necessary to meet the financial requirements of the budgets adopted. The council shall further provide for the levy and collection of taxes necessary to meet all budget requirements except as provided for by other revenue sources.

CHAPTER 13
Council-Manager Form of Government

SECTION 5-13-10. Applicability of Chapter 7.
Except as specifically provided for in this Chapter the structure, organization, powers, duties, functions and responsibilities of municipal government under the council-manager form shall be as prescribed in Chapter 7.


SECTION 5-13-20. Structure of council-manager form of government; election of members of council and mayor.
(a) Under the council-manager form of government there shall be a municipal council composed of a mayor and four, six or eight councilmen.
(b) The members of council and the mayor shall be elected in accordance with Chapter 15.


All legislative powers of the municipality and the determination of all matters of policy shall be vested in the municipal council, each member, including the mayor, to have one vote. Without limitation of the foregoing, the council shall:
(1) Employ a manager;
(2) Establish other administrative departments and assign and distribute the work thereof upon recommendation of and with the approval of the manager;
(3) Adopt the budget of the municipality;
(4) Authorize the issuance of bonds by bond ordinance, subject to such restrictions and limitations as may be prescribed by law;
(5) Have the power to inquire into the conduct of any office, department or agency of the municipality, make investigations as to municipal affairs and give the public information concerning them;
(6) Adopt plats;
(7) Adopt and modify the official map of the municipality;
(8) Provide for an independent annual audit of the books and business affairs of the municipality and for a general survey of municipal business;
(9) Provide for the general health and welfare of the municipality in accordance with the statute law of the State with reference to the general police powers granted to municipalities;
(10) Enact ordinances of any nature and kind, not prohibited by the law or Constitution of the State or of the United States; and
(11) With the advice of the manager, appoint all committees, boards and commissions relating to the affairs of the municipal government, except as otherwise provided by law.


SECTION 5-13-40. Councilmen prohibited from holding other offices during term, appointing or removing employees whom manager is empowered to appoint and dealing with employees under control and supervision of manager.
(a) Except where authorized by law, no councilman shall hold any other municipal office or municipal employment while serving the term for which he was elected to the council.
(b) Neither the council nor any of its members shall in any manner be involved in the appointment or removal of any municipal administrative officers or employees whom the manager or any of his subordinates are empowered to appoint.
(c) Except for the purpose of inquiries and investigations, neither the council nor its members shall deal with municipal officers and employees who are subject to the direction and supervision of the manager except through the manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.


The council shall employ a manager and fix his compensation. The manager shall be employed solely on the basis of his executive and administrative qualifications. He need not be a resident of the municipality or state at the time of his employment and may reside outside the municipality while in office only with the approval of the council.

No councilman or mayor shall be employed as manager of the municipality from which he was elected during the term for which he shall have been elected.

HISTORY: 1962 Code Section 47-84; 1975 (59) 692.

SECTION 5-13-60. Surety bonds of manager and other municipal employees.

The municipal council may require suitable surety bonds of the manager and other municipal employees conditioned for the faithful performance of their duties. The cost of such bonds shall be paid by the municipality.


SECTION 5-13-70. Term of employment and compensation of manager; removal of manager by council.

The term of employment of the manager shall be at the pleasure of the council and he shall be entitled to such compensation for his services as the council may determine. The council may, in its discretion, employ the manager for a definite term. If the council determines to remove the manager he shall be given a written statement of the reasons alleged for the proposed removal and the right to a hearing thereon at a public meeting of the council.

Within five days after the notice of removal is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than twenty days nor later than thirty days after the request is filed. The manager may file with the council a written reply not later than five days before the hearing. The removal shall be stayed pending the decision at the public hearing.


SECTION 5-13-80. Designation by manager of administrative officer to act in manager’s absence or disability; effect of manager’s failure to designate officer.

By letter filed with the municipal clerk the manager shall designate a qualified municipal administrative officer to exercise the powers and perform the duties of manager during his temporary absence or disability.

In the event of the failure of the manager to make such designation the municipal council may by resolution appoint an officer of the municipality to perform the duties of the manager until he shall return or his disability shall cease.

During such absence or disability, the council may revoke such designation at any time and appoint another officer of the municipality to serve until the manager shall return or his disability shall cease.


SECTION 5-13-90. Responsibilities of manager.
The manager shall be the chief executive officer and head of the administrative branch of the municipal government. He shall be responsible to the municipal council for the proper administration of all affairs of the municipality and to that end, subject to the provisions of this chapter, he shall:

(1) Appoint and, when necessary for the good of the municipality, remove any appointive officer or employee of the municipality and fix the salaries of such officers and employees, except as otherwise provided in this chapter or prohibited by law and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office;

(2) Prepare the budget annually, submit it to the municipal council and be responsible for its administration after adoption;

(3) Prepare and submit to the municipal council at the end of each fiscal year a complete annual report on the finances and administrative activities of the municipality for the preceding year and make such other financial reports from time to time as may be required by the council or by Chapters 1 through 17;

(4) Keep the municipal council advised of the financial condition and future needs of the municipality and make such recommendations as may seem to him desirable; and

(5) Perform such other duties as may be prescribed by law or required of him by the municipal council, not inconsistent with the provisions of Chapters 1 through 17.


SECTION 5-13-100. Council authorized to create, change and abolish offices, departments or agencies.

Municipal council may, by ordinance, create, change and abolish offices, departments or agencies of municipal government upon the recommendation of the manager or may, in accordance with such recommendations, assign additional functions and duties to such offices. The head of each department shall be designated director thereof and shall have supervision and control over his department subject, however, to the direction of the manager.