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.

HISTORY: 1962 Code Section 47‑60; 1975 (59) 692.

Attorney General’s Opinions

Discussion of the authority of a mayor to suspend or remove the: city administrator, municipal clerk, city attorney, or municipal judges. S.C. Op.Atty.Gen. (March 28, 2013) 2013 WL 1695514.

**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.

HISTORY: 1962 Code Section 47‑61; 1975 (59) 692; 1976 Act No. 623, Section 8.

LIBRARY REFERENCES

Municipal Corporations 81.

Westlaw Key Number Search: 268k81.

C.J.S. Municipal Corporations Section 211.

Attorney General’s Opinions

A town council member should have access to personnel records, financial documents, such as cell phone records which are paid for by the town, and professional contract documents. S.C. Op.Atty.Gen. (October 16, 2014) 2014 WL 5439610.

**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.

HISTORY: 1962 Code Section 47‑62; 1975 (59) 692.

CROSS REFERENCES

Civil Service Commissions, see Sections 5‑19‑10 et seq.

LIBRARY REFERENCES

Municipal Corporations 131, 168.

Westlaw Key Number Searches: 268k131; 268k168.

C.J.S. Municipal Corporations Sections 355, 367, 370.

Attorney General’s Opinions

An individual concurrently serving as both a mayor, and as a member of a county election commission, does so in violation of the prohibition on dual‑office holding. S.C. Op.Atty.Gen. (May 2, 2014) 2014 WL 2120885.

A court would likely find that Ordinance 11‑304, which states that a municipal council can remove by ordinance certain powers of a mayor and assign them to a mayor pro tempore, violates statutorily‑prescribed duties of a mayor pro tempore and could possibly violate other laws. S.C. Op.Atty.Gen. (January 03, 2013) 2013 WL 204787.

The Mayor in the Mayor‑Council form of government is the authorized official to hire and to fire the Chief of Police. 1976‑77 Op Atty Gen, No. 77‑134, p 113.

NOTES OF DECISIONS

In general 1

1. In general

In order to be accorded the protection of the due process clause, the complaining party must have a liberty or property interest within the meaning of the Fourteenth Amendment, and a property interest exists when one has a legitimate claim of entitlement to a right arising from such sources as state statutes, local ordinances, and employment contracts. Accordingly, a police officer did not have a property interest in continuing employment sufficient to invoke the due process clause, where Section 5‑9‑30(1) provided only for “at will” employment of city employees. Baxley v. City of North Charleston (D.C.S.C. 1982) 533 F.Supp. 1248. Constitutional Law 3873; Constitutional Law 3874(2)

Since under mayor‑council form of government, mayor is chief administrative officer of municipality and is vested with power to appoint, suspend or remove municipal and administrative employees, mayor has authority to discharge volunteer firemen; law would be remiss if town was without authority to determine manner in which fire buildings, equipment and supplies are used and in whose hands safety of its citizens is placed. Miller v. Town of Batesburg (S.C. 1979) 273 S.C. 434, 257 S.E.2d 159.

**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.

HISTORY: 1962 Code Section 47‑63; 1975 (59) 692; 1976 Act No. 623, Section 4.

LIBRARY REFERENCES

Municipal Corporations 131, 177.

Westlaw Key Number Searches: 268k131; 268k177.

C.J.S. Municipal Corporations Sections 355, 367, 445, 448 to 449, 537.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 53, County and Municipal Employees.

Attorney General’s Opinions

A person who performs the administrative duties of the Town of Pinewood might be an administrator employed by the mayor and council pursuant to Section 5‑9‑40. Such administrator must assist and not hinder the mayor in the completion of the mayor’s statutory duties. S.C. Op.Atty.Gen. (Jan. 13, 2012) 2012 WL 440544.

One person could serve concurrently as Town Administrator for the Town of Andrews and as deputy coroner without violating the dual office holding prohibitions of the state Constitution. 1992 Op Atty Gen No 92‑60.

NOTES OF DECISIONS

In general 1

1. In general

Since under mayor‑council form of government, mayor is chief administrative officer of municipality and is vested with power to appoint, suspend or remove municipal and administrative employees, mayor has authority to discharge volunteer firemen; law would be remiss if town was without authority to determine manner in which fire buildings, equipment and supplies are used and in whose hands safety of its citizens is placed. Miller v. Town of Batesburg (S.C. 1979) 273 S.C. 434, 257 S.E.2d 159.