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.

HISTORY: 1962 Code Section 47‑70; 1975 (59) 692.

Attorney General’s Opinions

Discussion of whether a town council is authorized to establish the position of police commissioner. S.C. Op.Atty.Gen. (December 28, 2012) 2012 WL 6966189.

**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.

HISTORY: 1962 Code Section 47‑71; 1975 (59) 692.

LIBRARY REFERENCES

Municipal Corporations 81.

Westlaw Key Number Search: 268k81.

C.J.S. Municipal Corporations Section 211.

**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.

HISTORY: 1962 Code Section 47‑72; 1975 (59) 692.

LIBRARY REFERENCES

Municipal Corporations 60, 94.

Westlaw Key Number Searches: 268k60; 268k94.

C.J.S. Municipal Corporations Sections 138, 151, 234.

Attorney General’s Opinions

Discussion of the authority of the Simpsonville City Council to demote and reinstate its police chief. 2014 S.C. Op.Atty.Gen. 9249 (November 18, 2014) 2014 WL 6705715.

**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.

HISTORY: 1962 Code Section 47‑73; 1975 (59) 692; 1976 Act No. 623, Section 5.

LIBRARY REFERENCES

Municipal Corporations 177, 885.

Westlaw Key Number Searches: 268k177; 268k885.

C.J.S. Municipal Corporations Sections 445, 448 to 449, 537, 1628 to 1629.

RESEARCH REFERENCES

Encyclopedias

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

Attorney General’s Opinions

Although the role of an administrator is to “assist the council,” a court would likely find that the Surfside Beach Town Council does not have authority to directly instruct the administrator on administering certain personnel policies, as the Town Council has given the administrator the authority to “administer personnel policies, classification, compensation and evacuation of all town employees.” The ordinance does not appear to conflict with State law; therefore, unless the ordinance is changed, the administrator may act within the authority given in the town ordinance. S.C. Op.Atty.Gen. (May 7, 2010) 2010 WL 2320802.

The duties, oath, salary, and tenure of a town administrator is left to the discretion of the council. Therefore, so long as the duties proscribed by the council do not conflict with State law, they are permissible. S.C. Op.Atty.Gen. (Jan. 20, 2010) 2010 WL 440993.