CHAPTER 7

General Structure, Organization, Powers, Duties, Functions and Responsibilities of All Municipalities

**SECTION 5‑7‑10.** Scope of chapter.

The provisions of this chapter provide for the structure, organization, powers, duties, functions and responsibilities of municipalities under all forms of municipal government provided for in Chapters 9, 11 and 13 unless otherwise specifically provided for in those chapters. The powers of a municipality shall be liberally construed in favor of the municipality and the specific mention of particular powers shall not be construed as limiting in any manner the general powers of such municipalities.

HISTORY: 1962 Code Section 47‑30; 1975 (59) 692.

**SECTION 5‑7‑12.** School resource officers; procedures for certain arrests; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of another governing body or of another political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school‑sponsored event. In all circumstances in which a school resource officer arrests a student for a misdemeanor offense, the officer may issue a courtesy summons to appear to a student involved in the particular incident in connection with a school activity or school‑sponsored event. Notwithstanding another provision of law, a student arrested for a misdemeanor offense by a school resource officer must have a bond hearing in magistrates court within twenty‑four hours of his arrest. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.

(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

HISTORY: 1998 Act No. 435, Section 3; 2008 Act No. 267, Section 2, eff June 4, 2008.

Effect of Amendment

The 2008 amendment, in subsection (A), in the first sentence substituted "another" for "any other" in two places and added the third and fourth sentences relating to student arrests.

**SECTION 5‑7‑20.** Form and effect of corporate name of municipality.

The corporate name of every city or town incorporated under this title shall be 'the city of "\_\_\_\_\_\_\_\_\_\_"' or 'the town of "\_\_\_\_\_\_\_\_\_\_"', and in such corporate name the municipality shall have all powers granted to municipalities by the Constitution and the general law of this State as fully and completely as though they were specifically enumerated herein.

HISTORY: 1962 Code Section 47‑31; 1975 (59) 692.

**SECTION 5‑7‑30.** Powers conferred upon municipalities; surtax for parking spaces.

Each municipality of the State, in addition to the powers conferred to its specific form of government, may enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of powers in relation to roads, streets, markets, law enforcement, health, and order in the municipality or respecting any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it, including the authority to levy and collect taxes on real and personal property and as otherwise authorized in this section, make assessments, and establish uniform service charges relating to them; the authority to abate nuisances; the authority to provide police protection in contiguous municipalities and in unincorporated areas located not more than three miles from the municipal limits upon the request and agreement of the governing body of such contiguous municipality or the county, including agreement as to the boundaries of such police jurisdictional areas, in which case the municipal law enforcement officers shall have the full jurisdiction, authority, rights, privileges, and immunities, including coverage under the workers' compensation law, which they have in the municipality, including the authority to make arrests, and to execute criminal process within the extended jurisdictional area; provided, however, that this shall not extend the effect of the laws of the municipality beyond its corporate boundaries; grant franchises for the use of public streets and make charges for them; grant franchises and make charges for the use of public beaches; engage in the recreation function; levy a business license tax on gross income, but a wholesaler delivering goods to retailers in a municipality is not subject to the business license tax unless he maintains within the corporate limits of the municipality a warehouse or mercantile establishment for the distribution of wholesale goods; and a business engaged in making loans secured by real estate is not subject to the business license tax unless it has premises located within the corporate limits of the municipality and no entity which is exempt from the license tax under another law nor a subsidiary or affiliate of an exempt entity is subject to the business license tax; and a business engaged in operating a professional sports team as defined in Section 12‑6‑3360(M)(17) is not subject to the business license tax; borrow in anticipation of taxes; and pledge revenues to be collected and the full faith and credit of the municipality against its note and conduct advisory referenda. The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both. If the person or business taxed pays a business license tax to a county or to another municipality where the income is earned, the gross income for the purpose of computing the tax must be reduced by the amount of gross income taxed in the other county or municipality.

For the purpose of providing and maintaining parking for the benefit of a downtown commercial area, a municipality may levy a surtax upon the business license of a person doing business in a designated area in an amount not to exceed fifty percent of the current yearly business license tax upon terms and conditions fixed by ordinance of the municipal council. The area must be designated by council only after a petition is submitted by not less than two‑thirds of the persons paying a business license tax in the area and who paid not less than one‑half of the total business license tax collected for the preceding calendar year requesting the designation of the area. The business within the designated area which is providing twenty‑five or more parking spaces for customer use is required to pay not more than twenty‑five percent of a surtax levied pursuant to the provisions of this paragraph.

HISTORY: 1962 Code Section 47‑32; 1975 (59) 692; 1976 Act No. 729; 1978 Act No. 409, Section 1; 1988 Act No. 495, Section 2; 1993 Act No. 171, Section 1; 1999 Act No. 113, Section 21; 2008 Act No. 412, Section 2, eff June 25, 2008; 2019 Act No. 83 (H.4243), Section 3, eff May 22, 2019.

Editor's Note

2019 Act No. 83, Section 9.B, provides as follows:

"B. The provisions of Sections 4‑9‑30 and 5‑7‑30 relating to a professional sports team, and the provisions of Section 5‑3‑20 only apply so long as the job and payroll provisions of Section 12‑6‑3360(M)(17) and (P) continue to be met by the professional sports team."

Effect of Amendment

The 2008 amendment, in the first undesignated paragraph, added the third sentence relating to reduction of the amount of gross income taxed.

2019 Act No. 83, Section 3, in the first undesignated paragraph, in the first sentence, inserted "and a business engaged in operating a professional sports team as defined in Section 12‑6‑3360(M)(17) is not subject to the business license tax;".

**SECTION 5‑7‑32.** Municipal code enforcement officers; appointment; powers and duties.

A municipality may appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the municipality. These officers are vested with all the powers and duties conferred by law upon constables in addition to duties imposed upon them by the governing body of the municipality. However, no code enforcement officer commissioned under this section may perform a custodial arrest. These code enforcement officers shall exercise their powers on all private and public property within the municipality.

HISTORY: 1994 Act No. 341, Section 1.

**SECTION 5‑7‑35.** Mailing, to division superintendent or local agent of railroad, copies of certain municipal ordinances.

No ordinance of a municipality which affects the operation of any railroad, as defined by Section 58‑17‑10, is effective until a certified copy of the ordinance has been sent to the division superintendent or local agent of the railroad company affected, by certified mail, return receipt requested. If a municipality annexes an area in which a railroad company operates, any existing ordinance which affects the company is not effective until the division superintendent or local agent of the company has been sent a certified copy, by certified mail, return receipt requested, of the ordinance declaring the area annexed.

HISTORY: 1984 Act No. 343.

**SECTION 5‑7‑36.** Assessments for additional police, fire, and garbage services on residential property in improvement districts.

No assessment for the Improvement District improvements may be made on residential property for additional police, fire, and garbage services therein which are part of the plan. Provided, further, no assessment may be assessed against real property which qualifies for exemption from ad valorem taxes as a historic fort pursuant to the statutes of South Carolina.

HISTORY: 2000 Act No. 384, Section 4.

**SECTION 5‑7‑40.** Ownership and disposition of property by municipalities.

All municipalities of this State may own and possess property within and without their corporate limits, real, personal or mixed, without limitation, and may, by resolution of the council adopted at a public meeting and upon such terms and conditions as such council may deem advisable, sell, alien, convey, lease or otherwise dispose of personal property and in the case of a sale, alienation, conveyance, lease or other disposition of real or mixed property, such council action must be effected by ordinance.

HISTORY: 1962 Code Section 47‑33; 1975 (59) 692; 1976 Act No. 623, Section 2; 1978 Act No. 435, Section 5.

**SECTION 5‑7‑50.** Municipalities' acquisition of land, easement or right‑of‑way by condemnation.

Any municipality desiring to become the owner of any land or to acquire any easement or right‑of‑way therein for any authorized corporate or public purpose shall have the right to condemn such land or right‑of‑way or easement, subject to the general law of this State, within and without the corporate limits in the county in which it is situated and in any adjoining county or counties. This authority shall not apply to any property devoted to public use; provided, however, the property of corporations not for profit organized under the provisions of Chapter 35 of Title 33, shall not be subject to condemnation unless the municipality in which their service area is located intends to make comparable water service available in such service area and such condemnation is for that purpose. After any such condemnation, the municipality shall assume all obligations of the corporation related to the property and the facilities thereon which were condemned. Provided, however, that any incorporated municipality, or any housing or redevelopment authority now existing or hereafter established to function, may undertake and carry out slum clearance and redevelopment work in areas which are predominately slum or blighted, the preparation of such areas for reuse, and the sale or other disposition of such areas to private enterprise or to public bodies for public uses and to that end the General Assembly delegates to any incorporated municipality, or such authorities, the right to exercise the power of eminent domain as to any property essential to the plan of slum clearance and redevelopment. Any incorporated municipality, political subdivision or authority may acquire air rights or subsurface rights, both as hereinafter defined, by any means permitted by law for acquisition of real estate, including eminent domain, and may dispose of air rights and subsurface rights regardless of who or for what purpose acquired for private or public use by lease, mortgage, sale or otherwise. Air rights shall mean estates, rights and interests in the space above the surface of the ground or the surface of streets, roads, or rights‑of‑ways including access, support and other appurtenant rights required for the utilization thereof. Subsurface rights shall mean estates, rights and interests in the space below the surface of the ground or the surface of streets, roads, or rights‑of‑way including access, support and other appurtenant rights required for the utilization thereof.

HISTORY: 1962 Code Section 47‑34; 1975 (59) 692.

**SECTION 5‑7‑60.** Municipality authorized to perform any of its functions or to furnish any of its services; charges and financing.

Any municipality may perform any of its functions, furnish any of its services, except services of police officers, and make charges therefor and may participate in the financing thereof in areas outside the corporate limits of such municipality by contract with any individual, corporation, state or political subdivision or agency thereof or with the United States Government or any agency thereof, subject always to the general law and Constitution of this State regarding such matters, except within a designated service area for all such services of another municipality or political subdivision, including water and sewer authorities, and in the case of electric service, except within a service area assigned by the Public Service Commission pursuant to Article 5 of Chapter 27 of Title 58 or areas in which the South Carolina Public Service Authority may provide electric service pursuant to statute. For the purposes of this section designated service area shall mean an area in which the particular service is being provided or is budgeted or funds have been applied for as certified by the governing body thereof. Provided, however, the limitation as to service areas of other municipalities or political subdivisions shall not apply when permission for such municipal operations is approved by the governing body of the other municipality or political subdivision concerned.

HISTORY: 1962 Code Section 47‑35; 1975 (59) 692.

**SECTION 5‑7‑80.** Ordinances relating to upkeep of property within municipality.

(1) Any municipality is authorized to provide by ordinance that the owner of any lot or property in the municipality shall keep such lot or property clean and free of rubbish, debris and other unhealthy and unsightly material or conditions which constitute a public nuisance.

(2) The municipality may provide by ordinance for notification to the owner of conditions needing correction, may require that the owner take such action as is necessary to correct the conditions, may provide the terms and conditions under which employees of the municipality or any person employed for that purpose may go upon the property to correct the conditions and may provide that the cost of such shall become a lien upon the real estate and shall be collectable in the same manner as municipal taxes.

HISTORY: 1962 Code Section 47‑37; 1975 (59) 692.

**SECTION 5‑7‑90.** Trial of persons charged with violations of ordinances of municipality or laws of State.

The municipal judge or judges of a municipality shall speedily try all persons arrested and incarcerated with violations of the ordinances of the municipality or the laws of the State within their jurisdiction in a summary manner without a jury unless jury trial is demanded by the accused. Trial must be held within ten days after the arrest or at a time scheduled by the court, in which event the trial is deferred. The municipal judge shall have the same power as a magistrate to compel the attendance of witnesses and require them to give evidence upon the trial before them of any person for the violation of ordinances of the municipality or the laws of this State subject to Section 5‑7‑30.

HISTORY: 1962 Code Section 47‑38; 1975 (59) 692; 2012 Act No. 263, Section 1, eff June 18, 2012.

Effect of Amendment

The 2012 amendment deleted "mayor or" twice before "municipal judge", substituted "arrested and incarcerated" for "charged", substituted "ten days" for "seven days", and made other nonsubstantive changes.

**SECTION 5‑7‑100.** Investigations of departments of municipal government by governing body; compelling attendance of witnesses; subpoenas; contempt.

The governing body of the municipalities or its agents may investigate any department of the municipal government and any office thereof and such governing body shall have the same power which a magistrate has to compel the attendance of witnesses and to require them to give evidence under oath in the same manner as is customary in the courts of this State. In case of contumacy of any person or refusal to obey a subpoena issued to any person, any circuit court of this State or circuit judge thereof within the jurisdiction of which the municipality is located, upon application by the governing body of the municipality or its designated agent, may issue to such person an order requiring him to appear before the governing body of the municipality to produce evidence if so ordered or to give testimony on the matter under investigation. Any failure to obey an order of the court may be punished as a contempt thereof. Subpoenas shall be issued in the name of the municipality and shall be signed by a majority of the governing body. Subpoenas shall be issued to such persons as the governing body may designate.

HISTORY: 1962 Code Section 47‑39; 1975 (59) 692.

**SECTION 5‑7‑110.** Municipal police officers; contracting to provide police protection beyond corporate limits of municipality.

Any municipality may appoint or elect as many police officers, regular or special, as may be necessary for the proper law enforcement in such municipality and fix their salaries and prescribe their duties.

Police officers shall be vested with all the powers and duties conferred by law upon constables, in addition to the special duties imposed upon them by the municipality.

Any such police officers shall exercise their powers on all private and public property within the corporate limits of the municipality and on all property owned or controlled by the municipality wheresoever situated; provided, that the municipality may contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits. Should the municipality provide police protection beyond its corporate limits by contract, the legal description of the area to be served shall be filed with the State Law Enforcement Division, the office of the county sheriff and the Department of Public Safety.

HISTORY: 1962 Code Section 47‑40; 1975 (59) 692; 1993 Act No. 181, Section 62.

**SECTION 5‑7‑120.** Municipalities authorized to send law enforcement officers to other political subdivisions of State upon request in emergency situations.

(A) The governing body of any municipality may upon the request of the governing body of any other political subdivision of the State, send any law enforcement officers to the requesting political subdivision in cases of emergency. A complete record of the request, together with the names of the officers sent, must be recorded in the minutes of the next regular or special meeting of the governing bodies of both the requesting and the sending political subdivisions. Failure to record the request at the next regular or special meeting of the governing bodies does not affect the applicability of the tort liability coverage. Expenses of the requested services may be borne by the requesting municipality.

(B) When law enforcement officers are sent to another municipality pursuant to this section, the jurisdiction, authority, rights, privileges, and immunities, including coverage under the workmen's compensation laws, and tort liability coverage obtained pursuant to the provisions of Chapter 78 of Title 15, which they have in the sending municipality are extended to and include the area in which like benefits, authorities, and tort liability coverage are or could be afforded to the law enforcement officers of the requesting political subdivision. When so sent they have the same authority to make arrests and to execute criminal process as is vested by law in the law enforcement officers of the requesting political subdivision, but this section does not extend the effect of the laws of the sending political subdivision.

HISTORY: 1962 Code Section 47‑41; 1975 (59) 692; 1978 Act No. 435, Section 1; 1993 Act No. 36, Section 1.

**SECTION 5‑7‑130.** Conflict of interests of municipal officer or employee.

Any municipal officer or employee who has a substantial financial interest in any business which contracts with the municipality for sale or lease of land, materials, supplies, equipment or services or who personally engages in such matters shall make known that interest and refrain from voting upon or otherwise participating in his capacity as a city officer or employee in matters related thereto.

Any city officer or employee who wilfully conceals such a substantial financial interest or wilfully violates the requirements of this section shall constitute malfeasance in office and upon conviction shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the city shall render the contract or sale voidable by the municipal governing body.

HISTORY: 1962 Code Section 47‑42; 1975 (59) 692.

**SECTION 5‑7‑140.** Extension of police jurisdiction and authority of municipalities bordering on high tide line or high water mark of navigable body of water.

(A) The corporate limits of any municipality bordering on the high‑tide line of the Atlantic Ocean are extended to include all that area lying between the high‑tide line and one mile seaward of the high‑tide line. These areas are subject to all the ordinances and regulations that may be applicable to the areas lying within the corporate limits of the municipality, and the municipal courts have jurisdiction to punish individuals violating the provisions of the municipal ordinances where the misdemeanor occurred in the area defined in this section.

(B) The corporate limits of any municipality bordering on the high‑water mark of a navigable body of water, other than the Atlantic Ocean, are extended to include all that area lying between the high‑water mark and the low‑water mark. These areas are subject to all of the ordinances and regulations that may be applicable to the areas lying within the corporate limits of the municipality, and the municipal courts have jurisdiction to punish individuals violating the provisions of the municipal ordinances where the misdemeanor occurred in the areas defined in this section.

HISTORY: 1962 Code Section 47‑43; 1975 (59) 692; 1986 Act No. 4576; 1996 Act No. 420, Section 3, and 1996 Act No. 443, Section 2.

**SECTION 5‑7‑145.** Lifeguard and safety services provided by coastal municipalities.

(A) Each municipality bordering on the Atlantic Ocean is authorized to provide lifeguard and other safety related services on and along the public beaches within its corporate limits. A coastal municipality may enact and enforce regulations it determines necessary for the safety of all persons on the beach.

(B) Lifeguard services may be provided using municipal employees or by service agreement with a private beach safety company.

If the municipality elects to provide the services by an agreement with a private beach safety company, the following conditions apply:

(1) the municipality shall follow the procedures of the State Procurement Code, as found in Chapter 35 of Title 11, or the procedures of the municipal procurement code, in the awarding of contracts with private beach safety companies;

(2) the agreement between the municipality and private beach safety company may last no longer than seven years;

(3) the municipality may grant the exclusive right to the beach safety company to rent only the beach equipment and to sell only the items to the public on the beach that are allowed by the municipality on the effective date of this section; provided, however, that on and after the effective date of this section there shall be no granting of the right to rent any additional tangible items, or to sell any beverages to the public on the beach, or otherwise, unless and until additional personnel are hired for the additional rentals and additional activities sufficient in number so that employees already employed on the effective date of this section will not be unduly burdened as determined by the appropriate municipal governing body;

(4) lifeguard personnel employed by the private beach safety company must be tested and certified as required by the municipality; and

(5) the conduct of the limited commercial activities granted to the private beach safety company shall not prevent or interfere in a substantial way with the peaceful, recreational use of the public beach by the general public.

(C) Nothing in this section enlarges, restricts, or infringes upon the existing rights of the owners of private property adjacent to the public beaches.

HISTORY: 1999 Act No. 113, Section 21.

**SECTION 5‑7‑150.** Coastal municipalities' criminal jurisdiction over piers and other structures and waters of the ocean.

Every coastal municipality has criminal jurisdiction over piers and other structures and the waters of the ocean, a sound, or an inlet within one mile of those portions of the strand within the corporate limits. The corporate limits of the municipality are extended in a straight line from the strand into the ocean, inlet, or sound from the point where the corporate limits of the municipality reach the high‑water mark of the strand. If an extension overlaps with the criminal jurisdiction of another political subdivision, the jurisdiction of each political subdivision extends to the equidistant point from the high‑water mark of each strand.

HISTORY: 1962 Code Section 47‑44; 1975 (59) 692; 1991 Act No. 133, Section 1.

**SECTION 5‑7‑155.** Police jurisdiction over certain streets and highways along which municipal boundaries run.

If any portion of a street or highway is within the boundary of a municipality, the right of way of the street or highway not within the municipal boundary but touching the boundary is nevertheless considered to be within the boundary of that municipality for purposes of its police jurisdiction.

A street or highway which serves as the boundary between municipalities is under the police jurisdiction of both municipalities regardless of the municipality in which the street or highway is located.

HISTORY: 1987 Act No. 164, Section 1; 1989 Act No. 141, Section 1; 1994 Act No. 414, Section 1.

**SECTION 5‑7‑160.** Powers of municipality vested in council; quorum.

All powers of the municipality are vested in the council, except as otherwise provided by law, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the municipality by law. A majority of the total membership of the council shall constitute a quorum for the purpose of transacting council business.

HISTORY: 1962 Code Section 47‑45; 1975 (59) 692; 1976 Act No. 623, Section 3.

**SECTION 5‑7‑170.** Salaries and expenses of mayor and councilmen determined by council through ordinance.

The council may determine the annual salary of its members by ordinance; provided, that an ordinance establishing or increasing such salaries shall not become effective until the commencement date of the terms of two or more members elected at the next general election following the adoption of the ordinance, at which time it will become effective for all members whether or not they were elected in such election. The mayor and council members may also receive payment for actual expenses incurred in the performance of their official duties within limitations prescribed by ordinance.

HISTORY: 1962 Code Section 47‑46; 1975 (59) 692; 1979 Act No. 98, Section 1.

**SECTION 5‑7‑180.** Mayor or councilman prohibited from holding other political office during term elected.

Except where authorized by law, no mayor or councilman shall hold any other municipal office or municipal employment while serving the term for which he was elected.

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

**SECTION 5‑7‑190.** Mayor pro tempore elected from council membership.

Immediately after any general election for the municipal council, the council shall elect from its membership a mayor pro tempore for a term of not more than two years. The mayor pro tempore shall act as mayor during the absence or disability of the mayor. If a vacancy occurs in the office of mayor, the mayor pro tempore shall serve as mayor until a successor is elected.

HISTORY: 1962 Code Section 47‑48; 1975 (59) 692.

**SECTION 5‑7‑200.** Grounds for forfeiture of office of mayor or councilman; filling vacancies in office.

(a) A mayor or councilman shall forfeit his office if he (1) lacks at any time during his term of office any qualification for the office prescribed by the general law and the Constitution; (2) violates any express prohibition of Chapters 1 to 17; or (3) is convicted of a crime involving moral turpitude.

(b) A vacancy in the office of mayor or council shall be filled for the remainder of the unexpired term at the next regular election or at a special election if the vacancy occurs one hundred eighty days or more prior to the next general election.

HISTORY: 1962 Code Section 47‑49; 1975 (59) 692.

**SECTION 5‑7‑210.** Council as judge of election and qualifications of its members and of grounds for forfeiture of their office.

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing, and notice of such hearing shall be published in one or more newspapers of general circulation in the municipality at least one week in advance of the hearing. Decisions made by the council under this section may be appealed to the court of common pleas.

HISTORY: 1962 Code Section 47‑50; 1975 (59) 692.

**SECTION 5‑7‑220.** Appointment and duties of municipal clerk.

The council under the council and mayor‑council forms of government or city manager under the council‑manager form shall appoint an officer of the municipality who shall have the title of municipal clerk. The municipal clerk shall give notice of council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by council.

HISTORY: 1962 Code Section 47‑51; 1975 (59) 692; 1978 Act No. 435, Section 2.

**SECTION 5‑7‑230.** Appointment or election of municipal attorney and judge of municipal court.

The city council may elect or appoint a municipal attorney and a judge or judges of the municipal court, whose duties shall be as prescribed by law. No mayor or councilman shall be so elected or appointed to serve as municipal judge during his term of office. The provisions of this section do not apply to a mayor who presides over a mayor's court in his capacity as mayor as authorized in Section 5‑7‑90.

HISTORY: 1962 Code Section 47‑52; 1975 (59) 692.

**SECTION 5‑7‑240.** Council required to provide for independent annual audit of financial records and transactions of municipality and agencies funded by municipal funds.

The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds and may provide for more frequent audits as it deems necessary. Special audits may be provided for any agency receiving municipal funds as the municipality deems necessary. Such audits shall be made by a certified public accountant or public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the municipal government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding four years, provided, that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year. The report of the audit shall be made available for public inspection. The council may in its discretion accept independent audits of municipal agencies and departments and include such audits in its general report of the audit of the municipality.

HISTORY: 1962 Code Section 47‑53; 1975 (59) 692; 1977 Act No. 109.

**SECTION 5‑7‑250.** Council meetings; rules and procedures for meetings; freedom of information; emergency ordinances.

(a) The council, after public notice shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of a majority of the members.

(b) The council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings which shall be a public record.

(c) Procedures for meetings of a municipal governing body shall not conflict with the provisions of the general laws of the state with regard to freedom of information.

(d) To meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances; but such ordinances shall not levy taxes, grant, renew or extend a franchise or impose or change a service rate. Every emergency ordinance shall be enacted by the affirmative vote of at least two‑thirds of the members of council present. An emergency ordinance is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements, or public notice requirements. Emergency ordinances shall expire automatically as of the sixty‑first day following the date of enactment.

HISTORY: 1962 Code Section 47‑54; 1975 (59) 692.

**SECTION 5‑7‑260.** Acts of municipal council which are required to be done by ordinance.

In addition to other acts required by law to be done by ordinance, those acts of the municipal council shall be by ordinances which:

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

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

(3) Adopt budgets, levy taxes, except as otherwise provided with respect to the property tax levied by adoption of a budget, pursuant to public notice;

(4) Grant, renew or extend franchises;

(5) Authorize the borrowing of money;

(6) Sell or lease or contract to sell or lease any lands of the municipality; and

(7) Amend or repeal any ordinance described in items (1) through (6) above.

In matters other than those referred to in this section council may act either by ordinance or resolution.

HISTORY: 1962 Code Section 47‑55; 1975 (59) 692.

**SECTION 5‑7‑270.** Form and procedures for introducing and passing ordinances.

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. Each municipality shall by ordinance establish its own rules and procedures as to adoption of ordinances. No ordinance shall have the force of law until it shall have been read two times on two separate days with at least six days between each reading.

HISTORY: 1962 Code Section 47‑56; 1975 (59) 692.

**SECTION 5‑7‑280.** Adoption of standard codes or technical regulations in ordinances.

The council may adopt any standard code or technical regulations authorized under Section 6‑9‑60 by reference thereto in the adopting ordinance; provided, that the council shall hold at least one public hearing before the adoption of any such standard code or technical regulations. The procedure and requirements governing such ordinance shall be as prescribed for ordinances listed in Section 5‑7‑260 and subject to the provisions of Section 5‑7‑270.

Copies of any adopted code or technical regulations shall be made available by the municipal clerk for distribution or for purchase at a reasonable price.

HISTORY: 1962 Code Section 47‑57; 1975 (59) 692; 1982 Act No. 351, Section 2.

**SECTION 5‑7‑290.** Municipal ordinances to be codified; public inspection.

Each municipal council shall provide by ordinance for the codification and indexing of all ordinances, either typewritten or printed, and the maintenance of ordinances in a current form reflecting all amendments and repeals. All ordinances as codified shall be available for public inspection at reasonable times.

HISTORY: 1962 Code Section 47‑58; 1976 Act No. 623, Section 1.

**SECTION 5‑7‑300.** Collection of delinquent ad valorem property taxes by municipalities.

(A) All municipalities of the State may provide by ordinance a procedure for the collection of delinquent real and personal property taxes, except taxes on motor vehicles. The municipal governing body may provide for a penalty not exceeding fifteen percent of the taxes levied for nonpayment of these taxes payable when the taxes become delinquent. The property taxes levied, with any penalty added for nonpayment when due and costs of execution, are a lien upon the property upon which the tax is levied until paid. The lien is paramount to all other liens except the lien for county and state taxes. Payment of a lien for state or county taxes, without payment of a lien for municipal taxes, does not extinguish a lien for municipal taxes. For those municipalities that, as of the effective date of this sentence collect their delinquent municipal taxes without an agreement as to collection with a county, such payment makes the municipal lien a first lien on the property which shall continue in full force and effect until legally discharged.

(B) For the purpose of collecting delinquent real and personal property taxes, the municipal governing body may enforce payment against the property of delinquent property taxpayers to the same extent, and substantially in the same manner, as is provided by law for the collection of county property taxes and penalties, except that a municipal governing body may determine the municipality's tax year, penalty dates, and the amount of penalty to be added on the penalty dates. Executions to enforce the payment of the taxes and penalties must be issued under the seal of the municipality and directed to the person designated by the municipal governing body for that purpose. All sales under and by virtue of that execution must take place at a public place in the municipality designated by ordinance, unless otherwise provided in subsection (D) if the sale is held in conjunction with the delinquent tax sale of the county.

(C) All expense of the levy, seizure, and sale must be added and collected as additional execution costs, and includes, but is not limited to, the expense of taking possession of real or personal property, advertising, storage, identifying the boundaries of the property, and mailing certified notices.

(D) A municipality may contract with the county for the collection of municipal taxes or for the collection of delinquent municipal taxes upon terms and conditions mutually agreeable to both the municipality and the county. If a municipality contracts with a county for collection of municipal taxes or delinquent municipal taxes, the provisions of state law that prescribe the procedure for collection of property taxes by counties must be followed. A delinquent tax sale for the purpose of collecting municipal taxes and held in conjunction with a delinquent tax sale for the purpose of collecting county taxes may take place at the public place in the county that is designated by the county.

(E) A municipality may contract by ordinance with an individual, firm, or organization to assist the municipality in collecting property or business license taxes.

HISTORY: 1987 Act No. 19 Section 1; 1988 Act No. 419; 2002 Act No. 179, Section 1; 2006 Act No. 238, Section 1, eff March 15, 2006.

Effect of Amendment

The 2006 amendment, in subsection (A), added the fifth and sixth sentences relating to municipal taxes and making a municipal lien a first lien.

**SECTION 5‑7‑310.** Provisions of Section 4‑9‑55 apply to general laws which affect municipalities.

The provisions of Section 4‑9‑55 apply to general laws enacted by the General Assembly which affect municipalities.

HISTORY: 1993 Act No. 157, Section 2.