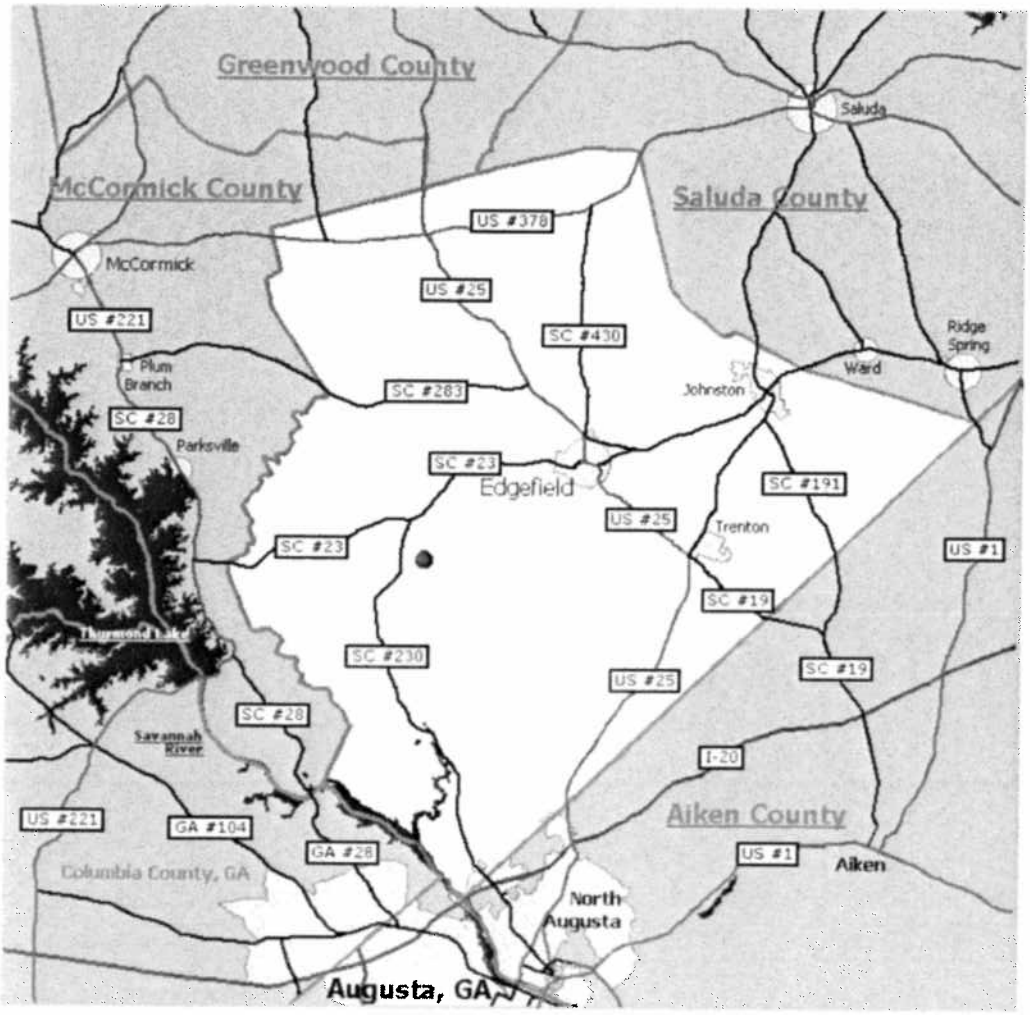
# A Handbook for Edgefield County Elected and Appointed Officials and County Employees



# FOREWORD

The information provided in this handbook is in addition to and supplements any documentation or educational materials that you might receive from a state agency and/or directly from your department head or from the County Human Resources / Personnel Department.

The information contained herein should not be considered legal advice. Although prepared and assembled by the County Attorney, Michael Medlock, for use by all public officials and employees of Edgefield County, this document DOES NOT create an attorney-client relationship between Mr. Medlock and any person utilizing this document and does not constitute legalo advice. You may want to consult independent legal counsel to determine your obligations and rights hereunder.

# SECTION I

# PROVISIONS APPLICABLE TO COUNTY COUNCIL, ALL BOARDS AND COMMISSIONS AND ALL COUNTY EMPLOYEES

# EDGEFIELD COUNTY GOVERNMENT

Edgefield County operates under the *Council-Administrator* form of government. County Council consists of five members each elected from single-member districts. Council members are elected for a two-year term of office.

The Administrator is an appointed official, employed by the County Council, who is the administrative head of the county government responsible for administration in all departments subject to the council's control.

The powers and duties of the County Administrator are outlined in state law as follows:

(1) to serve as the chief administrative officer of the county government;

(2) to execute the policies, directives and legislative actions of the council;

(3) to direct and coordinate operational agencies and administrative activities of the county government;

(4) to prepare annual operating and capital improvement budgets for submission to the council and in the exercise of these responsibilities he shall be empowered to require such reports, estimates and statistics on an annual or periodic basis as he deems necessary from all county departments and agencies;

(5) to supervise the expenditure of appropriated funds;

(6) to prepare annual, monthly and other reports for council on finances and administrative activities of the county;

(7) to be responsible for the administration of county personnel policies including salary and classification plans approved by council;

(8) to be responsible for employment and discharge of personnel subject to the appropriation of funds by the council for that purpose; and

(9) to perform such other duties as may be required by the council.

The Administrator has no authority over any elected officials of the county whose offices were created by the State Constitution and laws.

One very important provision of state law[1] concerning County Council members states:

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[1] S.C. Code Ann. § 4-9-660

**Except for the purposes of inquiries and investigations, the council shall deal with county officers and employees who are subject to the direction and supervision of the county administrator solely through the administrator, and neither the council nor its members shall give orders or instructions to any such officers or employees.**

Therefore, only the County Administrator and the Clerk to Council answer directly to County Council.

The County Attorney is the attorney for the corporate body of Edgefield County, not individual elected or appointed officials. The County Attorney is allowed to provide individual council members with legal advice involving county issues pursuant to Ordinance; however, other than routine matters, the County Attorney can only take action on behalf of the County as approved by a majority vote of County Council.

Edgefield County, as a governmental authority has the following powers:

(1) to adopt, use and revise a corporate seal;

(2) to acquire real property by purchase or gift; to lease, sell or otherwise dispose of real and personal property; and to acquire tangible personal property and supplies;

(3) to make and execute contracts;

(4) to exercise powers of eminent domain for county purposes;

(5) to assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided and make appropriations for functions and operations of the county, including, but not limited to, appropriations for general public works, including roads, drainage, street lighting, and other public works; water treatment and distribution; sewage collection and treatment; courts and criminal justice administration; correctional institutions; public health; social services; transportation; planning; economic development; recreation; public safety, including police and fire protection, disaster preparedness, regulatory code enforcement; hospital and medical care; sanitation, including solid waste collection and disposal; elections; libraries; and to provide for the regulation and enforcement of the above.

(6) to establish such agencies, departments, boards, commissions and positions in the county as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions and positions, except as otherwise provided for in this title.

(7) to develop personnel system policies and procedures for county employees by which all county employees are regulated except those elected directly by the people, and to be

responsible for the employment and discharge of county personnel in those county departments in which the employment authority is vested in the county government.
The salary of those officials elected by the people may be increased but may not be reduced during the terms for which they are elected, except that salaries for members of council and supervisors under the council-supervisor form of government must be set as provided by law;

(8) to provide for an accounting and reporting system whereby funds are received, safely kept, allocated and disbursed;

(9) to provide for land use and promulgate regulations pursuant thereto;

(10) to establish and implement policies and procedures for the issuance of revenue and general obligation bonds subject to the bonded debt limitation;

(11) to grant franchises and make charges in areas outside the corporate limits of municipalities within the county in the manner provided by law for municipalities and subject to the same limitations, to provide for the orderly control of services and utilities affected with the public interest; provided, however, that the provisions of this subsection shall not apply to persons or businesses acting in the capacity of telephone, telegraph, gas and electric utilities, or suppliers, nor shall it apply to utilities owned and operated by a municipality; provided, further, that the provisions of this subsection shall apply to the authority to grant franchises and contracts for the use of public beaches;

(12) to levy uniform license taxes upon persons and businesses engaged in or intending to engage in a business, occupation, or profession, in whole or in part, within the county but outside the corporate limits of a municipality except those persons who are engaged in the profession of teaching or who are ministers of the gospel and rabbis, except persons and businesses acting in the capacity of telephone, telegraph, gas and electric utilities, suppliers, or other utility regulated by the Public Service Commission and except an entity which is exempt from license tax under another law or a subsidiary or affiliate of any such exempt entity;

(13) to participate in multi-county projects and programs authorized by the general law and appropriate funds therefor;

(14) to enact ordinances for the implementation and enforcement of the powers granted in this section and provide penalties for violations thereof not to exceed the penalty jurisdiction of magistrates' courts;

(15) to undertake and carry out slum clearance and redevelopment work in areas which are predominantly slum or blighted, the preparation of such areas for reuse, and the sale or other disposition of such areas to private enterprise for private uses or to public bodies for public uses and to that end the General Assembly delegates to any county the right to exercise the power of eminent domain as to any property essential to the plan of slum clearance and redevelopment;

(16) to conduct advisory referenda;

(17) to enact ordinances to regulate solicitation within the county by requiring permits therefor, establish criteria for issuing such permits and provide for a fine of one hundred dollars or thirty days' imprisonment for violations;

(18) to obtain injunctive relief in the Court of Common Pleas to abate nuisances created by the operation of business establishments in an excessively noisy or disorderly manner which disturbs the peace in the community in which such establishments are located; and

(19) to exercise such other powers as may be authorized for counties by the general law.

# THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAPAIGN REFORM ACT OF 1991

**As an elected or appointed official, or as am employee, of Edgefield County, you are subject to certain portions of the ethics act. To better educate yourself, please visit the Ethics Commission website at http://ethics.sc.gov.**

The State Ethics Commission is an agency of state government responsible for the enforcement of the Ethics Reform Act of 1991 to restore public trust in government. The mission of the State Ethics Commission is to carry out this mandate by ensuring compliance with the state's laws on financial disclosure, lobbyist/lobbyist's principal disclosure and campaign disclosure; regulating lobbyists and lobbying organizations; issuing advisory opinions interpreting the statute; educating public officeholders and the public on the requirements of the state's ethics laws; conducting criminal and administrative investigations of violations of the state's ethics laws; and prosecuting violators either administratively or criminally.

## Principles of Public Service Ethics

***Public office as a public trust.*** Public servants should treat their office as a public trust, only using the powers and resources of public office to advance public interests and not to attain personal benefits or pursue any other private interest incompatible with the public good.

***Principle of independent objective judgment.*** Public servants should employ independent objective judgment in performing their duties, deciding all matter on the merits, free from conflicts of interest and both real and apparent improper influences.

***Principle of accountability.*** Public servants should assure that government is conducted openly, effectively, equitably and honorably in a manner that permits the citizenry to make informed judgments and hold governments officials accountable.

***Principle of democratic leadership.*** Public servants should honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of laws and rules.

***Principle of respectability and fitness for public office.*** Public servants should conduct their professional and personal lives so as to reveal character traits, attitudes and judgments that are worthy of honor and respect and demonstrate fitness for public office.

# Ethics: Rules of Conduct[2]

**All public employees, public officeholders, and public members are expected to adhere to and follow the Rules of Conduct** as outlined in the Ethics Reform Act. Anyone who is found guilty of violating these rules is subject to prosecution by the State Ethics Commission and the Attorney General's Office.

A public official, public member, or public employee may not knowingly use his official office, membership, or employment to influence a government decision to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

A person may not directly or indirectly give, offer, or promise anything of value to a public official, public member, or public employee with intent to influence the public official's, public member's, or public employee's official responsibilities, nor is the public official, public member, or public employee to ask, demand, solicit, or accept anything of value for himself or for another person in return for fulfilling his official responsibilities or duties.

A public official, public member or public employee may not receive anything of value for speaking before a public or private group in his/her official capacity. A meal can be accepted if provided in conjunction with the speaking engagement where all participants are entitled to the same meal and the meal is incidental to the speaking engagement. A public official, public member or public employee may receive payment or reimbursement for actual expenses incurred.

Public officials, public members, or public employees may not receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

No public official, public member, or public employee may disclose confidential information gained as a result of his responsibility as a public official, public member, or public employee that would affect an economic interest held by himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

No person may serve as a member of a governmental regulatory agency that regulates any business with which that person is associated.

No person shall serve on the governing body of a state; county; municipal; or political subdivision, board, or commission and serve in a position of the same governing body which makes decisions affecting his economic interests.

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[2] If you have received this document, these Rules of Conduct apply to you and your position.

A public official occupying a statewide office, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated may not knowingly represent another person before a governmental entity.

No member of the General Assembly or an individual with whom he is associated or business with which he is associated may represent a client for a fee in a contested case before an agency, a commission, board, department, or other entity if the member of the General Assembly has voted in the election, appointment, recommendation, or confirmation of a member of the governing body of the agency, board, department, or other entity within the 12 preceding months.

A public member occupying statewide office, an individual with whom associated, or a business with which associated may not knowingly represent a person before the same unit or division of the governmental entity for which the public member has official responsibility.

A public official, public member, or public employee of a county or municipality, an individual with whom associated, or a business with which associated may not knowingly represent a person before any agency, unit, or subunit of that county or municipality.

A public employee, other than of a county or municipality, an individual with whom associated, or a business with which associated may not knowingly represent a person before an entity of the same level of government for which the public employee has official responsibility.

No public official, public member or public employee may cause the employment, appointment, promotion, transfer, or advancement of a family member to a state or local office or position in which the public official, public member or public employee supervises or manages. A public official, public member, or public employee may not participate in an action relating to the discipline of the public official's, public member's or public employee's family member.

A former public official, former public member, or former public employee holding office, membership, or employment may not serve as a lobbyist or represent clients before the agency or department on which the public official, public member, or public employee formerly served in a matter in which he directly and substantially participated for one year after terminating his public service or employment.

It is a breach of ethical standards for a public official, public member, or public employee who participates directly in procurement to resign and accept employment with a person contracting with the governmental body if the contract falls or would fall under the public official's, public member's, or public employee's official responsibility.

No person may use government personnel, equipment, materials, or an office building in an election campaign. A person may use public facilities for a campaign purposes if they are

available on similar terms to all candidates and committees. Likewise, government personnel may participate in election campaign on their own time and on non-government premises.

A public official, public member, or public employee may not have an economic interest in a contract with the state or it's political subdivisions if the public official, public member, or public employee is authorized to perform an official function (including writing or preparing the contract, accepting bids, and awarding of the contracts) relating to the contract.

# Ethics: Disclosure of Economic Interests

**SECTION 8-13-1110. Persons required to file statement of economic interests.**

(A) No public official, regardless of compensation, and no public member or public employee ... 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 with the appropriate supervisory office. If a public official, public member, or public employee referred to in this section has no economic interests to disclose, he shall nevertheless file a statement of inactivity to that effect with the appropriate supervisory office. All disclosure statements are matters of public record open to inspection upon request.

**Who files a Statement of Economic Interests Form?**

Any person appointed to fill the unexpired term of an elected official;

All public officials;

All candidates for public office (excluding Federal offices);

Any person who serves on a state board, commission or council whether salaried or not;

Chief and Deputy or assistant chief administrative official or employee or director of a division, institution or facility of any agency or department of state government. The chief administrative official of each political subdivision including school districts, libraries, regional planning councils, airport commissions, hospitals, community action agencies, water and sewer districts, and development commissions;

County and city administrators, managers, supervisors, or chief administrative official, by whatever title;

School District Board Members, superintendents of education, county superintendents of education, and county board of education members; and

Chief Finance and Chief Purchasing Official/employee of each agency, institution, or facility of state government, & of each county, municipality, or other political subdivision including school districts, libraries, regional planning councils, airport commissions, hospitals, community action agencies, water and sewer districts, and development commissions.

**What information is disclosed on the Statement of Economic Interests Form?**

Name, address, phone # of the filer;

Source, type, and amount or value of income received from a governmental entity by the filer or a member of the filer's immediate family;

Description, value, & location of any real property owned & options to purchase real property by the filer or a member of the filer's immediate family if there have been any public improvements of more than $200 on or adjacent to the real property within the reporting period and the public improvements are known to the filer or if the filer sales, leases, or rents personal property to the state, county, or municipal government. A copy of the contract must be attached to the Statement of Economic Interests Form when being submitted;

Name of each organization which paid for or reimbursed any expenses of the filer for speaking before a public/private group. The amount, purpose, date, & location of the speaking engagement must be disclosed;

Identity of each business or entity in which the filer or a member of the filer's immediate family held/controlled, in the aggregate, securities or interests constituting 5% or more of the total issued AND which constitute a value of $100,00 or more;

List name/address of each creditor to whom the filer or member of the filer's immediate family owed a debt in excess of $500 at any time during the reporting period if the creditor is subject to regulation by the filer's agency or department. This does not include credit card installments, mortgage payments, or automobile payments;

The name of any lobbyist who is a member of the filer's immediate family or an individual with whom or business with which the filer or member of the filer's immediate family is associated;

Any compensation received from an individual or business which contracts with the governmental entity with which the filer serves or is employed; and

Any gifts received during the previous calendar from any person if the gift was believed to be given because of the filer's position or if the gift is given in hopes of seeking a contractual, business, or financial relationship with the filer's agency.

**When is the form due?**

April 15 covering the previous calendar year (Jan. 1 - Dec. 31);

When registering as a candidate for public office;

Upon entering the official responsibilities; and

Any person required to file a Statement of Economic Interests Form who is no longer holding office as of April 15 of the year following the previous filing is not required to submit the form.

**Where are the forms submitted?**

All Statement of Economic Interests Forms must be filed electronically. Electronic filing is accessed through the SC Ethics Commission website. Upon filing, the information is immediately available to the public through public reporting. If you are filing a Statement of Economic Interests as a candidate, you must file your form using the electronic filing system, print a copy, and file that paper copy with your election official at the same time you file your Statement of Intention of Candidacy.

# ETHICS: CONFLICTS OF INTEREST

No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use that does not result in additional public expense.

No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

(2) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;

(3) he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes;

(4) if he is a public member, he shall furnish a copy to the presiding officer of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.

Where a public official, public member, or public employee or a member of his immediate family holds an economic interest in a blind trust, he is not considered to have a conflict of interest with regard to matters pertaining to that economic interest, if the existence of the blind trust has been disclosed to the appropriate supervisory office.

NOTE: IT IS THE RESPONSIBILITY OF THE INDIVIDUAL ELECTED OR APPOINTED OFFICIAL OR COUNTY EMPLOYEE TO DETERMINE IF A CONFLICT OF INTEREST EXISTS AT ANY GIVEN TIME. IT IS NOT THE JOB OF THE COUNTY ADMINISTRATOR OR COUNTY ATTORNEY TO MAKE YOU AWARE OF SUCH CONFLICT.

*NOTE: The following RECUSAL STATEMENT may be used to comply with these requirements

# RECUSAL STATEMENT

**Board / Committee Name:** _____

**Member Name:** _____

**Meeting Date:** _____

**Agenda Item:** _____ **Section** _____ **Number**_____

**Topic:** _____

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*The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Ap. Att. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.*

**Justification to Recuse:**

_____ **Professionally employed by or under contract with principal**

_____ **Owns or has a vested interest in principal or property**

_____ **Other:** _____

_____

**Date:** _____ _____

**Member Signature**

**Approved by Board Secretary:** _____

*Member shall furnish a copy of this form to the presiding officer of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.*

# ETHICS: DUAL OFFICE HOLDING PROHIBITION

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time" with certain exceptions. For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the state. Other relevant considerations are whether statutes, or other such authority establish the position, prescribe its duties or salary, or require qualifications for an oath for the position.

**You may NOT hold more than one of these positions at a given time**

Hospital Board
County Transportation Committee
Mayor
Code Enforcement Officer
County Council
City Council
Assessment Board of Appeals
Commission on Alcohol and Drug Abuse
Law Enforcement Officer (ALL)
School Board Member
Governor's School BOD
SC Public Service Authority Board
Senate Members
House of Representatives Members
County Treasurer
County Tax Collector
County Administrator
State College or University BOT
Magistrate
Solicitor / Assistant
Atty General / Assistant
County Election Commission
County / City Planning Commission
Higher Education Commission
Zoning Board of Appeals
Building Code Enforcement Officer
Building Code Appeals Board
County Airport Commission
County Library Board
Commissions on Higher Education
DJJ Community Specialist

**You may hold these positions in addition to any other position**

Firefighter
Clemson Univ Humanities Advancement Bd
Recreation Commission
Economic Development Committee
Veterans Affairs Officer
Constable
County Attorney
EMS Director
BOD Private Non-profit
Ex Officio Offices
Edgefield County Senior Citizens Council

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Probation Officer
County Register of Deeds
County Auditor
City Attorney
Elected Judicial Official

# TORT LIABILITY

A tort is a creation of the common law and, simply stated, is a civil wrong or injury arising independent of a contractual relationship committed by one person against the person or property of another. Intentional torts are deliberate wrongful acts which case injury to a person or their property (such as assault, battery, false imprisonment and defamation (libel or slander)). Unintentional torts are acts of negligence.

Prior to 1986 the tort liability of government jurisdictions in South Carolina was strictly limited by the doctrine of sovereign immunity.

However, due to Supreme Court cases, and enactments by the SC General Assembly, the *South Carolina Tort Claims Act* now provides *limited* immunity for governments in tort liability.

**Was there a legal duty?**

An essential element in a cause of action based upon negligence is the existence of a legal duty of care owed by the defendant to the plaintiff. Doe v. Greenville County Sch. Dist., 375 S.C. 63, 72, 651 S.E.2d 305, 309 (2007). Without a duty, there is no actionable negligence. Id. A plaintiff alleging negligence on the part of a governmental actor or entity may rely either upon a duty created by statute or one founded on the common law. Arthurs ex rel. Estate of Munn v. Aiken County, 346 S.C. 97, 104, 551 S.E.2d 579, 582 (2001).

When the duty is created by statute, we refer to this as a "special duty," whereas when the duty is founded on the common law, we refer to this as a legal duty arising from "special circumstances." See id. at 109-10, 551 S.E.2d at 585 (explaining that this Court restricts the term special duty to those arising from statutes, whereas a legal duty arising from a "special circumstance" is created under the common law).

**Public Duty Rule**

Under the public duty rule, public officials are not liable to individuals of the public for negligence in discharging their statutory obligations. Tanner v. Florence County Treasurer, 336 S.C. 552, 561, 521 S.E.2d 153, 158 (1999).

A public official may be liable if he owed a special duty of care to the individual, as determined by a six-factor test, assessing whether:

(1) an essential purpose of the statute is to protect against a particular kind of harm;
(2) the statute imposes on a specific public officer a duty to guard against or not cause that harm;
(3) the class of persons the statute intends to protect is identifiable before the fact;
(4) the plaintiff is a person within that class;

(5) the public officers know or should know of the likelihood of harm to the class if he fails in his duty; and
(6) the officer is given sufficient authority to act in the circumstances or he undertakes to act in the exercise of his office. Jensen v. Anderson County Dep't of Soc. Servs., 304 S.C.195, 200, 403 S.E.2d 615, 617(1991).

**Immunity under the Tort Claims Act**

Even if a duty existed, under the South Carolina Tort Claims Act a governmental entity is not liable for a loss resulting from:

(1) legislative, judicial, or quasi-judicial action or inaction;

(2) administrative action or inaction of a legislative, judicial, or quasi-judicial nature;

(3) execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process;

(4) adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies;

(5) the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee;

(6) civil disobedience, riot, insurrection, or rebellion or the failure to provide the method of providing police or fire protection;

(7) a nuisance;

(8) snow or ice conditions or temporary or natural conditions on any public way or other public place due to weather conditions unless the snow or ice thereon is affirmatively caused by a negligent act of the employee;

(9) entry upon any property where the entry is expressly or impliedly authorized by law;

(10) natural conditions of unimproved property of the governmental entity, unless the defect or condition causing a loss is not corrected by the particular governmental entity responsible for the property within a reasonable time after actual or constructive notice of the defect or condition;

(11) assessment or collection of taxes or special assessments or enforcement of tax laws;

(12) licensing powers or functions including, but not limited to, the issuance, denial, suspension, renewal, or revocation of or failure or refusal to issue, deny, suspend, renew, or revoke any permit, license, certificate, approval, registration, order, or similar authority except when the power or function is exercised in a grossly negligent manner;

(13) regulatory inspection powers or functions, including failure to make an inspection, or making an inadequate or negligent inspection, of any property to determine whether the property complies with or violates any law, regulation, code, or ordinance or contains a hazard to health or safety;

(14) any claim covered by the South Carolina Workers' Compensation Act, except claims by or on behalf of an injured employee to recover damages from any person other than the employer, the South Carolina Unemployment Compensation Act, or the South Carolina State Employee's Grievance Act;

(15) absence, condition, or malfunction of any sign, signal, warning device, illumination device, guardrail, or median barrier unless the absence, condition, or malfunction is not corrected by the governmental entity responsible for its maintenance within a reasonable time after actual or constructive notice. Governmental entities are not liable for the removal or destruction of signs, signals, warning devices, guardrails, or median barriers by third parties except on failure of the political subdivision to correct them within a reasonable time after actual or constructive notice. Nothing in this item gives rise to liability arising from a failure of any governmental entity to initially place any of the above signs, signals, warning devices, guardrails, or median barriers when the failure is the result of a discretionary act of the governmental entity. The signs, signals, warning devices, guardrails, or median barriers referred to in this item are those used in connection with hazards normally connected with the use of public ways and do not apply to the duty to warn of special conditions such as excavations, dredging, or public way construction. Governmental entities are not liable for the design of highways and other public ways. Governmental entities are not liable for loss on public ways under construction when the entity is protected by an indemnity bond. Governmental entities responsible for maintaining highways, roads, streets, causeways, bridges, or other public ways are not liable for loss arising out of a defect or a condition in, on, under, or overhanging a highway, road, street, causeway, bridge, or other public way caused by a third party unless the defect or condition is not corrected by the particular governmental entity responsible for the maintenance within a reasonable time after actual or constructive notice;

(16) maintenance, security, or supervision of any public property, intended or permitted to be used as a park, playground, or open area for recreational purposes, unless the defect or condition causing a loss is not corrected by the particular governmental entity responsible for maintenance, security, or supervision within a reasonable time after actual notice of the defect or condition;

(17) employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude;

(18) imposition or establishment of a quarantine by a governmental entity, whether the quarantine relates to persons or property;

(19) emergency preparedness activities and activities of the South Carolina National Guard and South Carolina State Guard while engaged in state or federal training or duty. This exemption does not apply to vehicular accidents;

(20) an act or omission of a person other than an employee including but not limited to the criminal actions of third persons;

(21) the decision to or implementation of release, discharge, parole, or furlough of any persons in the custody of any governmental entity, including but not limited to a prisoner, inmate, juvenile, patient, or client or the escape of these persons;

(22) termination or reduction of benefits under a public assistance program;

(23) institution or prosecution of any judicial or administrative proceeding;

(24) holding or conduct of elections;

(25) responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner;

(26) failure to supervise or control areas open for public hunting or activities thereon. Failure to control, maintain, and/or supervise the use of and activities in, on, and around public boat ramps except within a reasonable time after actual notice of the defect or condition. Failure to maintain navigational markers, except within a reasonable time after actual notice of the defect or condition.

(27) solicitations on streets and highways as authorized by the provisions of Section 5-27-910.

(28) Notification of any public school student's parent, legal guardian, or other person with whom a public school student resides of the student's suspected use of alcohol, controlled substance, prescription or nonprescription drugs by any public school administrator, principal, counselor, or teacher if such notification is made in good faith.

(29) acts or omissions of members of the state and county athletic commissions or

ringside physicians acting within the scope of their official duties pursuant to Chapter 7 of Title 52.

(30) acts or omissions of members of local foster care review boards acting within the scope of their official duties pursuant to Subarticle 4, Article 13, Chapter 7 of Title 20. However, the member shall act in good faith, his conduct may not constitute gross negligence, recklessness, willfulness, or wantonness, and he must have participated in a training program established by the state foster care review board system.

(31) acts or omissions of employees and volunteers of the South Carolina Protection and Advocacy System for the Handicapped acting within the scope of their official duties pursuant to Article 5, Chapter 33 of Title 43, when such acts or omissions are done or made in good faith, and do not constitute gross negligence, recklessness, willfulness, or wantonness.

(32) a pre-occupancy housing inspection contracted for by the South Carolina Department of Employment and Workforce pursuant to Section 46-43-40.

(33) the performance of any duty related to the service of members of the Judicial Merit Selection Commission or the Citizens Committees on Judicial Selection.

(34) the performance of any duty related to the service of the members of the Tobacco Community Development Board.

(35) the failure of a library's or media arts center's governing board to adopt policies as provided in Section 10-1-205.

(36) acts or omissions by a special state constable who is appointed pursuant to Section 23-7-10 and acting within the scope of his official duty under conditions of a national emergency or of a serious and immediate risk to the physical security of an energy facility within the special state constable's jurisdiction as provided in Section 23-7-40.

(37) the performance of any duty related to the service of the members of the Tobacco Settlement Revenue Management authority.

(38) conduct of a director appointed pursuant to Section 58-31-20 giving rise to a lawsuit under Section 58-31-57.

(39) the grant or denial by a governing body of a county or municipality as provided in Section 23-35-175 of an application to extend a Fireworks Prohibited Zone beyond the subject property for which a Discharge of Fireworks Prohibited Agreement has been filed.

(40) an injury a student may sustain as a result of self-monitoring or self-administering

medications or for an injury that a student may sustain from taking or using medications or self-monitoring devices for which the student does not have a prescription or does not have authorization by the school district.

**Generally Speaking**

Governmental entities are generally not liable for their decisions to undertake or not undertake a particular activity.

**Liability of County Officials and Employees**

The Tort Claims Act act gives county elected and appointed officials and employees immunity from personal liability in the performance of their official duties and transfers the liability to the county. The act further provides that an employee is not immune from suit and liability if it is proven that the employee's conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.

In effect, then, county officials and employees are protected from liability for acts committed without malicious or criminal intent and for good cause or in good faith. Malicious acts or actions that exceed the employee's or official's scope of duties of authority may result in personal liability.

# LIABILITY UNDER THE FEDERAL CIVIL RIGHTS ACT

An unrelated avenue of redress against state and local governments is an action in federal or state court under the Civil Rights Act of 1871 (42 U.S.C. § 1983) (sometimes called a "1983" action). Governments and their employees can be sued for damages and legal costs for any violation of an individual's rights under constitutional or federal law. This is true regardless of whether the action was intentional or unintentional.

**Violation of Constitutional Rights**

Section 1983 permits a person to sue and recover damages if the local government or any of its public servants violates his or her federal constitutional rights. Several common constitutional violations are violation of the First Amendment rights of free speech and free political affiliation, violation of the Fourth Amendment rights of freedom from unreasonable searches and seizures, and violation of the Fourteenth Amendment right of due process.

**Liability of Public Servants**

Public servants may be sued individually in a Section 1983 lawsuit if they violate someone's federal rights. In some cases, they may be entitled to the protection of either absolute or qualified immunity for damages.

**County Council Members**

County Council members are absolutely immune from personal liability if the council's legislative acts violate someone's federal rights. However, they may be liable for administrative acts that violate someone's federal rights.

**Other Public Servants**

A public servant who violates someone's federal rights while performing his or her official duties is entitled to qualified immunity from personal liability. Such immunity is necessary to ensure that public servants will make decisions without fear of personal liability for homes mistakes in judgment.

# AMERICANS WITH DISABILITIES ACT

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all State and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State or local governments. It clarifies the requirements of section 504 of the Rehabilitation Act of 1973 for public transportation systems that receive Federal financial assistance, and extends coverage to all public entities that provide public transportation, whether or not they receive Federal financial assistance. It establishes detailed standards for the operation of public transit systems, including commuter and intercity rail (AMTRAK).

A local government must eliminate any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or activity. The State or local government may, however, adopt legitimate safety requirements necessary for safe operation if they are based on real risks, not on stereotypes or generalizations about individuals with disabilities. Finally, a public entity must reasonably modify its policies, practices, or procedures to avoid discrimination. If the public entity can demonstrate that a particular modification would fundamentally alter the nature of its service, program, or activity, it is not required to make that modification.

Title II prohibits all public entities, regardless of the size of their work force, from discriminating in employment against qualified individuals with disabilities. In addition to title II's employment coverage, title I of the ADA and section 504 of the Rehabilitation Act of 1973 prohibit employment discrimination against qualified individuals with disabilities by certain public entities

***A public entity must ensure that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible. A State or local government's programs, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as "program accessibility," applies to facilities of a public entity that existed on January 26, 1992. Public entities do not necessarily have to make each of their existing facilities accessible. They may provide program accessibility by a number of methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate accessible sites.***

The ADA requires that all new buildings constructed by a local government be accessible. In addition, when a local government undertakes alterations to a building, it must make the altered portions accessible.

A local government will be in compliance with the ADA for new construction and alterations if it follows either of two accessibility standards. It can choose either the Uniform Federal Accessibility Standards or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, which is the standard that must be used for public accommodations and commercial facilities under title III of the ADA. If the local government chooses the ADA Accessibility Guidelines, it is not entitled to the elevator exemption (which permits certain private buildings under three stories or under 3,000 square feet per floor to be constructed without an elevator).

Local agencies that provide emergency telephone services must provide "direct access" to individuals who rely on a TDD or computer modem for telephone communication. Telephone access through a third

party or through a relay service does not satisfy the requirement for direct access. Where a public entity provides 911 telephone service, it may not substitute a separate seven-digit telephone line as the sole means for access to 911 services by nonvoice users. A public entity may, however, provide a separate seven-digit line for the exclusive use of nonvoice callers in addition to providing direct access for such calls to its 911 line.

Private individuals may bring lawsuits to enforce their rights under title II and may receive the same remedies as those provided under section 504 of the Rehabilitation Act of 1973, including reasonable attorney's fees. Individuals may also file complaints with eight designated Federal agencies, including the Department of Justice and the Department of Transportation.

# FREEDOM OF INFORMATION ACT

When in doubt, disclose.
When in doubt, post the meeting.
When in doubt, open the meeting.
When in doubt, release the document.

-SC Attorney General's Office.

As an elected or appointed county official, or as a county employee, you may receive Freedom of Information Act (FOIA) requests from the public. The County has not adopted any formal procedures for responding to FOIA requests, therefore it is incumbent upon all officials and employees to know how to respond to such a request.

Note that FOIA requests come in many shapes and sizes: verbal requests or written requests, requests made in person, requests in written correspondence (including email), and in-person requests.

If you have a question about responding to a request, please contact your supervisor who may contact the County Administrator for guidance.

The general rule is that any person has a right to inspect or copy records of public bodies; however, the public body may establish and collect fees not to exceed its costs to produce the records. If a public body received a FOIA request, it has 15 working days to provide a valid reason in writing why the request is disapproved or the request will be considered approved.

## Exceptions

There are exceptions to FOIA in South Carolina law. Other laws may embellish or supersede FOIA in particular situations. For example, while council meetings are subject to FOIA in general, there is a special statute applicable to council meetings found at §4-9-130. And, when adopting the county budget, §6-1-80 supersedes FOIA concerning the public notice requirements.

**Federal Privacy Act**
The Federal Privacy Act of 1974, 5 U.S.C. §552a, provides that a local, state, or federal government agency cannot require an individual to submit a social security number unless (1) the records system for which the social security number is being solicited antedated 1975 or (2) the entity has received specific permission from Congress to require submission of a social security number. If neither of those two conditions are satisfied, then the entity may still request that an individual submit his or her social security number voluntarily. In either case, a requirement of or request for the number, the agency must fully disclose what use will be made of the number.

Notwithstanding the Federal Privacy Act, federal, state and local government agencies may require disclosure of a social security number for certain purposes. For example, government agencies may lawfully require the furnishing of a social security number: (1) when required by federal statute; (2) if the individual's disclosure of the number was required under statute or regulation adopted on or before January 1, 1975, provided that the agency maintained a system of records in existence and operating

before January 1, 1975; (3) to the extent that social security numbers are used in the administration of any tax, general public assistance, drivers license, or motor vehicle registration law within the agency's jurisdiction3; (4) in connection with the issuance of birth certificates and in the enforcement of child support orders4; and (5) in the administration of the Food Stamp Act and the Federal Crop Insurance Act.

Although the Federal Privacy Act did not restrict an agency's disclosure of an individual's social security number, 1990 amendments to the Social Security Act now make an individual's social security number confidential when the number is obtained by an agency pursuant to any provision of law enacted after October 1, 1990. 42 U.S.C. §405(c)(2)(C)(ii), (viii) (I).

**EXCEPTIONS FROM FOIA**

The Act contains a list of records which are not required to be disclosed pursuant to a FOIA request. §30-4-40. In this statute is a provision stating that records specifically made exempt from disclosure by statute or law are not subject to disclosure under FOIA. If a statute or law outside of FOIA states that a particular record is confidential or subject to disclosure only under specified circumstances, then the record should not be provided pursuant to a FOIA request. Some of these statutes require disclosure only under certain conditions and some of the statutes prohibit disclosure to the public entirely. It is impossible to provide an exhaustive list of all the laws making particular records confidential.

Some, but not all, of the statutes making certain records confidential are annotated under §30-4-40. This list is not exhaustive and any questions about your particular matter should be directed to your attorney. All references here are to the South Carolina Code unless otherwise specifically stated.

Many public records contain personal identifying information such as social security numbers. Social security numbers are also routinely collected as a necessary part of the daily function of some local governmental entities. Act 190 of 2008, which deals with identity theft and fraud protection laws, requires agencies that collect social security numbers to segregate those numbers so that they may be easily redacted pursuant to a public records request in compliance with §30-2-310(A)(1)(b).

In addition, §30-2-330(A) prohibits the filing of documents to be recorded in the registers of deed or clerk of court's office that include personal identifying information such as a social security number or driver's license number, unless such information is required by law or court order. Pursuant to §30-2-330(B), a consumer or their attorney may request that personal identifying information be redacted from an image or copy of an official record of a public document, such as a mortgage, on the register of deeds or clerk of court's public website. The request must be made in writing and must specify the page number of the documents that contains the personal identifying information. There is some question as to whether the information redaction process provided in §30-2-330(B) applies only to electronic copies or to physical copies in light of §30-1-30, which prohibits the alteration of public records.

**BALANCING FOIA AND THE PUBLIC RECORDS LAW**

The Public Records Act, Section 30-1-10, *et seq.*, imposes specific duties on public officials who create, use, or manage public documents. Section 30-1-70 requires the legal custodian of public records to "protect them against deterioration, mutilation, theft, loss or destruction." This statute is intended to preserve records which have historical value, are important for the provision of services, protect the interests of the public, or have commercial importance as records. Thus, only copies of records are required to be provided under FOIA. Public bodies may elect to adopt an office policy designed to

preserve public records from loss and destruction. The policy may require a custodian of records to be present when public records are being inspected pursuant to a FOIA request.

## RESPONDING TO A FOIA REQUEST

Any written or verbal request for documents, records, or information coming into a public body's office should be considered a FOIA request. Here are some simple tips on how to structure office operations in anticipation of a request under FOIA.

**1. Develop a written office policy to address how the office responds to a FOIA request.**
By developing specific office policies which anticipate how the office will respond to a FOIA request, one can assure compliance with the Act.

**2. Designate one person.** Designate one person in the office to receive, log, and process written FOIA requests and to respond to requests made "in-person." This may be the same person, the office receptionist and /or a public information officer. Whoever is authorized to interact with the public and respond to written and verbal FOIA requests should be designated and receive training.

**3. Provide training.** Provide training to anyone authorized to respond to a request for records. The office receptionist should know how to respond to a request made by someone appearing in person. Office personnel should know to whom to direct requests for records in the event they receive a FOIA request. The office should anticipate requests for records made in person, what records are required to be immediately available without a written request, and how to respond to the in-person request.

**4. Include a written policy specifying costs for searching for and making copies of records.**
FOIA allows recovery of costs "not to exceed the actual cost of searching for and making copies of records." The costs must be uniform and the lowest possible cost. The policy may allow waiver of costs under specified circumstances. FOIA provides that costs may be waived if it is determined that waiver or reduction of costs is in the public interest because the information is considered as primarily benefitting the general public.

Another reason to waive costs arises when the number of copies is small compared to the expense of preparing a receipt and accounting for a small amount of money coming into the office.

Fees may not be charged for examination and review of documents to determine if they are subject to disclosure. However, the office policy may establish a reasonable hourly rate for making records available for inspection. This is premised on the underlying concept that inspection of records will be made in the presence of a staff member acting as the custodian of the records. A reasonable deposit against anticipated costs may be required under the Act. There should be written guidance for determining when a deposit is required.

The existence of a written policy on costs charged pursuant to FOIA and staff training is fundamental to FOIA compliance. These issues are discussed in more detail under §30-4-30 dealing with records, fees, and costs.

**WRITTEN AND VERBAL REQUESTS**

**5. When a written request is received, write the date of receipt down.** Write the date a FOIA request is received on the letter, office tickler, or calendar. The date of receipt will be used to establish the date a response is due.

**6. Count 15 working days from the date the FOIA request is received and write the date down.** Record the date on which 15 working days expires on the letter, office tickler or calendar. Fifteen working days from the date a written FOIA request is received is the response date. The response date is the date when a response must be given in writing to the requestor. FOIA allows 15 "working days" in which to respond. The term "working days" excludes Saturdays, Sundays, and legal public holidays occurring between the date the FOIA request is received and the date the response is due.

**7. Determine if the request is for specific documents, a request to inspect documents or both.** Some requests simply ask for copies of readily available public documents. Other requests may ask to "inspect" records. A request to inspect records is asking for an opportunity to look at a particular group of records in the office.

**8. Determine if there will be fees and costs.** A fee for the actual cost of searching for and making copies of public records may be charged. If a request entails research to determine which records apply to the request, charges for staff time devoted to research may be charged. Fees may not be charged for examination and review to determine if the documents sought are subject to disclosure. The specific provision applicable to fees and costs is developed more fully under the practice pointer appearing after §30-4-30.

**9. Write back before the end of the 15-day response period.** A letter sent before the end of the 15-day response period may be necessary to clarify a vague request, to advise of fees, costs or deposits, or confirm an agreement to extend the 15-day response period in order to search for records and determine a record's availability under the Act. This letter should (a) acknowledge receipt of the FOIA request; (b) confirm your understanding about the specific records sought or request clarification of vague requests; (c) provide information about fees, costs, and a deposit, if any; and (d) give a time for document production or the date, time, and place where the records will be made available for inspection.

**10. FOIA requires a written response within 15 working days.** The Act requires a written response within 15 working days from the date of receipt of a verbal or written FOIA request. This will be referred to as the 15-day letter. The 15-day letter is deemed, under the Act, to be a determination about the release of records or the right to inspect them and the letter must state the reasons for the determination. The 15-day letter is, according to the Act, the final opinion of the public body regarding the public availability of the requested records. If the 15-day letter is not mailed or personally delivered to the person making the FOIA request, the request for records is considered approved by operation of the statute.

The 15-day letter is a significant legal statement by the office because it is considered the final opinion of the office about the public availability of requested records. However, FOIA does not prohibit asking for clarification of vague requests or requesting an extension of time in which to provide the 15-day letter. Thus, if an attorney's opinion is needed on an issue related to the availability of records, ask for an extension of time in which to respond and document the agreement by letter. If any agreement is

made that varies the requirements of the Act, it must be made in writing with a copy delivered to the requestor acknowledging the agreement. Provide a copy of this letter to the attorney preparing an opinion, if any.

Any agreement altering the time line required by FOIA should be sent to the requestor along with a restatement of any discussions about fees, costs, deposits, if any, and the date, time and place for inspection of records. The final determination letter must be mailed or personally delivered on the date agreed to or within 15 working days of receipt of the FOIA request.

**"IN PERSON" REQUESTS**

**11. Anyone may appear in person, look at, and receive copies of certain records.** Meeting minutes for the last 6 months; law enforcement records for the last 14 days; and jail, detention center and prison records identifying confined persons for the last 3 months must be available for public viewing and copying by any person appearing in person. A written request is not required nor should one be requested. These particular records for the periods specified should be available for public viewing during the public body's hours of operations. For some offices this will be between 8:30 a.m. and 5:00 p.m. For other offices this may mean 24 hours a day. Section 30-4-30(d).

Section 30-4-30(d) requires the following documents be made available on demand:

(1) minutes of the meetings of the public body for the preceding 6 months;

(2) all reports identified in §30-4-50(A)(8) for at least the fourteen-day period before the current day. The "14 day reports" in §30-4-50(A)(8) are "reports which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed. When a report contains information exempt as otherwise provided by law, the law enforcement agency may delete that information from the report."

(3) documents identifying persons confined in any jail, detention center, or prison for the preceding 3 months.

**CONCLUSION**

**12. Anticipate FOIA requests before they arrive.** Anticipating a response to a FOIA request before it is made, developing written office procedures and implementing staff training will ease the process and ensure compliance with the law.

**A few notes from the County Attorney**

***A violation of the Freedom of Information Act IS A CRIME! If you have ANY questions whatsoever about a records request, arrange to meet with your supervisor, the County Administrator and the County Attorney.***

A Freedom of Information Act request is a request for documents "in existence." It is not necessary to "create" documents in response to a FOIA request. As a matter of fact, doing so is discouraged. As a matter of fact, "creating" documents in response to a FOIA request may cause more problems than it solves.

Email communications are county records subject to disclosure under FOIA. This even includes emails, county documents and work performed on a personal computer.

# FOIA and OPEN MEETINGS

The general rule is that all meetings of public bodies shall be open. All boards and commissions where County Council appoints any of the members is a "public body".

Meetings may be closed but only for one of six specifically enumerated reasons.[3] Prior to closing the meeting to the public (which is referred to as going into executive session), the body must vote in public on the question to go into executive session and the chair must announce the specific purpose for doing so, which must be fore one of the reasons enumerated.

Prior notice of meetings must be published. Regularly scheduled meetings must be published in the beginning of the calendar year including the dates, times and places of the meetings. The notice requirement is waived for emergency meetings.

Chance meetings, social meetings and electronic communications may not be used to circumvent the spirit of the requirements of open meetings under FOIA.

Public bodies are required to keep minutes of all their public meetings.

**Enforcement**

Any citizens of this state can file an action within one year of the date of a violation of FOIA and may seek either injunctive relief or a declaratory judgment. If the party alleging a violation of FOIA is successful, in whole or in part, it may be awarded reasonable attorney fees and other costs for bringing the action. The public body has no similar remedies for a successful defense. Furthermore, any person or group of persons who willfully violates FOIA may be fined or imprisoned.

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[3] A public body may hold a meeting closed to the public for one or more of the following reasons: (1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body; however, if an adversary hearing involving the employee or client is held, the employee or client has the right to demand that the hearing be conducted publicly. Nothing contained in this item shall prevent the public body, in its discretion, from deleting the names of the other employees or clients whose records are submitted for use at the hearing. (2) Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim. (3) Discussion regarding the development of security personnel or devices. (4) Investigative proceedings regarding allegations of criminal misconduct. (5) Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body. (6) The Retirement System Investment Commission, if the meeting is in executive session specifically pursuant to Section 9-16-80(A) or 9-16-320(C).

# PUBLIC RECORDS ACT

As a public official or employee of the County, you may have the opportunity to create or handle public records.

"Public record" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body.

- Includes completed forms, correspondence, maps, drawings, photographs and reports.
- DOES NOT include convenience copies for reference, publications not evidence of governmental activities including catalogs, trade journals, pamphlets, blank forms.

A person who unlawfully removes a public record from the office where it usually is kept or alters, defaces, mutilates, secretes, or destroys it is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than five thousand dollars or imprisoned not more than thirty days. Magistrates and municipal courts have jurisdiction to try violations of this section.

A person having custody of public records, at the expiration of his term of office or employment, shall deliver to his successor, or if there is none, to the Archives, all public records in his custody.

# SECTION II

# PROVISIONS APPLICABLE TO COUNTY COUNCIL, ALL BOARDS AND COMMISSIONS

**REPORTING REQUIREMENTS**

Pursuant to the SC Ethics Act, all Edgefield County Public Officials, the County Administrator, the Chief Financial Officer and the Chief Purchasing Official of the County are required to comply with the Statement of Economic Interests reporting law. S.C. Code Ann. § 8-13-1110(B)(5) and (10).

## Orientation of New Board Members

There should be a comprehensive orientation for new board members of any board or commission. At a minimum, prior to their first meeting, the orientation should include a notebook containing copies of the following items:

- Letter appointing the new member to the board;
- County ordinance or resolution that created the board;
- By-laws of the board;
- Appropriate federal or state statutes;
- Meeting minutes for at least the previous six months;
- Latest budget documents;
- List of board members with contact information;
- Schedule of meeting dates for the next six months;
- List of support staff with contact information; and
- Appropriate portions of this document.

The board secretary should prepare this orientation package and deliver it to the new board member immediately upon their election / appointment.

## What is expected of Board Members?

**Make informed decisions and recommendations.**

In that most county appointed boards and commissions are advisory in nature, their primary responsibility is to make informed decisions and recommendations which will be forwarded to County Council for final action. It is critical that the boards and County Council have ongoing communication to keep each other informed of changes in the environment that may impact their actions. In addition, it is critical that each board member has a working knowledge of the following:

- South Carolina Code of Laws pertaining to their board;
- County Code of Ordinances;
- Board by-laws;
- Edgefield County Rules of Parliamentary Procedure;
- Ethics, Government Accountability, and Campaign Reform Act; and
- Freedom of Information Act.

**Be a source of communication and information.**

Board and commission members play an important role in providing information to both the community and elected officials. They are appointed to assist council in both identifying and meeting the needs of county residents. To accomplish this, board members must make every effort to communicate to citizens the board's general purpose and the major issues currently being addressed by the board. Board members also must ensure that citizens have the opportunity to attend board meetings as well as the opportunity to make presentations on issues or concerns of importance to them. By encouraging citizen participation and communication at its professionally and effectively run meetings, a board will be more capable of giving good advice and information about community issues to council.

**Provide leadership.**

Local boards and commissions do not have the authority to act independently of their appointing authority. However, within their scope of authority, boards do have the opportunity to provide leadership. Council members and the board and commission members they appoint are a team that works together to address both short-term and long-term needs of the county. The degree to which they all understand the nature of the relationships between and among them and their assigned roles and responsibilities will determine their effectiveness.

# EDGEFIELD COUNTY RULES OF PARLIAMENTARY PROCEDURE

**Rule 1. Short Title.**

This Ordinance may be cited as the Edgefield County Rules of Parliamentary Procedure.

**Rule 2. Applicability; Deviation from Rules.**

These Rules shall apply to all meetings of county council, including committee meetings, and to all boards and commissions for which the county council appoints a majority of the members. As used in these Rules, the term "Meeting" means the convening of a quorum of the membership of county council, or such other board or commission, to discuss or act upon a matter over which county council or such other board or commission has supervision, control, jurisdiction or advisory power; the term "Quorum" means a simple majority of the membership of the county council, or committee of county council, or such other board or commission. Where applicable, the term "county council" means not only the county council, but also any other board or commission in the county governed by these Rules.

These Rules were adopted as guidelines to assist county council and county boards and commissions in conducting orderly and productive meetings. Any deviation from or waiver of these Rules shall not affect or void any action taken by county council, or a county board or commission. Furthermore, such deviation or waiver does not convey any right or cause of action to third parties not otherwise imposed by law.

**Rule 3. *Model Rules of Parliamentary Procedure for South Carolina Counties* and *Robert's Rules of Order Newly Revised* (current edition) to Govern Other Cases.**

County council will refer to the *Model Rules*, and the Comment sections contained therein, as the primary resource in determining the intent and meaning of these Rules. In all cases not covered by these Rules, county council shall be governed by such rules as are set out in the current edition of *Robert's Rules of Order Newly Revised.* Provided, however, that state and federal law shall take precedence over these Rules in all cases. Whenever possible, these Rules should be interpreted to conform to state and federal law; if an irreconcilable difference occurs, only the portion of the Rule or Rules directly in conflict with state or federal law is to be overruled, the remaining portions surviving.

**Rule 3.1. Role of the Individual Council Member.**

County council is a policy-making, legislative body. It provides a vision for the county and provides guidelines to county administration regarding how the county is to be run. County council members have authority only when acting together, speaking with one voice, and have no individual authority over county operations.

**Rule 4. Meetings, Notice.**

County council shall meet at least once monthly, but may meet more frequently provided that public notice, as described herein, is provided. Written public notice shall be given for all regularly scheduled meetings at the beginning of each calendar year. Notice must include the dates, times and places of the meetings.

Public notice of each called, special or rescheduled meeting must be posted on a bulletin board at the meeting place for county council, or other suitable place, as early as practicable, but not less than twenty-four hours prior to each meeting. The notice must include the agenda and the date, time and place of the meeting. The twenty-four hour requirement for posting notice does not apply for emergency meetings.

All persons, organizations, and news media requesting notification of county council meetings shall be notified of the times and places, and given copies of the agenda for all meetings, whether scheduled, rescheduled or called. Efforts made to comply with this notice requirement shall be noted in the minutes.

Special meetings may be called by the chair or by the majority of county council, provided that the notice requirements are met. Meetings, whether scheduled, rescheduled or called, may be canceled or rescheduled by the chair or by a majority of county council, provided that the requirement for at least one meeting per month is met. Meeting notice requirements apply to committee meetings as well as meetings of the full council.

**Rule 5. Agenda.**

Every meeting shall have an agenda. The agenda will be compiled at the direction of the council chair by the clerk to council or such other person as may be designated. The agenda shall be posted, pursuant to Rule 4 and as required by the Freedom of Information Act, at least twenty-four hours prior to meetings. Additionally, a copy of the agenda shall be provided as part of the notice given to any person, organization, or news media requesting notification of county council meetings.

The agenda will designate the time and location of the meeting and the type of meeting to be held: council session, committee meeting, public hearing, public comment, workshop or emergency session.

The deadline for agenda item requests for regular meetings is 12:00 noon on the Monday of the week prior to any regular council meeting. Items may be placed on the agenda at the request of any serving member of the council or the county administrator.

**Rule 6. Hearings.**

**A. Public Hearings**

Public hearings are the method required by the Home Rule Act for county council to gain input from the public at large. Members of council should refrain from making comments during the public hearing and should neither enter into debate with the public nor with other council members during the public hearing. Public hearings are required before final action is taken to:

1. Adopt annual operational and capital budgets;
2. Make appropriations, including supplemental appropriations;
3. Adopt building, housing, electrical, plumbing, gas and all other regulatory codes;
4. Adopt zoning and subdivision regulations;
5. Levy taxes;
6. Sell, lease or contract to sell or lease real property owned by the county;
7. Impose ad valorem property taxes upon a fire service area; or
8. Provide for the distribution of assets following the abolishment of a special purpose district.

Final action for any of the first six matters must be in the form of an ordinance. A minimum of 15 days' notice of the time and place of the hearing must be published in at least one newspaper of general circulation in the county, prior to conducting a public hearing for any of the above categories of ordinances.

Notice for item 7 must be provided once a week for three successive weeks in a paper of general circulation in the county, and the hearing must not occur fewer than 16 days following the first notice. Item 8 requires at least two public hearings with ten days prior notice published in a newspaper of general circulation prior to each meeting.

Following the abolishment of a special purpose district located within the county, two public hearings are required prior to distributing assets and/or refunding taxes.

A public hearing may be held on the same date as the final reading of any ordinance to which it pertains.

**B. Quasi-Judicial Hearings.**

When conducting a quasi-judicial hearing, county council takes on the role of an impartial trier of fact in a dispute involving the legal rights of one or more parties. In a quasi-judicial hearing, council members must be careful to provide basic rights due under state and federal constitutions and statutes. Among these basic rights, which council must protect, are the right to an attorney, the right to cross examine witnesses and the right to due process. Further, council members must base their decisions on the evidence presented at the hearing and must not discuss the case beforehand or be influenced by the opinions of others who are not a part of the proceedings.

**Rule 7. Minutes; Ordinances to Be Codified.**

All proceedings of county council shall be recorded and all ordinances shall be indexed, codified, and published by title. The clerk to council shall make a permanent record of all ordinances adopted, shall make them available to the public and shall furnish a copy of the record to the clerk of court for filing at that office.

Written minutes shall be kept of all meetings; provided however, that minutes of executive sessions are not required but may be kept at the discretion of council. Copies of the minutes of council shall be kept in perpetuity; whereas copies of any audio or video tapes may be destroyed by the clerk to council after twenty-four calendar months. Minutes shall include, as a minimum:

1. Date, time and place of the meeting;
2. Members of county council recorded as either present or absent;
3. Substance of all matters proposed, discussed or decided and, if requested by a member, a record by member of any votes taken;
4. If any member of council has a conflict of interest on a matter before council, that member shall recuse himself or herself and provide a written statement describing the matter and the potential conflict as required by S.C. Code Ann. § 8-13-700 and by Rule 11.
5. Any other information that a member of council requests to be included or reflected in the minutes.

Minutes are public records and shall be made available within a reasonable time after the meeting, except any information not subject to disclosure under the Freedom of Information Act. Minutes are not subject to disclosure until approved as written by the county council.

**Rule 8. Voting.**

The preferred method of voting by county council is by voice vote, although the chair may call for a show of hands or a roll call vote at any time. Any council member may demand a show of hands or a roll call vote. The demand is in order before or immediately after the voice vote has been taken, even though the chair may have announced the results of the voice vote. A council member may not explain his or her vote while voting, but may change his or her vote at any time prior to the chair's announcing the result.

**A. Passage by Majority Vote.**

The term "majority" or "simple majority" means more than half of those present and voting. When a two-thirds majority is required, the term "two-thirds majority" means at least two-thirds of those present and voting. The term "positive majority" means a majority of the members of council, regardless of whether they are present or not.

Except as otherwise provided for in these Rules, or by pertinent state or federal statute, any ordinance, resolution or motion passes if it receives a majority of the votes cast. State and federal statutes and, in some cases, these Rules may require passage by more than a simple majority. The following actions are included in those requiring a super-majority:

Two-thirds Majority:

1. Adoption of an emergency ordinance (§ 4-9-130);
2. Sale or transfer of the county library assets for a non-library purpose (§ 4-9-39);
3. Defeat of a Motion to Follow the Agenda (Rule 14, ¶ 5);
4. Passage of Motion to Suspend the Rules (Rule 16, ¶ 3); and
5. Passage of a Motion to Call for the Question [Vote Immediately] (Rule 15, ¶ 2).

Positive Majority:

1. Impose or increase a business license tax (§ 6-1-315);
2. Override the millage rate increase limitation on property taxes (§ 6-1-320(C));
3. Impose a service or user fee (§ 6-1-330);
4. Impose a local accommodations tax (§ 6-1-520);
5. Impose a local hospitality tax (§ 6-1-720); and
6. Impose a developmental impact fee (§ 6-1-930).

**B. Voting on Motions.**

In the case of debatable motions, the vote can be proposed in one of two ways:

(1) If debate has been completed and no other council member wishes to speak, the chair can call for the vote. If there are no objections, the chair can proceed with the vote;

(2) If the chair calls for the vote and there is an objection, a council member may make a Motion to Call for the Question [Vote Immediately]. If this motion is approved by a two-thirds vote, debate will stop. The chair will then read the proposed motion to county council and ask for the votes of the council members.

In the case of non-debatable motions, the vote shall occur immediately after the motion is recognized by the chair. The chair shall read the proposed motion to county council and then call for the vote.

**C. Voting to Elect Boards, Committees and Commissions.**

When council is voting to elect one or more persons to open positions on a board, committee or commission, ballot elections should be used if the number of candidates exceeds the number of positions available. As an alternative to the ballot method, a majority of council may decide to vote on each nominee individually, taking them up in the order nominated. If the number of vacant positions equals or exceeds the number of candidates available, the council may dispense with the process under this Rule and appoint by acclamation or similar method.

Once the election process begins, motions are limited to Rule 14 privileged motions (adjourn, recede, raise a question of privilege, convene an executive session, or follow the agenda); to the following Rule 15 subsidiary motions: motion to postpone and motion to commit; and to the Rule 16 incidental motion of the point of order. All other motions are out of order until the election process is completed.

With a ballot election, each council member shall vote—on one ballot—for up to as many positions as are open. Each member shall sign or otherwise mark his or her ballot and the minutes will reflect each member's vote. Members may vote by ballot for someone who was not nominated.

Each ballot is considered one vote cast, and a candidate must receive a majority of votes to be elected. If no candidate receives a majority vote, balloting continues as needed until all positions are

filled. If fewer than the proper number of candidates receive a majority vote, those candidates receiving a majority are elected, and balloting continues with all other candidates remaining on the ballot. If more candidates receive a majority vote than there are positions open, those receiving the largest number of votes will be elected and those receiving a majority, but tied for last of those receiving a majority, will remain on the ballot for repeat balloting, as needed. If all positions are not filled after the first vote, no candidates shall be involuntarily eliminated.

**Rule 9. Ordinances and Resolutions.**

County council shall take action by passing ordinances and resolutions. An ordinance is local legislation passed by the governing body of the county, duly enacted pursuant to proper authority, describing general, uniform and permanent rules of conduct relating to the corporate affairs of the county. A resolution is an expression of opinion or policy concerning some particular item of business coming within the county council's official cognizance and often deals with matters of special or temporary character.

Proposed ordinances and resolutions are introduced for discussion by any member of council offering the ordinance or resolution as a main motion. Resolutions are passed after a single period of debate (or reading) and vote; ordinances require a reading at three public meetings on separate days, with at least seven days between the second and third reading.

County Council may introduce an ordinance and give first reading "by title only." When giving first reading by title only, the minutes of the meeting should show that Council believed there was a valid reason for expediting the ordinance and that there was a general understanding by the Council of what the first draft of the ordinance would have said, had it been in writing.

Emergency ordinances—valid for only sixty days—may be passed after a single reading if a public emergency exists affecting the life, health, safety or property of people. An emergency ordinance is effective immediately upon enactment, without regard to reading, public hearing, publication requirements or public notice requirements. Every emergency ordinance shall be designated as such and shall contain a declaration of the emergency and describe it. Emergency ordinances require a two-thirds majority for passage.

Legislation affecting the following issues can only be enacted by ordinance and require a public hearing, as set out in Rule 6, prior to passage:

1 adopting annual operational and capital budgets;
2. making appropriations, including supplemental appropriations;
3. adopting building, housing, electrical, plumbing, gas and all other regulatory codes;
4. adopting zoning and subdivision regulations;
5. levying taxes;
6. selling, leasing or contracting to sell or lease real property owned by the county.

In order to receive consideration, proposed ordinances (other than at first reading as described above) shall be in writing and in the form required for final adoption, which shall include:

1. a title briefly describing its contents;
2. findings, reasons or bases for the ordinance, if desired and appropriate;
3. the enacting clause;
4. the provisions of the ordinance, including section numbers if the ordinance is to be codified or amends an existing codified ordinance;
5. citation of any code section or ordinance repealed;
6. the effective date of the ordinance;
7. the approval of the County attorney as to its form;
8. the assignment of an ordinance number;

9. spaces for dates of readings and public hearing, if appropriate; and
10. spaces for the signature of the council chairperson and the clerk to council.

However, the failure to include any of the items mentioned above does not invalidate the ordinance. Any proposed ordinance may be amended at any reading.

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.

**Rule 10. Debate.**

Debate is the discussion on the merits of a pending question to determine if the issue should be adopted or not. Debate shall be managed by the chair in an impartial manner. Council members can participate in the debate only when they are recognized by the chair. Debate can be interrupted (*i.e.* a member may interrupt another member who has the floor), only to make a Motion to Adjourn, a Motion to Raise a Point of Privilege, a Motion to Raise a Point of Order, or a Motion to Convene an Executive Session. The council member making a motion is entitled to speak first; members who have not spoken on the issue shall be recognized ahead of those who have previously spoken.

**Rule 11. Conflicts of Interest.**

No member of county council, or of a county board or commission, may knowingly use his or her official office to obtain an economic interest for himself or herself, an immediate family member, or an individual or business with whom he or she is associated. Any member who, in order to discharge his or her official responsibilities, is required to take an action that affects the economic interest of any such person or business shall prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest. A copy of the statement shall be furnished to the chair of county council, or other board or commission, as appropriate. The chair shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter in which the potential conflict of interest exists. The chair will ensure that the disqualification and the reasons for it are noted in the minutes.

It is the responsibility of the individual member to notify the chair of the potential conflict and, once notification is made, to refrain from participating in the discussion, deliberation, and voting on the issue. It is generally expected that the member with the conflict will leave the council chambers while the issue is being discussed, deliberated, or voted upon, but the member may remain in the chamber if a quorum would be lost in his or her absence. If the council member remains in the chamber, the minutes should reflect this fact and should indicate a reason.

Enforcement of this Rule is left to the individual member. The chair will not require the member to leave the chamber, nor will the chair prohibit the member from participating in the debate or in voting.

**Rule 12. Main Motions.**

In order for county council to take official action on any subject, a council member must first propose a main motion. A proposed main motion will not be recognized by the chair until another council member seconds the motion. A second does not require the council member seconding the motion to support the motion. A council member may withdraw a main motion that he or she has made at any time before the council has voted on that motion.

**Rule 13. Procedural Motions.**

During the course of debate, council members may introduce procedural motions, which are limited to those specific motions described in Rules 14 through 17. Procedural motions are used to facilitate the orderly discussion of business before county council. They limit but allow for interruptions and allow county council to focus on one issue at a time. Procedural motions are divided into privileged, subsidiary, incidental and recall motions and are further described in Rules 14 through 17, respectively. Privileged motions and Points of Order do not require a second; all other incidental motions and all subsidiary and recall motions require a second.

**Rule 14. Privileged Motions.**

The five privileged motions are the highest ranking group of procedural motions, with the Motion to Adjourn having the highest precedence of the group. Only the Motion to Reconsider has higher precedence. Privileged motions can be made anytime; the Motion to Adjourn, the Motion to Raise a Point of Privilege and the Motion to Convene an Executive Session can interrupt another member who has the floor. When making one of these three motions, the council member should get the attention of the chair. The chair, interrupting anyone then speaking, recognizes the council member, who then states the motion.

Privileged motions require no second, cannot be reconsidered and, except for the Motion to Recede [Take a Recess], are not debatable. All privileged motions pass by simple majority. Specific characteristics of each privileged motion, listed in order of precedence, are set out below.

**A. Motion to Adjourn.**

An unqualified Motion to Adjourn is the highest ranking privileged motion and requires, if approved by a majority vote, that the meeting end immediately and reconvene at the next regularly scheduled or called meeting. As the highest ranking privileged motion, the Motion to Adjourn can be raised anytime, except when a vote is being taken or being counted. It can be interrupted only by the motion to reconsider; it can interrupt any person having the floor. The Motion to Adjourn cannot be amended, debated or reconsidered; it requires a majority for passage. Like all privileged motions, it does not require a second.

**B. Motion to Recede [Motion to Take a Recess].**

A recess is a short intermission, taken immediately upon passage. Following the recess, the meeting takes up at the same point where it was interrupted. The motion cannot be debated or reconsidered, but can be amended as to the duration of the recess; it requires a majority for passage. Also, the Motion to Recede is out of order if anyone has the floor or a vote is being taken or counted. Like the Motion to Adjourn, the Motion to Recede is privileged only if the recess is to be taken immediately; a Motion to Recede at some point in the future is a main motion. Like all privileged motions, it does not require a second.

**C. Motion to Raise a Question of Privilege.**

A Motion to Raise a Question of Privilege is a device to allow county council to take up a matter for immediate consideration because of its urgency; it can interrupt any person having the floor. The motion cannot be amended, debated or reconsidered, but it can be appealed. It is generally ruled on by the chair, but a vote may be taken if the decision of the chair is appealed. If approved, what follows will be a main motion taken out of order. Generally there are two types of questions of privilege–questions relating to the privilege of county council, a board or commission as a body, and questions of personal privilege. If the two come up together, a question of council privilege should take precedence over a question of personal privilege. Like all privileged motions, it does not require a second.

**D. Motion to Convene an Executive Session.**

Executive sessions must be convened and conducted in accordance with the Freedom of Information Act and may be convened only for one or more of the specific reasons enumerated in the Act. A properly stated motion provides an appropriate reason for convening the executive session. If a

valid reason is not stated, the chair may inquire or, if the reason is obvious, provide the reason when restating the motion. The reason for convening the executive session must be recorded in the minutes, in accordance with Rule 7. The motion may be amended and debated with regard to stating the appropriate reason or reasons for convening the session; however, it cannot be reconsidered. A public vote is required on the motion prior to convening the executive session; a majority vote is required for passage. The Motion to Convene an Executive Session can interrupt any person having the floor. Like all privileged motions, it does not require a second.

[See Rule 20 for additional rules governing Executive Sessions.]

**E. Motion to Follow the Agenda.**

This motion is used to get a meeting back on schedule and is appropriate when the meeting has been allowed to digress or when a specific time scheduled for an item of business has arrived and the chair has failed to take notice. Once the motion is made, the chair must conform with the agenda or put the motion to a vote. The motion cannot be amended, debated or reconsidered; a two-thirds majority vote is required to overrule this motion. Like all privileged motions, it does not require a second.

**Rule 15. Subsidiary Motions.**

The six subsidiary motions help deliberative bodies reach a decision on other pending motions, usually a main motion. Subsidiary motions are always applied to another pending motion. Three subsidiary motions – Motion to Amend, Motion to Limit/Extend Debate and Motion to Call for the Question [Motion to Vote Immediately] – can be applied to other subsidiary motions and the Motion to Amend can be applied to the Motion to Recede [Take a Recess], a privileged motion. All subsidiary motions are out of order when another person has the floor.

**A. Motion to Lay on the Table [Motion to Table].**

A Motion to Lay on the Table proposes that the consideration of a motion be postponed until a later time. It is an appropriate motion to take up a more pressing matter, out of order, and to return later to the tabled motion. The main motion can be brought back for consideration if a Motion to Recall is later passed by county council. A motion that has been laid on the table will die if it has not been taken from the table by the close of the meeting following the meeting in which the motion was tabled. Amendments and debate are not allowed on a Motion to Lay on the Table and it cannot be reconsidered; it requires a majority vote for passage. The Motion to Lay on the Table is out of order if another speaker has the floor.

**B. Motion to Call for the Question [Motion to Vote Immediately].**

If passed, this motion cuts off debate and forces an immediate vote on the pending issue. The Motion to Call for the Question is neither debatable nor amendable, but it can be reconsidered up until a vote is taken on the called question. A two-thirds majority is required for passage. The Motion to Call for the Question can be applied to any motion requiring a vote.

**C. Motion to Limit/Extend Debate.**

The Motion to Limit Debate and the Motion to Extend Debate change any time constraints placed on the length of debate. The details of such motions are to be provided by the council member making the motion. Either motion can be applied to any motion that is debatable (not just to main motions). Debate is not allowed on either motion, nor can either be reconsidered. A two-thirds vote is required for passage. The motions can be amended as to the length of the time limitation.

**D. Motion to Postpone/Motion to Postpone to a Time Certain.**

A Motion to Postpone and a Motion to Postpone to a Time Certain are appropriate when a council member believes that the pending main motion should not be considered until some point in the future. These motions are in order even though debate has already occurred on the main motion. The Motion to Postpone to a Time Certain sets a particular time for the main motion to be considered again, which may be later in the same meeting, at a future meeting or upon the occurrence of a specified event

or the issuance of a necessary report. The motion is debatable, amendable as to the duration of postponement and can be reconsidered. If the motion sets the matter for a date and time certain, a two-thirds majority is required for passage; if the motion does not set a specific time for consideration, it is referred to as a Motion to Postpone and only a majority vote is required for passage. If the motion is set for a time certain, the chair will bring the motion back to county council for further consideration at the specified time.

**E. Motion to Commit [Motion to Refer to Committee].**

The chair may refer any matter to a committee. If the chair does not refer a matter to a committee and a council member believes that further information or study is needed before the county council can act on a matter, he or she may propose that it be referred to a committee or to a particular office in county government for further study. If an appropriate committee does not already exist, a special committee can be formed as a part of the motion. A Motion to Commit may specify the date that the committee or department will report back to the board. If a special committee is formed, the chair will appoint its members and its chair. This motion is debatable and can be amended as to where the motion is to be committed and the date and time that the committee will report back; it can be reconsidered. The motion requires a majority for passage.

**F. Motion to Amend.**

A Motion to Amend is used to make a change to a pending motion. Amendments must be closely related to the original motion and must not change the nature of the motion that they amend. A Motion to Amend can itself be amended, but the Motion to Amend an amendment cannot. These rules are to be enforced by the chair.

In addition to main motions, some subsidiary motions and the Motion to Recede [Take a Recess], can also be amended. Debate is allowed on a Motion to Amend only if the original motion is debatable, and is limited to the proposed amendment. The Motion to Amend can be reconsidered. A majority vote is required to adopt an amendment. If the amendment is adopted, county council will then consider the amended version of the motion.

**Rule 16. Incidental Motions.**

Six incidental motions allow council members to appeal rulings by the chair, raise points of order, question precedence of motions and raise objections to consideration of matters that are incidental to the discussions at hand but do not directly relate to the main question under discussion. Incidental motions are in order only if they pertain to the motion then pending or to the business at hand. If the incidental motion is in order, it takes precedence over any other motions that are pending. Points of Order may interrupt another member who has the floor. Incidental motions have no rank among themselves; except as described below, they rank below the privileged motions and the Motion to Lay on the Table.

**A. Point of Order [Motion to Raise a Question of Order].**

The Point of Order takes precedence over any question from which it arose. It yields to any privileged motion and a motion to lay the underlying question on the table. The Point of Order is not debatable (except that the chair may ask the member raising the point to explain it), is not amendable, and cannot be reconsidered. It does not require a second. The Point of Order is in order when another person has the floor and can interrupt a person speaking if the point genuinely requires attention at the time it is raised. Normally, the point is ruled on by the chair and no vote is taken, unless there is an appeal or the chair is in doubt.

**B. Appeal.**

The duties of the chair include making rulings on questions of parliamentary procedure. An Appeal is the vehicle available to members of council who believe that the chair's ruling was erroneous. The Appeal is in order when another has the floor, but must be taken immediately after the ruling and is

out of order if other business has intervened. It is debatable unless the underlying question is not debatable or if the Appeal relates to decorum or priority of business; it is not amendable.

The decision of the chair stands unless reversed by a majority of the members; the chair may vote to create a tie and thus sustain the ruling. An Appeal takes precedence over any pending question at the time the chair makes the ruling. It yields to all privileged motions, incidental motions arising from itself and, if debatable, to the following subsidiary motions: Motion to Limit/Extend Debate, Motion to Call for the Question [Vote Immediately], Motion to Commit, Motion to Postpone/Motion to Postpone to a Time Certain and the Motion to Lay on the Table. If debatable, each member may speak only once. An Appeal can be reconsidered.

**C. Motion to Suspend the Rules.**

The Motion to Suspend the Rules allows county council to do something it could not ordinarily do without violating one or more of its regular rules. The motion cannot be used to suspend a rule in violation of state or federal law, nor can the suspension violate a fundamental rule of procedural law.

A Motion to Suspend the Rules can be made anytime there is no question pending. When a matter is pending, this motion takes precedence over any other motion if it applies to the pending matter of business. No subsidiary motion can be applied to this motion. It is out of order when another council member has the floor; it is not debatable, not amendable and cannot be reconsidered. It requires a two-thirds majority vote for passage.

**D. Motion to Divide the Question.**

The Motion to Divide the Question allows members of county council to require a question dealing with a single subject to be divided into parts and to have each part considered and voted on separately, but only if each part is capable of standing alone. This motion is not debatable, cannot be reconsidered and requires a majority vote for passage. It is amendable only with regard to how the question should be divided.

This motion is out of order when another has the floor. It takes precedence over the main motion. If applied to an amendment, it takes precedence over the amendment, but it cannot be made to the underlying matter with an amendment pending. It yields to all privileged motions, to all applicable incidental motions and to all subsidiary motions with the following exceptions: Motion to Amend and Motion to Limit/Extend Debate.

**E. Motion to Consider by Paragraph/Motion to Consider by Section.**

Motions to Consider by Paragraph or to Consider by Section allow county council to break down complex proposals into their component parts and to consider, debate and amend each paragraph or section separately. This procedure can be applied by the chair on his or her own initiative or by the county council following the adoption of a motion by any member.

These motions are not debatable, cannot be reconsidered and require a majority vote for passage. They are amendable only with regard to how the question should be divided. These motions are out of order when another has the floor. They take precedence over the main motion. If applied to an amendment, they take precedence over the amendment, but cannot be made to the main motion with an amendment pending. They yield to all privileged motions, to all applicable incidental motions and to all subsidiary motions with the following exceptions: Motion to Amend and Motion to Limit/Extend Debate.

**F. Requests and Inquiries.**

From time to time, council members may need additional background information or may wish to provide such information, so that the council can understand better the issue under discussion. Requests and inquiries provide the vehicle for exchanging this information. Parliamentary Inquiries and Points of Information may interrupt another who has the floor, but only if the matter requires immediate attention. Requests and inquiries are not amendable, debatable or subject to reconsideration. No votes are taken on Parliamentary Inquiries or Points of Information; other

requests/inquiries require a majority vote for passage, except that reading of papers requires unanimous consent. All share similar characteristics and procedural requirements and can be subdivided into the following categories:

**1. Parliamentary Inquiry**

Such inquiries are always directed to and answered by the chair and are used to clarify specific parliamentary or organization rules that have bearing on the issue at hand.

**2. Point of Information**

This inquiry is addressed to the chair or to another member through the chair, for information relevant to the business at hand, but not related to parliamentary procedure.

**3. Reading of Papers**

No member of council has the right to read or have another person read from any papers or books as part of that member's debate on any matter without unanimous consent of the other members of council. Even so, it is customary to grant leave to members to read short, pertinent printed matter, so long as the privilege is not abused.

**Any Other Privilege**

Examples of other privileges include requesting to address the council on a personal or non-business matter or, if there is no motion pending, requesting to make a presentation.

**Rule 17. Recall Motions.**

Two recall motions allow issues that have been previously disposed of or assigned to a committee to be brought back to the county council as a body.

**A. Motion to Reconsider.**

The motion to reconsider allows county council to debate whether or not to overturn a decision made at the meeting that is in progress or at the immediately preceding meeting; provided, however, that third reading to an ordinance may be reconsidered only at the same meeting in which the third reading was adopted. Furthermore, if the matter to be reconsidered was the adoption of a resolution that has already been published or acted upon, the motion is out of order. The Motion to Reconsider allows county council to consider new information that may affect the decision that has already been made. Any council member who voted on the prevailing side can make a Motion to Reconsider. The motion is debatable if the matter to be reconsidered is debatable, but it cannot be amended. A majority vote is required for the motion to pass. The Motion to Reconsider, itself, cannot be reconsidered. If the Motion to Reconsider is agreed to, the original decision will be voided and the county council will return to debate and vote again on the original motion.

Subject to the time restriction indicated above, the Motion to Reconsider can be made at any time, taking precedence over any other motion and yielding to nothing. The Motion to Reconsider is out of order when another person has the floor. Once the Motion to Reconsider is made, the consideration of the motion takes the priority of the motion to be reconsidered, but has precedence over any new motion of equal rank. A Motion to Reconsider temporarily suspends any action growing out of the motion to be reconsidered. If the Motion to Reconsider is made but not considered immediately, any member can call up the motion by bringing it to the attention of council at any time consideration of the motion would be in order.

**B. Motion to Recall from the Table/Motion to Recall from Committee.**

The Motions to Recall from the Table and to Recall from Committee allow the county council to consider a question that has been laid on the table or that has been assigned but not yet reported out of committee. These motions take precedence over nothing and must be made when no other business is pending. The motions are not debatable or amendable. A tabled motion that is not recalled by the close of the meeting following the meeting in which it was tabled is dead. A majority vote is required for passage of either motion.

**Rule 18. [Reserved]**

**Rule 19. [Reserved]**

**Rule 20. Executive Sessions.**

No action may be taken in executive session except to (a) adjourn or (b) return to public session. The members of a public body may not commit the public body to a course of action by a polling of members in executive session. No member of the council or other person in attendance may disclose to another person or otherwise make public the substance of a matter discussed in Executive Session.

[See Rule 14(D) for additional rules governing Executive Sessions.]

**Rule 21. County attorney to attend; parliamentarian; duties.**

The county attorney shall attend all meetings of council unless excused by the administrator or council chairperson. The county attorney shall review all ordinances, resolutions and documents of a legal nature; give opinions on questions of procedure, form and law to members of council, and act as parliamentarian in the proceedings of county council. However, in the role as parliamentarian, the county attorney shall advise only the chairperson and shall provide parliamentary advice only upon the request of the chairperson. The chairperson's ruling shall then be binding unless overturned by a majority of members voting on any procedural question.

**Rule 22. Clerk to council to attend; duties.**

The clerk to council shall give notices of meetings, post agenda materials, attend all regular, special and/or emergency meetings of council, record votes of council, keep minutes of council meetings, and perform such other duties as may be assigned.

**Rule 23. Public comments.**

Any citizen of the county may sign up to speak at any regular meeting of the county council on matters pertaining to county services and operations, but not on personnel matters. Interested citizens may sign an agenda list maintained by the clerk to council prior to each regular meeting. Citizens wishing to speak must indicate the subject and purpose for which they seek to address the council. Each citizen who gives notice as described in this section shall be eligible to speak for a maximum of three minutes; provided that the time allotted to each speaker may otherwise depend on the number of speakers to be recognized. Additionally, the period for citizen comments shall be limited to a total of 20 minutes, with such comment period being placed on the agenda of each regular council meeting at the conclusion of new business. All citizens participating in the citizen comment period shall be subject to recognition by the presiding officer and shall address the presiding officer directly. The comment period shall not constitute a debate period between council members and members of the public. Written comments may be submitted to the clerk to council at any time during regular business hours of the county or by U.S. Mail. All public comments shall be retained for a period of three years and shall be considered separate from the minutes of any council meeting.

**Rule 24. Hearing by committee.**

Council may appoint a special committee to assist in or hold public hearings; provided that a quorum of council members is also required for all public hearings. Minutes or reports of hearing shall be recorded by the clerk to council and shall be a matter of public record.

# SECTION III

# PROVISIONS APPLICABLE TO HOSPITAL BOARD

**REPORTING REQUIREMENTS**

Pursuant to the SC Ethics act, the Chief Executive Officer, Chief Financial Officer and Chief Purchasing Official of the Hospital are required to comply with the Statement of Economic Interests reporting law. S.C. Code Ann. § 8-13-1110(B)(6) and (9).

**Authority:** South Carolina Acts and Joint Resolutions 1968 Act No. 1514; 1969 Act 665; 1970 Act 1392; Ordinance 81-225 adopted by Edgefield County Council on September 1, 1981, amended Ord. No. 90-289, 3-5-1991; Ord. No. 03-04-443, 1-6-2004; Ord. No. 10-11-634, § 1, 2-1-2011.

**Governing Body:** Nine members appointed by the Edgefield County Council.

**Term of Office:** Three years, staggered.

**Function:** To operate and serve as the governing board of the Edgefield County Hospital, a governmental unit of Edgefield County.

# Governing Documents

## Edgefield County Code of Ordinances

**Sec. 2-262. - Establishment of county hospital board of trustees.**

(a) *Authority.* The "Edgefield County Hospital" shall be governed by a board of trustees consisting of nine members appointed by and serving at the pleasure of the county council.

(b) *Terms of board members.* Members of the board of trustees shall serve staggered three-year terms, with such terms beginning on the first Tuesday in March and continuing three years.

(c) *Term limitations, vacancies, service at the pleasure of council.*

(1) Except by unanimous approval of the county council, board members shall not serve more than three consecutive three-year terms. Members having served three consecutive full terms shall not be eligible for reappointment by council until at least one year shall have elapsed since the last day of their previous service.

(2) Members of the board of trustees shall hold office until their successors are appointed, unless removed at the pleasure of county council, or unless their position is vacated due to death or resignation. Any delay in making appointments, to include reappointments, or any vacating of a board position prior to the end of a term for any reason, shall lessen the duration of said term for the succeeding board member appointed thereto. Appointments of such successors under these conditions shall be "to fulfill an unexpired term," with such successors serving the balance of their immediate predecessor's term. All appointees named subsequent to this section shall be considered as serving their first terms, regardless of prior service.

(3) All board members serve at the pleasure of the county council, which body may remove and appoint board members at its discretion.

(d) *Notification to council concerning vacancies, recordkeeping by clerk to council.*

(1) The clerk to council shall be responsible for advising the council of the need to make any needed regular appointments or reappointments each March, and to advise the council of the need to fill any unexpired terms. The county hospital board of trustees shall advise the clerk to council of any board vacancies, and may recommend to the county council persons qualified to begin or continue service on the board of trustees. The selection of board members, however, shall be made at the county council's determination.

(2) For purposes of official records, the clerk to council shall note the following information for each appointment:

(a) Whether such appointment is being made as a reappointment of a currently serving member, or as an initial appointment of a new member;

(b) Whether the term to which the board member is being appointed is a full term or a partial term; and

(c) The number of full terms to which the board member has been appointed.

(e) *Remuneration and reimbursements for board members.*

(1) Any remuneration for service on the board of trustees shall be determined by vote of the county council.

(2) Reimbursements to board members for expenses coincident to official expenses shall be subject to, and funded by, the county hospital board of trustees.

## Provisions from Enabling Legislation passed by General Assembly

**Officers.**
At its April meeting of each year, the members of the board of trustees shall elect one of its members as chairperson and such other officers as it may deem necessary

**Budget.**
The board of trustees shall submit its annual budget, along with its budgetary request for supplementary funds to county council out of which it is authorized to equip, maintain and operate the hospital. The board shall employ a competent administrator who shall be its direct executive representative in the management of the hospital.

**Powers and duties.**
The board shall have the following powers and duties:

(1) To adopt and use a corporate seal;

(2) To adopt such bylaws, rules and regulations for the conduct of its business and expenditure of its funds, as it may deem advisable;

(3) To acquire by gift, purchase, lease or otherwise, all kinds and descriptions of real and personal property;

(4) To accept gifts, grants, donations, devises and bequests;

(5) To enlarge and improve any hospital building that it may acquire and supervise the construction of any hospital;

(6) To adequately staff and equip any hospital that it may operate;

(7) To provide and operate outpatient departments;

(8) To establish and operate such clinics as the board may deem necessary to the health of the residents of Edgefield County;

(9) To employ such personnel as it may deem necessary for the efficient operation of the several facilities maintained by the board;

(10) To establish and promulgate reasonable rates for the use of the services and facilities afforded by the board;

(11) To provide reasonable regulations concerning the use of the facilities maintained by the board including reasonable rules governing the conduct of physicians, nurses and technicians while on duty or practicing their profession in the facilities maintained by the board;

(12) To define eligibility requirements for patients for charity services, to operate and maintain necessary services for such patients, to contract with third parties for reimbursement for services rendered to such patients, and to collect partial payment from' patients unable to pay the rates established by the board;

(13) To expend the proceeds derived from the charges made for the use of the services and facilities of the hospital for the operation and maintenance thereof;

(14) To arrange with the proper authorities of any adjoining county, upon such financial terms as are agreeable to each, to admit and care for charity cases from such adjoining county; *provided,* that patients may be admitted to the hospital from any place whatsoever;

(15) To expend any funds received in any manner, and the proceeds derived from the issue of bonds, to defray the costs incident to establishing, constructing, equipping and maintaining any hospital;

(16) To apply to the Federal Government and any other governmental agency for a grant of moneys to aid in the construction and equipment of any hospital;

(17) To dispose of any property, real or personal, that it may provided always that it shall not dispose of the hospital building;

(18) To enter into contracts for hospital care with any association or agency of the Federal government having a hospital care program;

(19) To exercise the power of eminent domain, in the manner provided by the general laws of the State of South Carolina for procedure by any county, municipality or authority created by or organized under the laws of this State, or by the State Highway Department, or by railroad corporations.

(20) To determine the fiscal year upon which the affairs of the board shall be conducted.

**Issuance of bonds or notes.**

Bonds or notes of the hospital shall be issued by the governing body of the county upon the authorization of the county legislative delegation. The funds received from such issue shall be deposited with the county treasurer.

**Audit-budget.**

The board of trustees shall at all times keep full and. accurate account of its actions and doings and of its receipts and expenditures, and at least annually, a complete audit of its affairs shall be made by a qualified public accountant. Copies of the annual audit shall be placed on file with the Edgefield County Council.

**Not to obligate county.**

The board shall manage and control the hospital and its financial affairs, but shall have no authority to create any financial obligation on the county beyond the amounts appropriated for the hospital.

## South Carolina Attorney General Opinions

### Hospital is an agency of Edgefield County.

"We would note that the Edgefield County Hospital appears to be a county agency, rather than a separate political subdivision, since it lacks many of the attributes generally associated with political subdivisions. The fiscal ties to Edgefield County Council are further evidence of the hospital [4] as a county agency. Furthermore, hospital and medical care matters are properly county matters, pursuant to Section 4-9-30(5), Code of Laws of South Carolina (1983 Cum. Supp.)."

"The hospital commission has not been designated a body politic [or] corporate, though such designation would not in and of itself make such a body a subdivision. The hospital serves the entire county and is not restricted to a specified geographic area with certain boundaries other than the boundaries of Edgefield County. The hospital commission possesses no taxing powers. However, the hospital commission does exercise a governmental function relating to hospital and care."

- AG Opinion dated July 18, 1984

### Serving on the Hospital Board is an "office" for the prohibition against dual office holding.

"Powers and duties to be exercised by hospital board members are found in various acts of the General Assembly, including Act No. 1514 of 1968 and Act No. 1392 of 1970. The board may adopt and use a corporate seal; adopt bylaws, rules, and regulations; acquire property; accept grants, gifts, donations, devises, and bequests; staff and equip the hospital; promulgate rates; exercise the power of eminent domain; and so forth. These powers appear to involve the exercise of a portion of the sovereign power of the state."

"Based on the foregoing, it is the opinion of this Office that one who serves on the Edgefield County Hospital governing body would hold an office for dual office holding purposes."

- AG Opinion dated January 9, 1992

# SECTION IV

# PROVISIONS APPLICABLE TO ECONOMIC DEVELOPMENT COMMITTEE

**Authority:** Ordinance 00-01-399 adopted by Edgefield County Council on April 3, 2001; amended Ord. No. 10-11-639, 6-7-2011.

**Governing Body:** (1) Voting members: County council — Two members; Economic development partnership — Two members; County school district representative — One member; Private sector business owner — One member. (2) Non-voting members or their designee: County administrator; County water and sewer authority; County building and planning director; Economic development partnership director; Mayor, Town of Edgefield; Mayor, Town of Johnston; Mayor, Town of Trenton; Aiken Electric cooperative designee; County legislative delegation member; SCANA designee; Private sector representative.

**Term of Office:** Elected officials serving as voting members on the economic development committee shall serve for a two-year term concurrent with their term in office. Non-elected officials serving as voting members shall serve a two-year term commencing in March following the county council election.

**Function:** To promote and increase industrial and business development, encourage and promote economic development and expansion, coordinate development efforts and activities of local and state agencies and promote the involvement of public and private participation in development activities, all of which will inure to the benefit and welfare of the county and its citizens.

**Sec. 2-288. - Established.**

(a) *Purpose and objectives.* Purpose and objectives of the county economic development committee shall be as follows:

(1) To serve the county council in an advisory capacity concerning matters of economic development;
(2) To expand economic opportunities for the citizens of the county, including but not limited to job creation;
(3) To cooperate with various county entities and state officials in a manner that ensures the efficient provision of infrastructure and other services related to industrial growth;
(4) To consider carefully the quality of life for the county's citizens with respect to economic development;
(5) To help maintain a favorable climate for business and industry in the county; and
(6) To engage in strategic planning that focuses on economic development.

(b) *Composition and appointment of members.* Prospective members to the economic development committee shall be recommended to the council by the following entities and in the numbers indicated for each. All members serve at the pleasure of the county council and are subject to removal at any time.

(1) Voting members.
    a. County council—Two members.
    b. Economic development partnership—Two members.
    c. County school district representative—One member.
    d. Private sector business owner—One member.
(2) Non-voting ex officio members or their designee.
    a. County administrator.
    b. County water and sewer authority.
    c. County building and planning director.
    d. Economic development partnership director.
    e. Mayor, Town of Edgefield.
    f. Mayor, Town of Johnston.
    g. Mayor, Town of Trenton.
    h. Aiken Electric cooperative designee.
    i. County legislative delegation member.
    j. SCANA designee.
    k. Private sector representative.

(c) *Terms of members.* Elected officials serving as voting members on the economic development committee shall serve for a two-year term concurrent with their term in office. Non-elected officials serving as voting members shall serve a two-year term commencing in March following the county council election, and in the event the county council fails to make appointments on a timely basis may continue to serve until their successors are appointed. All non-voting members are subject to reappointment in March following the county council election but may continue to serve until such time as successors are appointed.

(d) *Schedule of meetings.*

(1) The committee shall meet at regular intervals but no less frequently than once each month. The chair or a majority of the voting members of the committee may call special meetings of the committee at any time.

(2) At the first meeting of the committee after appointment, the committee shall set a recurring date and time of each month for regularly scheduled meetings.

(e) *Location of meetings.* Meetings shall be held in the county council chambers, unless otherwise posted at least 24 hours in advance.

(f) *Election of officers, rules of procedure.*

(1) The committee shall elect from its voting membership a chair and a vice-chair with a recorded vote. The committee may appoint a secretary/treasurer who is not required to be a member of the committee.

(2) The committee shall elect such officers as it deems necessary and determine its own rules of order. In the event that the committee fails to determine procedures in these matters, the most recent edition of Robert's Rules of Order Newly Revised shall govern the conduct of all meetings.

(g) *Freedom of information act compliance.* The committee shall conform to all applicable provisions of the South Carolina Freedom of Information Act, S.C. Code 1976, § 30-4-10 et seq.

(h) *Expenditure of funds.* The committee may only expend such funds as specifically appropriated for its use by the county council and shall abide by all procurement regulations pertaining to the county, utilizing the county central procurement system.

**Sec. 2-289. - Adoption of strategic plan**

A strategic plan for economic development that desires to enhance the quality of life for its citizens through job creation, capital investment, infrastructure and community improvements is herein incorporated by reference as if fully setout herein until repealed or modified by the county council.

# SECTION V

# PROVISIONS APPLICABLE TO COUNTYWIDE RECREATION COMMITTEE

**Authority:** Ordinance 03-04-437 adopted by Edgefield County Council on August 5, 2003; amended Ord. No. 04-05-557, 7-7-2005.

**Governing Body:** Two members appointed by each of the participating municipalities.

**Term of Office:** Two years

**Function:** Govern and enhance recreational opportunities and general administrative functions; further the development of the county's recreational resources.

**Sec. 2-312. - Established.**

(a) *Composition.* Each participating entity shall appoint two voting members to the countywide recreation commission (hereinafter "commission"), which voting members shall serve staggered two-year terms, with each participating entity annually appointing or reappointing to fill an expiring term. Subsequent to the approval of this article, the two-year terms of the commission's members shall run concurrently with the county's fiscal calendar, beginning July 1 and ending June 30.

(b) *Duties.* The commission shall serve in an advisory capacity in all policymaking matters of the program, to include budgeting, planning, operations, facility regulations, activities, and the setting of fees and user charges pertaining to recreation programs. The commission shall also provide auxiliary oversight of program administration. Staff members, however, shall be employees of the county and shall report to the county administrator, who shall be solely responsible for matters related to hiring, promoting, disciplining and terminating such employees.

(c) *Non-voting ex officio members.* Each recreational league recognized by the participating entities shall select one non-voting ex officio member as its representative to the commission. Chief administrative officers of the participating entities shall also serve as non-voting ex officio members.

(d) *Removal at the pleasure of participating entities.* The governing body of any participating entity may remove its appointees for any cause, or for no cause, and appoint their successors to fulfill the unexpired terms.

(e) *Election of officers.* At its first meeting in each fiscal year, the commission shall select from among its voting members a chairperson and a vice-chairperson. The chairperson shall preside over meetings, and may call special meetings; the vice-chairperson shall perform these functions in the absence of the chairperson. The director, as provided for below in section 2-313, shall serve as the commission's secretary, preparing and disseminating the commission's agendas, advertising all meetings to the public, and preparing minutes of the commission's public proceedings.

(f) *Meetings.* The commission shall meet no less often than once per calendar quarter, though the chairperson may call such additional meetings as shall be necessary. The vice-chairperson shall perform this function in the absence of the chairperson. All meetings of the commission shall be open to the public and properly advertised in accordance with the South Carolina Freedom of Information Act. The commission will not take advisory votes when a quorum (a simple majority of the commission's members) is not present. Robert's Rules of Order Newly Revised (10th edition) shall govern parliamentary matters pertaining to meetings of the commission. Any member of the commission missing half of the commission's meetings in any fiscal year, inclusive of called meetings, shall be notified by the chairperson that he is considered as having resigned.

**Sec. 2-313. - Position of recreation director established.**

This section continues the position of recreation director (hereinafter "director"), which director shall be an employee of the county and shall report to the county administrator. The director shall be selected in accordance with the county's hiring practices and shall be hired based on his qualifications and experience. The salary and benefits of the director shall be established in the special revenue fund budget approved by the county council for the program. In selecting a director, the county administrator may seek input from the commission; however, the final determination in hiring shall reside with the county administrator. The county shall maintain a comprehensive description of the job duties and requirements for the position of director. Said description is incorporated herein by reference.

**Sec. 2-314. - Special revenue fund established.**

(a) *Revenues.* For purposes of administering financial matters pertaining to the program, the county shall maintain a separate special revenue fund, which shall be the repository of all revenues pertaining to the program. The county treasurer shall receipt from the county and invest all such revenues in a manner consistent with the sound practices applicable to other funds under his control. Revenues shall include, but not be limited to, registration and concession proceeds, admission charges, and contributions from businesses, other governments, and nonprofit entities. The county shall receipt all such sources of revenue pertaining to the program, including its constituent nongovernmental leagues and member municipalities. Additionally, the county may levy a separate millage rate for the generation of any property tax revenues necessary to funding the program. All revenues, as described herein, shall be subject to appropriation by the county council for recreation purposes only. Notwithstanding other provisions of this division, parks and recreation development (PARD) funding administered through the state department of parks and recreation shall continue to be distributed to, and expended by, each of the participating entities on the same population-based formula in effect prior to the creation of this special revenue fund. PARD funds shall not be included in the special revenue fund budget for the program. The participating entities may loan funding to the special revenue fund in anticipation of ad valorem tax collections; such loans shall be made without interest charges and shall be repaid no later than April 1 following the execution of such loans.

(b) *Expenditures.* The special revenue fund shall be used to pay recreation staff salaries and benefits, and to make all purchases of goods and services associated with operating the program, as specified in the special revenue fund budget approved by the county council. All purchases shall be made in conjunction with the county's centralized purchasing system, and shall be subject to procurement code requirements of the county.

**Sec. 2-315. - Annual operating budget.**

Annually, the director shall submit to the county administrator an itemized budget, inclusive of all revenue sources and amounts, and all expenditure items and amounts. The director shall consult with non-voting league representatives of the commission, which representatives are provided for as ex officio members of the commission in section 2-312(c), to confirm league-related expenditures for the upcoming fiscal year. The director's budget shall primarily address operational costs of the program, though he may also recommend capital expenditures to the participating entities, as shall be applicable, based on facility ownership. The director shall hold at least one meeting with the commission prior to first reading of the county's general operating budget, and prior to the submission of his budget to the county administrator. The director shall submit to the county administrator a final draft of the proposed budget no later than March 15. The county administrator shall submit the proposed operating budget to the participating entities for review and comment by their respective councils no later than April 1. The fiscal year under which the program operates shall be concurrent with the county's fiscal year of July 1 through June 30.

**Sec. 2-316. - Use and maintenance of facilities.**

(a) *Scheduling of facility use.* The county and the member municipalities each have facilities under their control and/or ownership that shall be made available to the program for use under the terms of this article. Under this article, priority use of these facilities is granted to league play and league-related events, with the director being empowered to schedule all such league play and events. However, nothing in this division shall be construed as limiting or preempting the scheduling authority of any participating entity over facilities under their ownership or control, outside the context of league

activities. The director shall schedule non-league events only after first consulting with the affected participating entity.

(b) *Maintenance and utilities.* Each participating entity shall retain full responsibility for the maintenance and utilities of its respective fields and facilities. To this end, participating entities shall arrange for all field and facility maintenance, such as mowing, irrigation, fertilization and the like, keeping such fields and facilities in satisfactory condition for use by the program. All buildings and fixtures, such as restrooms, concession stands, storage rooms, fences, lights, scoreboards, parking lots, and public seating areas shall be maintained in clean, optimal working condition for use by the countywide recreation program. Each participating entity shall be responsible for insurance costs related to those fields and facilities under it ownership and/or control.

(c) *Cost sharing for facility use and upkeep.* Notwithstanding language to the contrary contained herein, nothing shall prevent the participating entities hereto from entering into cooperative arrangements regarding the costs of facility construction, maintenance, and utilities; provided that such arrangements must be made in the form of a written intergovernmental agreement duly approved by the affected governing bodies and submitted to the commission for review and comment.

**Sec. 2-317. - Membership; participating local government entities.**

The following local government jurisdictions are considered participating entities hereto by virtue of their adoption of this division, with the ordinance numbers given by said jurisdictions being indicated. Any participating entity may terminate its involvement in the program by repealing this section in the same manner as other ordinances of the jurisdiction are repealed.

# SECTION VI

# PROVISIONS APPLICABLE TO REGISTRATION AND ELECTIONS COMMISSION OF EDGEFIELD COUNTY

**Authority:** South Carolina Acts and Joint Resolutions 2008 Act 312, § 1, codified at Section 7-37-300, S.C. Code Ann.

**Governing Body:** Seven members appointed by the Governor upon recommendation of a majority of the legislative delegation.

**Term of Office:** Two years

**Function:** To carry out those functions as outlined in Title 7 of the S.C. Code Ann.

# Enabling Legislation

## State Law

**§ 7-27-300. Registration and Elections Commission for Edgefield County.**

(A) There is created the Registration and Elections Commission for Edgefield County. There are seven members of the commission who must be appointed by the Governor upon recommendation of a majority of the Edgefield County Legislative Delegation, including the senator, who are appointed for terms of two years and until their successors are appointed and qualify.

(B) Between the first day of January and the fifteenth day of March of every even-numbered year, the Governor shall appoint the members of the commission.

(C) A vacancy on the commission may be filled by appointment in the manner of original appointment for the unexpired term only.

(D) The members of the commission, the executive director, and staff receive compensation as may be appropriated by the county council upon the recommendation of the county legislative delegation.

(E) The executive director, upon recommendation of the Edgefield County Council, must be appointed by a majority vote of the senators and a majority vote of the members of the House of Representatives representing Edgefield County. The appointment is for a term of two years or until a successor is appointed.

(F) The office of Commissioners of Election and the Registration Board for Edgefield County are abolished. The powers and duties of the Commissioners of Election and the Registration Board are devolved upon the Registration and Elections Commission for Edgefield County created in subsection (A).

(G) The current members of the Edgefield County Election Commission and the Edgefield County Registration Board shall act as the governing commission of the new Edgefield County Registration and Elections Commission established in this section until such time as the seven members of this commission appointed in the manner provided by this section take office. At this time, the terms of these former commissioners of the election commission and registration board members expire.

# SECTION VII

# PROVISIONS APPLICABLE TO EDGEFIELD COUNTY PLANNING COMMISSION

**Authority:** Ordinance 09-00-380 adopted by the Edgefield County Council on April 4, 2000; amended Ord. No. 00-01-386, 10-3-2000; Ord. No. 01-02-413, 11-5-2002.

**Governing Body:** Seven members, with two members being appointed to serve at-large and one member being appointed to serve from each of the five county council districts.

**Term of Office:** 2-year staggered terms.

**Function:** To prepare a comprehensive plan and program for the physical, social and economic growth of the County. To revise the plan periodically to insure the orderly development of the County. To prepare strategies and proposals for the implementation of the comprehensive plan. To conduct surveys and studies of existing conditions and probable future growth and development matters in Edgefield County.

# Governing Documents

## State Law

### Article 1 – Creation of Local Planning Commission

**§ 6-29-310. "Local planning commission" defined.**
For purposes of this chapter, "local planning commission" means a municipal planning commission, a county planning commission, a joint city-county planning commission, or a consolidated government planning commission.

**§ 6-29-320. Bodies authorized to create local planning commissions.**
The city council of each municipality may create a municipal planning commission. The county council of each county may create a county planning commission. The governing body of a consolidated government may create a planning commission. Any combination of municipal councils and a county council or any combination of municipal councils may create a joint planning commission.

**§ 6-29-330. Areas of jurisdiction; agreement for county planning commission to act as municipal planning commission.**
(A) A municipality may exercise the powers granted under the provisions of this chapter in the total area within its corporate limits. A county may exercise the powers granted under the provisions of this chapter in the total unincorporated area or specific parts of the unincorporated area. Unincorporated areas of the county or counties adjacent to incorporated municipalities may be added to and included in the area under municipal jurisdiction for the purposes of this chapter provided that the municipality and county councils involved adopt ordinances establishing the boundaries of the additional areas, the limitations of the authority to be exercised by the municipality, and representation on the boards and commissions provided under this chapter. The agreement must be formally approved and executed by the municipal council and the county councils involved.
(B) The governing body of a municipality may designate by ordinance the county planning commission as the official planning commission of the municipality. In the event of the designation, and acceptance by the county, the county planning commission may exercise the powers and duties as provided in this chapter for municipal planning commissions as are specified in the agreement reached by the governing authorities. The agreement must specify the procedures for the exercise of powers granted in the chapter and shall address the issue of equitable representation of the municipality and the county on the boards and commissions authorized by this chapter. This agreement must be formally stated in appropriate ordinances by the governing authorities involved.

**§ 6-29-340. Functions, powers, and duties of local planning commissions.**
(A) It is the function and duty of the local planning commission, when created by an ordinance passed by the municipal council or the county council, or both, to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy of its area of jurisdiction. Specific planning elements must be based upon careful and comprehensive surveys and studies of existing conditions and probable future development and include recommended means of implementation. The local planning commission may make, publish, and distribute maps, plans, and reports and recommendations relating to the plans and programs and the development of its area of

jurisdiction to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members and employees, in the performance of its functions, may enter upon any land with consent of the property owner or after ten days' written notification to the owner of record, make examinations and surveys, and place and maintain necessary monuments and marks on them, provided, however, that the planning commission shall be liable for any injury or damage to property resulting therefrom. In general, the planning commission has the powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction.

(B) In the discharge of its responsibilities, the local planning commission has the power and duty to:

(1) prepare and revise periodically plans and programs for the development and redevelopment of its area as provided in this chapter; and

(2) prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plans and programs in its area:

(a) zoning ordinances to include zoning district maps and appropriate revisions thereof, as provided in this chapter;

(b) regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that may be adopted as provided in this chapter;

(c) an official map and appropriate revision on it showing the exact location of existing or proposed public street, highway, and utility rights-of-way, and public building sites, together with regulations to control the erection of buildings or other structures or changes in land use within the rights-of-way, building sites, or open spaces within its political jurisdiction or a specified portion of it, as set forth in this chapter;

(d) a landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;

(e) a capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the governmental bodies responsible for implementation prior to preparation of their capital budget; and

(f) policies or procedures to facilitate implementation of planning elements.

**§ 6-29-350. Membership; terms of office; compensation; qualifications.**

(A) A local planning commission serving not more than two political jurisdictions may not have less than five nor more than twelve members. A local planning commission serving three or more political jurisdictions shall have a membership not greater than four times the number of jurisdictions it serves. In the case of a joint city-county planning commission the membership must be proportional to the population inside and outside the corporate limits of municipalities.

(B) No member of a planning commission may hold an elected public office in the municipality or county from which appointed. Members of the commission first to serve must be appointed for staggered terms as described in the agreement of organization and shall serve until their successors are appointed and qualified. The compensation of the members, if any, must be determined by the governing authority or authorities creating the commission. A vacancy in the membership of a planning commission must be filled for the unexpired term in the same manner as the original appointment. The governing authority or authorities creating the commission may remove any member of the commission for cause.

(C) In the appointment of planning commission members the appointing authority shall consider their professional expertise, knowledge of the community, and concern for the future welfare of the

total community and its citizens. Members shall represent a broad cross section of the interests and concerns within the jurisdiction.

**§ 6-29-360. Organization of commission; meetings; procedural rules; records; purchases.**

(A) A local planning commission shall organize itself electing one of its members as chairman and one as vice-chairman whose terms must be for one year. It shall appoint a secretary who may be an officer or an employee of the governing authority or of the planning commission. The planning commission shall meet at the call of the chairman and at such times as the chairman or commission may determine.

(B) The commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The planning commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated.

**§ 6-29-370. Referral of matters to commission; reports.**

The governing authority may provide for the reference of any matters or class of matters to the local planning commission, with the provision that final action on it may not be taken until the planning commission has submitted a report on it or has had a reasonable period of time, as determined by the governing authority to submit a report.

**§ 6-29-380. Funding of commissions; expenditures; contracts.**

A local planning commission may cooperate with, contract with, or accept funds from federal government agencies, state government agencies, local general purpose governments, school districts, special purpose districts, including those of other states, public or eleemosynary agencies, or private individuals or corporations; it may expend the funds; and it may carry out such cooperative undertakings and contracts as it considers necessary.

**Article 3 – Local Planning – The Comprehensive Planning Process**

**§ 6-29-510. Planning process; elements; comprehensive plan.**

(A) The local planning commission shall develop and maintain a planning process which will result in the systematic preparation and continual re-evaluation and updating of those elements considered critical, necessary, and desirable to guide the development and redevelopment of its area of jurisdiction.

(B) Surveys and studies on which planning elements are based must include consideration of potential conflicts with adjacent jurisdictions and regional plans or issues.

(C) The basic planning process for all planning elements must include, but not be limited to:

(1) inventory of existing conditions;

(2) a statement of needs and goals; and

(3) implementation strategies with time frames.

(D) A local comprehensive plan must include, but not be limited to, the following planning elements:

(1) a population element which considers historic trends and projections, household numbers and sizes, educational levels, and income characteristics;

(2) an economic development element which considers labor force and labor force characteristics, employment by place of work and residence, and analysis of the economic base;

(3) a natural resources element which considers coastal resources, slope characteristics, prime agricultural and forest land, plant and animal habitats, parks and recreation areas, scenic views and sites, wetlands, and soil types. Where a separate board exists pursuant to this chapter, this element is the responsibility of the existing board;

(4) a cultural resources element which considers historic buildings and structures, commercial districts, residential districts, unique, natural, or scenic resources, archaeological, and other cultural resources. Where a separate board exists pursuant to this chapter, this element is the responsibility of the existing board;

(5) a community facilities element which considers water supply, treatment, and distribution; sewage system and wastewater treatment; solid waste collection and disposal, fire protection, emergency medical services, and general government facilities; education facilities; and libraries and other cultural facilities;

(6) a housing element which considers location, types, age, and condition of housing, owner and renter occupancy, and affordability of housing. This element includes an analysis to ascertain nonessential housing regulatory requirements, as defined in this chapter, that add to the cost of developing affordable housing but are not necessary to protect the public health, safety, or welfare and an analysis of market-based incentives that may be made available to encourage development of affordable housing, which incentives may include density bonuses, design flexibility, and streamlined permitting processes;

(7) a land use element which considers existing and future land use by categories, including residential, commercial, industrial, agricultural, forestry, mining, public and quasi-public, recreation, parks, open space, and vacant or undeveloped;

(8) a transportation element that considers transportation facilities, including major road improvements, new road construction, transit projects, pedestrian and bicycle projects, and other elements of a transportation network. This element must be developed in coordination with the land use element, to ensure transportation efficiency for existing and planned development;

(9) a priority investment element that analyzes the likely federal, state, and local funds available for public infrastructure and facilities during the next ten years, and recommends the projects for expenditure of those funds during the next ten years for needed public infrastructure and facilities such as water, sewer, roads, and schools. The recommendation of those projects for public expenditure must be done through coordination with adjacent and relevant jurisdictions and agencies. For the purposes of this item, "adjacent and relevant jurisdictions and agencies" means those counties, municipalities, public service districts, school districts, public and private utilities, transportation agencies, and other public entities that are affected by or have planning authority over the public project. For the purposes of this item, "coordination" means written notification by the local planning commission or its staff to adjacent and relevant jurisdictions and agencies of the proposed projects and the opportunity for adjacent and relevant jurisdictions and agencies to provide comment to the planning commission or its staff concerning the proposed projects. Failure of the planning commission or its staff to identify or notify an adjacent or relevant jurisdiction or agency does not invalidate the local comprehensive plan and does not give rise to a civil cause of action.

(E) All planning elements must be an expression of the planning commission recommendations to the appropriate governing bodies with regard to the wise and efficient use of public funds, the future growth, development, and redevelopment of its area of jurisdiction, and consideration of the fiscal

impact on property owners. The planning elements whether done as a package or in separate increments together comprise the comprehensive plan for the jurisdiction at any one point in time. The local planning commission shall review the comprehensive plan or elements of it as often as necessary, but not less than once every five years, to determine whether changes in the amount, kind, or direction of development of the area or other reasons make it desirable to make additions or amendments to the plan. The comprehensive plan, including all elements of it, must be updated at least every ten years.

**§ 6-29-520. Advisory committees; notice of meetings; recommendations by resolution; transmittal of recommended plan.**

(A) In the preparation or periodic updating of any or all planning elements for the jurisdiction, the planning commission may use advisory committees with membership from both the planning commission or other public involvement mechanisms and other resource people not members of the planning commission. If the local government maintains a list of groups that have registered an interest in being informed of proceedings related to planning, notice of meetings must be mailed to these groups.

(B) Recommendation of the plan or any element, amendment, extension, or addition must be by resolution of the planning commission, carried by the affirmative votes of at least a majority of the entire membership. The resolution must refer expressly to maps and other descriptive matter intended by the planning commission to form the whole or element of the recommended plan and the action taken must be recorded in its official minutes of the planning commission. A copy of the recommended plan or element of it must be transmitted to the appropriate governing authorities and to all other legislative and administrative agencies affected by the plan.

(C) In satisfying the preparation and periodic updating of the required planning elements, the planning commission shall review and consider, and may recommend by reference, plans prepared by other agencies which the planning commission considers to meet the requirements of this article.

**§ 6-29-530. Adoption of plan or elements; public hearing.**

The local planning commission may recommend to the appropriate governing body and the body may adopt the plan as a whole by a single ordinance or elements of the plan by successive ordinances. The elements shall correspond with the major geographical sections or divisions of the planning area or with functional subdivisions of the subject matter of the comprehensive plan, or both. Before adoption of an element or a plan as a whole, the governing authority shall hold a public hearing on it after not less than thirty days' notice of the time and place of the hearings has been given in a newspaper having general circulation in the jurisdiction.

**§ 6-29-540. Review of proposals following adoption of plan; projects in conflict with plan; exemption for utilities.**

When the local planning commission has recommended and local governing authority or authorities have adopted the related comprehensive plan element set forth in this chapter, no new street, structure, utility, square, park, or other public way, grounds, or open space or public buildings for any use, whether publicly or privately owned, may be constructed or authorized in the political jurisdiction of the governing authority or authorities establishing the planning commission until the location, character, and extent of it have been submitted to the planning commission for review and comment as to the compatibility of the proposal with the comprehensive plan of the community. In the event the planning commission finds the proposal to be in conflict with the comprehensive plan, the commission shall transmit its findings and the particulars of the nonconformity to the entity proposing the facility. If the entity proposing the facility determines to go forward with the project which conflicts with the comprehensive plan, the governing or policy making body of the entity shall publicly state its intention

to proceed and the reasons for the action. A copy of this finding must be sent to the local governing body, the local planning commission, and published as a public notice in a newspaper of general circulation in the community at least thirty days prior to awarding a contract or beginning construction. Telephone, sewer and gas utilities, or electric suppliers, utilities and providers, whether publicly or privately owned, whose plans have been approved by the local governing body or a state or federal regulatory agency, or electric suppliers, utilities and providers who are acting in accordance with a legislatively delegated right pursuant to Chapter 27 or 31 of Title 58 or Chapter 49 of Title 33 are exempt from this provision. These utilities must submit construction information to the appropriate local planning commission.

**Article 9 – Educational Requirements for Local Government Planning or Zoning Officials or Employees**

**§ 6-29-1310. Definitions.**

As used in this article:

(1) "Advisory committee" means the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees;

(2) "Appointed official" means a planning commissioner, board of zoning appeals member, or board of architectural review member;

(3) "Clerk" means the clerk of the local governing body;

(4) "Local governing body" means the legislative governing body of a county or municipality;

(5) "Planning or zoning entity" means a planning commission, board of zoning appeals, or board of architectural review;

(6) "Professional employee" means a planning professional, zoning administrator, zoning official, or a deputy or assistant of a planning professional, zoning administrator, or zoning official.

**§ 6-29-1320. Identification of persons covered by act; compliance schedule.**

(A) The local governing body must:

(1) by no later than December 31st of each year, identify the appointed officials and professional employees for the jurisdiction and provide a list of those appointed officials and professional employees to the clerk and each planning or zoning entity in the jurisdiction; and

(2) annually inform each planning or zoning entity in the jurisdiction of the requirements of this article.

(B) Appointed officials and professional employees must comply with the provisions of this article according to the following dates and populations based on the population figures of the latest official United States Census:

(1) municipalities and counties with a population of 35,000 and greater: by January 1, 2006; and

(2) municipalities and counties with a population under 35,000: by January 1, 2007.

**§ 6-29-1340. Educational requirements; time-frame for completion; subjects.**

(A) Unless expressly exempted as provided in Section 6-29-1350, each appointed official and professional employee must:

(1) no earlier than one hundred and eighty days prior to and no later than three hundred and sixty-five days after the initial date of appointment or employment, attend a minimum of six hours of orientation training in one or more of the subjects listed in subsection (C); and

(2) annually, after the first year of service or employment, but no later than three hundred and sixty-five days after each anniversary of the initial date of appointment or employment, attend no fewer than three hours of continuing education in any of the subjects listed in subsection (C).

(B) An appointed official or professional employee who attended six hours of orientation training for a prior appointment or employment is not required to comply with the orientation requirement for a subsequent appointment or employment after a break in service. However, unless expressly exempted as provided in Section 6-29-1350, upon a subsequent appointment or employment, the appointed official or professional employee must comply with an annual requirement of attending no fewer than three hours of continuing education as provided in this section.

(C) The subjects for the education required by subsection (A) may include, but not be limited to, the following:

(1) land use planning;
(2) zoning;
(3) floodplains;
(4) transportation;
(5) community facilities;
(6) ethics;
(7) public utilities;
(8) wireless telecommunications facilities;
(9) parliamentary procedure;
(10) public hearing procedure;
(11) administrative law;
(12) economic development;
(13) housing;
(14) public buildings;
(15) building construction;
(16) land subdivision; and
(17) powers and duties of the planning commission, board of zoning appeals, or board of architectural review.

(D) In order to meet the educational requirements of subsection (A), an educational program must be approved by the advisory committee.

**§ 6-29-1350. Exemption from educational requirements.**

(A) An appointed official or professional employee who has one or more of the following qualifications is exempt from the educational requirements of Section 6-29-1340:

(1) certification by the American Institute of Certified Planners;
(2) a masters or doctorate degree in planning from an accredited college or university;
(3) a masters or doctorate degree or specialized training or experience in a field related to planning as determined by the advisory committee;
(4) a license to practice law in South Carolina.

(B) An appointed official or professional employee who is exempt from the educational requirements of Section 6-29-1340 must file a certification form and documentation of his exemption as required in Section 6-29-1360 by no later than the first anniversary date of his appointment or

employment. An exemption is established by a single filing for the tenure of the appointed official or professional employee and does not require the filing of annual certification forms and conforming documentation.

**§ 6-29-1360. Certification.**

(A) An appointed official or professional employee must certify that he has satisfied the educational requirements in Section 6-29-1340 by filing a certification form and documentation with the clerk no later than the anniversary date of the appointed official's appointment or professional employee's employment each year.

(B) Each certification form must substantially conform to the following form and all applicable portions of the form must be completed:

EDUCATIONAL REQUIREMENTS
CERTIFICATION FORM
FOR LOCAL GOVERNMENT PLANNING OR ZONING
OFFICIALS OR EMPLOYEES

To report compliance with the educational requirements, please complete and file this form each year with the clerk of the local governing body no later than the anniversary date of your appointment or employment. To report an exemption from the educational requirements, please complete and file this form with the clerk of the local governing body by no later than the first anniversary of your current appointment or employment. Failure to timely file this form may subject an appointed official to removal for cause and an employee to dismissal.

Name of Appointed Official or Employee: _____
Position: _____
Initial Date of Appointment or Employment: _____
Filing Date: _____

I have attended the following orientation or continuing education program(s) within the last three hundred and sixty-five days. (Please note that a program completed more than one hundred and eighty days prior to the date of your initial appointment or employment may not be used to satisfy this requirement.) :

Program Name Sponsor Location Date Held Hours of Instruction
Also attached with this form is documentation that I attended the program(s).

OR

I am exempt from the orientation and continuing education requirements because (Please initial the applicable response on the line provided) :

____ I am certified by the American Institute of Certified Planners.
____ I hold a masters or doctorate degree in planning from an accredited college or university.
____ I hold a masters or doctorate degree or have specialized training or experience in a field related to planning as determined by the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees. (Please describe your advanced degree or specialty on the line provided.)
_____
____ I am licensed to practice law in South Carolina.

Also attached with this form is documentation to confirm my exemption.

I certify that I have satisfied or am exempt from the educational requirements for local planning or zoning officials or employees.

Signature: _____

(C) Each appointed official and professional employee is responsible for obtaining written documentation that either:

(1) is signed by a representative of the sponsor of any approved orientation or continuing education program for which credit is claimed and acknowledges that the filer attended the program for which credit is claimed; or

(2) establishes the filer's exemption.

The documentation must be filed with the clerk as required by this section.

**§ 6-29-1370. Sponsorship and funding of programs; compliance and exemption; certification as public records.**

(A) The local governing body is responsible for:

(1) sponsoring and providing approved education programs; or

(2) funding approved education programs provided by a sponsor other than the local governing body for the appointed officials and professional employees in the jurisdiction.

(B) The clerk must keep in the official public records originals of:

(1) all filed forms and documentation that certify compliance with educational requirements for three years after the calendar year in which each form is filed; and

(2) all filed forms and documentation that certify an exemption for the tenure of the appointed official or professional employee.

**§ 6-29-1380. Failure to complete training requirements; false documentation.**

(A) An appointed official is subject to removal from office for cause as provided in Section 6-29-350, 6-29-780, or 6-29-870 if he:

(1) fails to complete the requisite number of hours of orientation training and continuing education within the time allotted under Section 6-29-1340; or

(2) fails to file the certification form and documentation required by Section 6-29-1360.

(B) A professional employee is subject to suspension or dismissal from employment relating to planning or zoning by the local governing body or planning or zoning entity if he:

(1) fails to complete the requisite number of hours of orientation training and continuing education within the time allotted under Section 6-29-1340; or

(2) fails to file the certification form and documentation required by Section 6-29-1360.

(C) A local governing body must not appoint a person who has falsified the certification form or documentation required by Section 6-29-1360 to serve in the capacity of an appointed official.

(D) A local governing body or planning or zoning entity must not employ a person who has falsified the certification form or documentation required by Section 6-29-1360 to serve in the capacity of a professional employee.

## Edgefield County Code of Ordinances

**Sec. 24-286. - County planning commission.**

(a) Reestablishment of planning commission. The Edgefield County Planning Commission is hereby reestablished under the provisions of the S.C. Code 1976, § 6-29-320.

(b) Powers and duties of the planning commission.

(1) The planning commission shall have the powers and duties provided in S.C. Code 1976, § 6-29-310 et seq.; and

(2) To grant specified variances, where the power to grant such variances is explicitly stated within this chapter.

(c) Established; composition.

(1) The county planning commission shall be comprised of seven members, with two members being appointed to serve at-large and one member being appointed to serve from each of the five county council districts. Members shall serve two-year, staggered terms without regard to term limitations. Terms for the two at-large appointees shall begin on November 1 in odd-numbered years, except that members serving as at-large appointees upon enactment of this section shall continue serving until October 31, 2001. Terms for council district appointees shall begin on November 1 in even-numbered years, with members serving as council district appointees upon enactment of this section remaining in office until October 31, 2000. All members shall be eligible to succeed themselves, subject to the appointive powers of the county council.

(2) To the extent possible, membership should be representative of the racial and gender composition of the county, and represent a broad cross section of the interests and concerns of the county. No member shall be the holder of an elected public officer in the county.

(3) Members shall serve until their successors are appointed and qualified.

(d) Removal of members. Members of the planning commission may be removed at any time by the county council for cause. The existence of cause shall be discussed by the Council in executive session as permitted by the Freedom of Information Act, S.C. Code 1976, § 30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of the council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.

(e) Bylaws and procedures. The county planning commission shall adhere to the provisions set forth in S.C. Code 1976, Title 6, Ch. 29 with respect to its bylaws, procedures, and other activities.

**NOTE: The County Attorney considers it a conflict of interest for a member of the Planning Commission to participate in a matter involving property in a subdivision in which the commission member owns real estate no matter how titled (individually, spousal, trust, corp., LLC, etc.).**

# SECTION VIII

# PROVISIONS APPLICABLE TO EDGEFIELD COUNTY BOARD OF ZONING APPEALS

**Authority:** Ordinance 99-00-380 adopted by Edgefield County on April 4, 2000; amended Ord. No. 01-02-413, 11-5-2002; Ord. No. 12-13-654, 10-2-2012.

**Governing Body:** Three members appointed by Edgefield County Council.

**Term of Office:** Three-year terms

**Function:** To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination by the Zoning Administrator, and to authorize upon appeal in specific cases a variance from terms of the Zoning and Development Standards Ordinances.

# Governing Documents

## State Law

**§ 6-29-780. Board of zoning appeals; membership; terms of office; vacancies; compensation.**

(A) As a part of the administrative mechanism designed to enforce the zoning ordinance, the zoning ordinance may provide for the creation of a board to be known as the board of zoning appeals. Local governing bodies with a joint planning commission and adopting a common zoning ordinance may create a board to be known as the joint board of appeals. All of these boards are referred to as the board.

(B) The board consists of not less than three nor more than nine members, a majority of which constitutes a quorum, appointed by the governing authority or authorities of the area served. The members shall serve for overlapping terms of not less than three nor more than five years or after that time until their successors are appointed. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The governing authority or authorities creating the board of zoning appeals may remove any member of the board for cause. The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of zoning appeals. None of the members shall hold any other public office or position in the municipality or county.

## Edgefield County Code of Ordinances

**Sec. 24-287. – County Zoning Board of Appeals.**

(a) *Reestablishment of zoning board of appeals.* The Edgefield County Zoning Board of Appeals (ZBA) is hereby established under the provisions of § 6-29-780, *Code of Laws of South Carolina* (1976, as amended).

(b) *Composition of the zoning board of appeals.* The zoning board of appeals shall consist of three members, a majority of which constitutes a quorum, appointed by a majority vote of the Edgefield County Council. The members shall serve for overlapping terms of three years or after that time until their successors are appointed. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. Edgefield County Council, by majority vote, may remove any member of the board for cause. Edgefield County Council may provide for compensation, if any, to be paid to the members of the board of zoning appeals. None of the members of the zoning board of appeals shall hold any other public office or position in the county.

(c) *BZA Officers, rules, meetings, notice, records.* The board shall elect one of its members chairman, who shall serve for one year or until he is re-elected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the zoning board. The board shall utilize the Edgefield County Rules of Parliamentary Procedure. Meetings of the board must be held at the call of the chairman and at such other times as the board may determine. Public notice of all meetings of the board of appeals shall be provided by publication in a newspaper of

general circulation in the county. In cases involving variances or special exceptions conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which must be immediately filed in the office of the board and must be a public record.

(d) *Powers of board of appeals; variances; special exceptions; remand; stay; hearing; decisions and orders.*

(1) The board of appeals has the following powers:

(a) to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

(b) to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

(1) there are extraordinary and exceptional conditions pertaining to the particular piece of property;

(2) these conditions do not generally apply to other property in the vicinity;

(3) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(4) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

(A) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

Should the board grant a variance for a use of land, a building or a structure that is prohibited in a given district, such decision of the board shall be held in abeyance and forwarded to Edgefield County Council for their consideration. Edgefield County Council may approve or override the board's grant of a variance.

(B) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare;

(C) to permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the zoning ordinance; and

(D) to remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review. A party's motion for remand may be denied if the board determines that the record is sufficient for review. The board must set a rehearing on the remanded matter without further public notice for a time certain within sixty days unless otherwise agreed to by the parties. The board must maintain a list of persons who express an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

(2) Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the county. The appeal must be within thirty days from the date the appealing party has received actual notice of the action from which the appeal is taken. The appeal must be accompanied by a fee in an amount as established from time to time by the county The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(4) The board must fix a reasonable time for the hearing of the appeal or other matter referred to the board, and give at least fifteen days' public notice of the hearing in a newspaper of general circulation in the community, as well as due notice to the parties in interest, and decide the appeal or matter within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.

(5) In exercising the above power, the board of appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end, has all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a

permit. The board, in the execution of the duties specified in this chapter, may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.

(6) All final decisions and orders of the board must be in writing and be permanently filed in the office of the board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest by certified mail.

(e) *Contempt; penalties.* In case of contempt by a party, witness, or other person before the board of appeals, the board may certify this fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

(f) *Appeals from decision of the zoning board of appeals.* Appeals from the decision of the zoning board of appeals, or from a County Council decision as promulgated under sub-section 24-287(d)(1)(A)(4)(a), shall be as provided by state law.[4]

(g) *Financing of board of appeals.* Edgefield County Council may appropriate such monies, otherwise unappropriated, as it considers fit to finance the work of the board of appeals and to generally provide for the enforcement of any zoning regulations and restrictions authorized under this chapter which are adopted and may accept and expend grants of money for those purposes from either private or public sources, whether local, state, or federal.

**NOTE: The County Attorney considers it a conflict of interest for a member of the Board of Zoning Appeals to participate in an appeal involving property in a subdivision in which the board member owns real estate no matter how titled (individually, spousal, trust, corp., LLC, etc.).**

[4] As of the adoption of this Ordinance and appeal from board is to circuit court, S.C. Code § 6-28-820 (1976, as amended).

# SECTION IX

# PROVISIONS APPLICABLE TO EDGEFIELD COUNTY BOARD OF ASSESSMENT APPEALS

**Authority:** South Carolina Acts and Joint Resolutions 1995 Act No. 60, § 4A codified at Section 12-60-2530, S.C. Code Ann.; Ordinance 05-06-574 adopted by Edgefield County Council on January 3, 2006; amended Ord. No. 09-10-623, §§ 1—4, 7-6-2010.

**Governing Body:** Seven members, one residing in each of the five single-member county council districts and two serving at large.

**Term of Office:** Two years.

**Function:** A property taxpayer may appeal a real property tax assessment to the county board of assessment appeals. The board may rule on any timely appeal relating to the correctness of any of the elements of the property tax assessment, and also other relevant claims of a legal or factual nature, except claims relating to property tax exemptions.

# Governing Documents

## State Law

**§ 12-60-2530. County board of assessment appeals.**

(A) Within thirty days after the date of the county assessor's response provided in Section 12-60-2520, a property taxpayer may appeal a real property tax assessment to the county board of assessment appeals. The board may rule on any timely appeal relating to the correctness of any of the elements of the property tax assessment, and also other relevant claims of a legal or factual nature, except claims relating to property tax exemptions. Conferences held by the board are subject to any rules prescribed for the county boards of assessment appeals by the Administrative Law Judge Division. The assessor may extend the time period for filing a taxpayer's appeal if the request for an extension is received by the assessor within thirty days of the date of the county assessor's response provided in Section 12-60-2520.

(B) An appeal to the board begins by giving written notice of intent to appeal to the assessor.

(C) A conference on the appeal must be conducted by the board within thirty days after the date of receiving a notice of appeal, or as soon thereafter as practical. The board shall:

(1) set the place, date, and time for the conference;

(2) give the assessor and the property taxpayer at least thirty days' written notice of the conference;

(3) advise the property taxpayer that all evidence must be presented at the conference; and

(4) have the authority and jurisdiction to enter a default decision if either the property taxpayer or the assessor fails to appear at the conference, if proper notice of the conference was given. If a default decision is entered against the property taxpayer for failure to appear at the conference, the property tax assessment becomes a final property tax assessment. A default order entered against the assessor for failure to appear at the conference results in a final property tax assessment based on the value stated in the property taxpayer's written protest. However, the board may grant a continuance and refrain from entering a default order upon good cause shown by any party.

(D) The intervention by an interested person not a party to the action is allowed where:

(1) the intervenor has a legal or equitable interest in the property which is the subject of the property tax assessment;

(2) the intervention is not prevented by any applicable statute of limitations and the intervenor has exhausted his prehearing remedies;

(3) the disposition of the action could, as a practical matter, impede protection of that interest; and

(4) the intervenor's interest is not being adequately represented by the existing parties, and could be impeded, as a practical matter, if intervention is denied.

(E) Each appeal must be considered by all board members present at a meeting. The lesser of a majority of the members or three members of the board is a quorum, unless the parties agree to a lesser number.

(F) At least fifteen days before the date of the conference, the assessor shall file with the board:

(1) a copy of the original property tax assessment for the subject property;

(2) the written protest of the property taxpayer;

(3) a written response to the taxpayer's protest; and

(4) copies of documents, including appraisals, property sales, and a brief description of other evidence to be presented by him. Copies of the documents filed with the board must be mailed or delivered to the property taxpayer at the same time.

(G) At least fifteen days before the date of the conference, the property taxpayer shall file with the board copies of documents, including appraisals, property sales, and a brief description of other evidence to be presented. Copies of the documents and lists must be mailed or delivered to the assessor at the same time. The requirement that the property taxpayer file the material with the board and mail or deliver it to the assessor may be waived by the board.

(H) At least seven days before the date of the conference, the parties may file with the board any response each may have to the information filed by the other. This material must be mailed or delivered to the other party at the same time.

(I) The conference must be held as follows:

(1) Conferences are open to the public.

(2) The board may meet in closed session to consider evidence presented at the conference[5].

(3) The assessor shall explain the property tax assessment and his response to the taxpayer's written protest.

(4) The assessor may provide the board with evidence to support the property tax assessment.

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[5] Note that the statute requires that the Board make its decisions based on the evidence presented "at the conference" and apply it to the law(s) in question. It is NOT the job of the Board to question the law; that is handled in the S.C. Legislature and in the court system.

(5) The property taxpayer shall state his reasons for protesting the property tax assessment.

(6) The property taxpayer may provide the board with evidence to support amending, modifying, or rescinding the property tax assessment.

(7) A person intervening as a party in the appeal may state his position and present evidence in support of his position.

(8) The assessor may rebut information and arguments presented by the taxpayer or intervenor.

(9) The property taxpayer and intervenors, if any, may rebut information and arguments presented by the assessor.

(10) Any member of the board may question the property taxpayer, the assessor, and anyone else providing information at the conference. Any member of the board may request additional information.

(J) After the conference, the board shall issue a decision based upon the evidence[6] before it as follows:

(1) The decision must be made by a majority vote of the board members present at the conference. In case of a tie, the assessor's determination is upheld.

(2) At the conclusion of the conference, the decision may be announced orally or it may be reserved for consideration. In either event, the board shall mail a written decision to the parties within fifteen days after the date of the conference, or as soon thereafter as practical.

(3) The written decision of the board shall:

(a) explain the basis for the decision;

(b) state that if the decision is not appealed, it must be certified to the county auditor for entry upon the property tax assessment rolls or tax duplicate; and

(c) inform the parties of their right to request a contested case hearing before the Administrative Law Judge Division.

[6] The statute again reiterates that the Board is to consider only the evidence presented before it at the conference.

# Edgefield County Code of Ordinances

**Sec. 46-22. - Board of assessment appeals.**

(a) *Composition and appointments.* In accordance with the South Carolina Revenue Procedures Act, Article 9 (S.C. Code 1976, § 12-60-1710 et seq.), there is hereby created the county board of assessment appeals which shall be composed of seven members, one residing in each of the five single-member county council districts and two serving at large. Each county councilmember shall nominate a member of the board to represent, and who must reside in, the geographic area of his council district. The chairperson and vice-chairperson shall each nominate one member to serve at-large. The council must approve all nominations by majority vote.

(b) *Terms.* Board members shall serve two-year, staggered terms, with all members sharing the same appointment/anniversary date determined by the county council. Once appointed, all members of the board serve at the pleasure of the county council, which may replace any member of the board at any time by majority vote. Any appointee named on any date other than the common anniversary date for appointments shall serve only for the unexpired term of the board member he succeeds. Where the county council fails to appoint or reappoint timely, members of the board shall continue serving until county council appoints their replacements/successors.

(c) *Vacancies.* Vacancies shall be immediate where any district appointee ceases to reside in the council district for which council approves his appointment, or, in the case of at-large appointments, where members discontinue residency in the county. Additionally, immediate vacancies shall occur where the county council removes a member at its discretion, either for deficient attendance or for other reasons, or when a member of the board dies or resigns in writing to the council chairperson. For purposes of this article, current voter registration shall determine residency status.

(d) *Attendance.* Where any member of the board fails to attend at least 75 percent of the board's meetings in any calendar year, the county council shall consider said member as having resigned. It shall be the county assessor's responsibility to maintain records pertaining to board members' attendance.

(e) *Officers.* The board shall elect from among its members a chairperson, whose duty it shall be to preside at meetings. The board shall also elect from among its members a vice chairperson, whose responsibility it shall be to assume the duties of the chairperson, in the event of the chairperson's absence. In the event that both the chairperson and vice-chairperson are absent, the board shall elect from its members a presiding officer.

(f) *Resolution of taxpayer appeals.* The board shall act on taxpayer appeals in accordance with S.C. Code 1976, § 12-60-2530, as may be amended from time to time, and any successor statute.

(g) *Parliamentary procedures.* Where not otherwise specifically prescribed by state statute or by this section, the board shall observe the Edgefield County Rules of Parliamentary Procedure.

(h) *Remuneration.* Members of the board shall receive such remuneration and reimbursement for expenses as determined by the county council in its annual budget for county operations.

NOTE: The County Attorney considers it a conflict of interest for a member of the Board of Assessment Appeals to participate in an appeal involving property in a subdivision in which the board member owns real estate no matter how titled (individually, spousal, trust, corp., LLC, etc.).

# SECTION X

# PROVISIONS APPLICABLE TO EDGEFIELD COUNTY EMPLOYEE GRIEVANCE COMMITTEE

**Authority:** S.C. Code Ann. Section 8-17-110; Edgefield County Employee Grievance Procedure

**Governing Body:** Five employees appointed by the Edgefield County Council.

**Term of Office:** Three-year terms

**Function:** Created and established for the purpose and function of hearing and deciding county employee grievances.

# EMPLOYEE GRIEVANCE PROCEDURE

**I. GENERAL**

This procedure is adopted in accordance with the "County and Municipal Employees Grievance Procedure Act," Section 8-17-110, et seq., Code of Laws of South Carolina, 1976, as amended.

A grievance is defined as any complaint by an employee that he has been treated unfairly, unlawfully, or in violation of his rights under county policies, with regard to any matter pertaining to his employment by the county. This definition includes, but is not limited to, discharge, suspension, involuntary transfer, promotion, and demotion. If an employee believes that he has not received or been credited with or has otherwise lost wages or benefits to which he is entitled, he must present his grievance in accordance with this procedure or such wages or benefits may be forfeited.

An employee who feels that he has a grievance must follow the following procedure:

Step 1. He must discuss the grievance with his immediate supervisor. If his supervisor is unable or unwilling to adjust the grievance to the satisfaction of the employee, the employee must take Step 2.

Step 2. The employee must follow the chain of command in his department, appealing to each successive level of supervision. All Step 1 and Step 2 appeals may be oral. At each level each supervisor has two (2) work days (Saturdays and Sundays excluded) to render a decision. If no decision is made within this time, the grievance is considered denied. If a supervisor at a particular level is unavailable to consider the grievance, it is considered denied and the employee must appeal to the next level of supervision.

Step 3. If the head of the department in which the employee is employed denies the grievance, this decision is final as to any grievance brought by a probationary employee. A new employee is considered probationary until his probationary evaluation is completed and approved by his department head.

Other employees may appeal to the Employee Grievance Committee the denial of their grievances by department heads by filing a written request for appeal at the county's personnel department. This must be done within 14 calendar days of the time at which the facts on which the grievance is based became available to the employee. The written request for appeal must include the following information:

(a) the purpose of the appeal and what recommendation is requested of the Grievance Committee; and

(b) a statement that the chain-of-command has been followed in the appeal as is required by the grievance procedure.

The personnel department staff may assist in preparing the appeal, if requested.

Within ten (10) days of receipt of the employee's request, the chairman of the Grievance Committee should schedule the requested hearing and notify the Grievance Committee, the employee requesting the hearing, the affected department, and the personnel department.

## II. THE EMPLOYEE GRIEVANCE COMMITTEE

The County Council appoints a Committee composed of five (5) employees to serve for terms of three (3) years, except that the members appointed initially shall be appointed so that their terms will be staggered, and approximately one-third (1/3) of the terms expire each year. A member may continue to serve after the expiration of his term until a successor is appointed. Any interim appointment to fill a vacancy for any cause prior to the completion of a member's term is for the unexpired term. Any member may be reappointed for succeeding terms at the discretion of County Council. All members are selected on a broadly representative basis from among county employees. Members employed in the same department as the grieving employee and members having formed an opinion on the issues prior to the hearing, may not participate in that employee's hearing.

A. The Committee annually selects its own chairman from among its members. The chairman serves as the presiding officer at all hearings which he attends but may designate some other member to serve as presiding officer in his absence. The chairman has authority to schedule and to re-schedule all hearings.

B. A quorum shall consist of at least three (3) members, and no hearings may be held without a quorum.

C. The presiding officer will have control of the proceedings. He may take whatever action is necessary to ensure an equitable, orderly, and expeditious hearing. Parties must abide by his decisions, except when a Committee member objects to a decision to accept or reject evidence, in which case the majority vote of the Committee will govern.

D. The Committee has the authority to call for files, records, and papers which are pertinent to any investigation and which are subject to the control of the County Council; to call for or consider affidavits of witnesses; to request and hear the testimony of witnesses, to consider the results of polygraph examinations; and to secure the services of a recording secretary in its discretion. The Committee has no authority to subpoena witnesses, documents or other evidence, nor may any county employee be compelled to attend any hearing. All proceedings will be tape recorded. Witnesses, other than the grieving employee and the department representative, are sequestered when not testifying. All witnesses must testify under oath.

E. All hearings are held in executive session unless the grieving employee requests at the beginning of the hearing that it be held in open session. The official tape recording and the official minutes of all hearings are subject to the control and disposition of County Council.

F. Neither the grieving employee nor the department may be assisted by advisers or by attorneys during the hearing itself. However, the Committee may have an attorney available to it at any and all times it considers necessary and the personnel department may provide assistance in reading written materials to the Committee at the request of a grieving employee.

G. In disciplinary actions by department heads and their subordinate supervisors, the employee must receive in reasonable detail written notice of the nature of the acts or omissions which are the basis for the disciplinary action. This notice may be amended at any time 24 hours or more before the commencement of the hearing. The department must demonstrate that the disciplinary action is for the

good of the county. The department makes the first presentation. The Committee may base its findings and recommendations (and the Administrator or elected or appointed officials their decision) on any additional or different grounds developed from the employee's presentation.

H. In non-disciplinary grievances the employee must establish that a right existed and that it was denied him unfairly, illegally, or in violation of a county policy. The employee makes the first presentation.

I. In all grievances, the grieving employee and the department each are limited to one (1) hour of initial presentation. The party required to make the first presentation may have a ten (10) minute rebuttal of the other party's presentation. The chairman may appoint himself or another member of the Committee as timekeeper.

J. In all grievances, presentations may be oral or in writing or both and may be supported by affidavits or unsworn signed statements from witnesses, by records, other documentary evidence, photographs, and other physical evidence. Presentations are made by the grieving employee (with reading assistance from a member of the personnel department if the employee desires) and by a managerial employee of the affected department. Neither party may call witnesses or question the other party, or question any witness called by the Committee.

K. Except in limited cases, the Committee will, within 20 days after hearing an appeal, make its findings and recommendation and report such findings and recommendation to the Administrator. If the Administrator approves, the recommendation of the Committee becomes his decision and copies of the decision will be transmitted by the Committee to the employee and to the head of the particular department involved. If, however, the Administrator rejects the decision of the Committee, he will make his own decision without further hearing, and that decision is final. Copies of the decision will be transmitted to the employee and to the head of the particular department involved.

L. In grievances involving the failure to promote or transfer, or the discipline or discharge of personnel employed in or seeking assignment to departments under the direction of an elected official or an official appointed by an authority outside county government, the Committee will, within 20 days after hearing an appeal, make its findings and recommendation and report such findings and recommendation to such official. If the official approves, the recommendation of the Committee becomes his decision and a copy of the decision will be transmitted by the Committee to the employee. If, however, the official rejects the decision of the Committee, the official will make his own decision without further hearing, and that decision is final. A copy of the decision will be transmitted to the employee.

M. Nothing in this grievance procedure creates a property interest in employment or a contract of employment, nor does this procedure limit the authority of the county or an elected or appointed official to terminate any employee when the county or respective elected or appointed official considers such action to be necessary for the good of the county.

# SECTION XI

# PROVISIONS APPLICABLE TO EDGEFIELD COUNTY BUILDING CODE BOARD OF ADJUSTMENTS AND APPEALS

**Authority:** Ordinance 87-265 adopted by the Edgefield County Council on August 4, 1987; amended Ord. No. 12-13-655, 10-2-2012.

**Governing Body:** Five members appointed by the County Council serving staggered terms. Such board shall be composed of one architect, one general contractor or civil engineer, one mechanical contractor or engineer, one electrical contractor or engineer, and one member at large.

**Term of Office:** Three year terms, staggered.

**Function:** To review and make decisions on citizen's appeals concerning the enforcement of the Edgefield County Building Code Ordinance.

# Governing Documents

## Edgefield County Code of Ordinances

**8.120 Composition; duties.** Notwithstanding any specific requirement within any code adopted by reference in this chapter, there is hereby established a board to be called the "building codes board of adjustments and appeals," whose duty shall be to hear and to render decisions on appeals resulting from the enforcement of the building-related codes adopted by this chapter. The board shall consist of five members. Such board shall be composed of one architect, one general contractor or civil engineer, one mechanical contractor or engineer, one electrical contractor or engineer, and one member at large. The board shall be appointed by the county council.

**8.121 Terms of office; vacancies; absenteeism.** Of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, one for a term of three years, and thereafter they shall be appointed for terms of four years; all shall serve until their successors are appointed. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from regular meetings of the board shall render any such member liable to immediate removal from office.

**8.122 Quorum; voting.** Three members of the board shall constitute a quorum. In varying the application of any provisions of this chapter or in modifying an order of the building official charged with enforcing these codes, affirmative votes of the majority present, but not less than three affirmative votes, shall be required. A board member shall not act in a case in which he has a personal interest.

**8.123 Secretary; records.** The building official for the county shall appoint a reliable employee to act as secretary of the building codes of adjustments and appeals who shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.

**8.124 Procedures and Meeting.** The board shall conduct its meetings in accordance with the Edgefield County Rules of Parliamentary Procedure. The board shall meet as required and as determined by the chairperson, or in any event, the board shall meet on the third Thursday of each month at 10:00 a.m. after notice of appeal has been received, but no sooner than 15 days after any notice of appeal has been received.

**8.125 Appeals to Board; time limit.** Whenever the building official shall reject or refuse to approve the mode or manner of construction proposed to be followed or materials to be used in the erection or alteration of a building structure, or when it is claimed that the provisions of these codes do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of these codes or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the county official to the building codes board of adjustments and appeals. Notice of appeal shall be in writing and filed within 90 days after the decision is rendered by the county official. A fee in an amount as established from time to time by the county shall accompany such notice of appeal.

In case of a building structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period. Appeals hereunder shall be on forms provided by the county.

**8.126 Variations and modifications.** The building codes board of adjustments and appeals, when so appealed to and after a hearing, may vary the application of any provision of these codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of these codes or public interest, or when, in the board's opinion, the interpretation of the building official should be modified or reversed.

A decision of the building codes board of adjustments and appeals to vary the application of any provision of these codes or to modify an order of the building official shall specify in what manner such variation or modification is made, the conditions upon which it is made, and the reasons therefor.

**8.127 Decisions.** Every decision of the building codes board of adjustments and appeals shall be final, subject, however, to such remedy as any aggrieved party might have pursuant to the South Carolina Administrative Procedures Act[7]. The decision shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the building official and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in the above office of the county for two weeks after filing.

**8.127.1 Time for decision.** The building codes board of adjustments and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

**8.127.2. Action on decision.** If a decision of the building codes board of adjustments and appeals reverses or modifies a refusal, order, or disallowance of the building codes or varies the application of any provision of these codes, the building official shall immediately take action in accordance with such decision.

**NOTE: The County Attorney considers it a conflict of interest for a member of the Building Code Board of Adjustments and Appeals to participate in an appeal involving property in a subdivision in which the board member owns real estate no matter how titled (individually, spousal, trust, corp., LLC, etc.).**

[7] SC Code § 1-23-310 *et seq.*

# SECTION XII

# PROVISIONS APPLICABLE TO EDGEFIELD COUNTY FIRE BOARD

**Authority:** Ordinance 91-290 adopted by Edgefield County Council on January 7, 1992; amended Ord. No. 91-301, 6-2-1992.

**Governing Body:** One member from each fire district appointed by the Edgefield County Council.

**Term of Office:** Four-year staggered terms

**Function:** Created and established for the purpose and function of providing countywide fire protection services.

# Governing Documents

## Edgefield County Code of Ordinances

**Sec. 22-3. - Fire board.**

(a) The county council does hereby create the "Edgefield County Fire Board" to be the coordinating body for fire protection in the unincorporated areas of the county.

(1) Said board shall have powers, duties, and functions not inconsistent with the provisions herein contained, as provided by the county council.

(2) Said board shall have one member to be appointed by the county council from each fire district.

(3) Members appointed for the municipalities of Trenton, Edgefield, and Johnston shall be members of the respective departments.

(4) If the county council should for cause decline to approve any nominee for any fire department, the county council shall submit said cause to the department affected and to the fire board in writing. Said department shall present a new nomination within 30 days of notice of such action by council.

(5) Nominations for the first board will be received by council from each rural department or board. The commissioners serving on that board shall draw lots for terms. Three members will serve a two-year term and four members will serve four-year terms. Succeeding terms shall be for four-year terms each. Should any commissioner die, resign, or otherwise become ineligible to serve on the fire board, a successor shall be nominated from the affected department and submitted for approval in the manner prescribed in subsections (a)(2) and (3) of this section.

(b) The members of the fire board shall annually elect from their number a chairperson, vice-chairperson, and secretary.

(c) The full board shall meet at least once each calendar quarter. Other meetings may be called by the chairperson. Any individual member of the board may request that the chairperson call a special meeting.

(d) By this section, the county council will receive recommendations and advice from the county fire board for the following:

(1) Coordinating presently existing fire departments throughout the county so as to obtain maximum coverage of the unincorporated area of the county and to establish predetermined response procedures for all fire calls within the unincorporated areas of the county. These response procedures may be automatic or mutual as appropriate or negotiable;

(2) Developing and determining compliance with minimum standards of operation for fire departments throughout the unincorporated areas of the county. Said standards shall not be less than the general standards of present operation nor less than is reasonably desirable for public protection;

(3) Developing and implementing a comprehensive fire protection plan for all of the unincorporated areas of the county;

(4) Negotiating contracts with organizations outside the county having fire protection or prevention capabilities. These negotiations will be done by the county council;
(5) Assignment of areas of responsibility for fire departments, review of such areas of responsibility as needed, and determination of locations of needed additional fire stations or substations;
(6) Proposed contract amounts for fire protection/prevention in the unincorporated areas of the county;
(7) The adopting of such codes, declarations, or regulations related to fire protection/prevention within the unincorporated area of the county as may be needed to ensure life and health;
(8) The adopting of such codes, declarations, or regulations related to fire protection/prevention within the unincorporated area of the county as may be needed to ensure life and health.

(e)The fire board will recommend guidelines to ensure that all future public water systems installed in the county are adequate for use in fire protection.

(f) This section will not abolish any existing fire department but is intended to provide assistance and coordination to the efforts of fire departments and fire prevention to achieve the greatest possible benefit to the people of the unincorporated area of the county. The county council will have authority to intervene with any unincorporated area fire department should a dispute arise that cannot be settled by the fire board.

# SECTION XII

# PROVISIONS APPLICABLE TO EDGEFIELD COUNTY LIBRARY BOARD

**Authority:** Ordinance 79-202 adopted by Edgefield County Council on April 9, 1979. South Carolina Acts and Join Resolutions 1978 Act 564 § 2, 1994 Act 480 § 1 codified at S.C. Code Ann. Sections 4-9-35 through 4-9-39.

**Governing Body:** Seven to Eleven members as determined and appointed by the Edgefield County Council.

**Term of Office:** Four-year staggered terms

**Function:** Created and established for the purpose and function of overseeing the operation of the county library including employing a chief librarian and acquiring real and personal property in the name of the county for the exclusive use of the county public library system.

# Governing Documents

## Edgefield County Code of Ordinances

**Sec. 26-1. - Library system established.**

Pursuant to the provisions of Act 564 of 1978, there is hereby established the Edgefield County Library System.

**Sec. 26-2. - Board of trustees.**

(a) Content and operation.

(1) The county public library system shall be controlled and managed by a board of trustees consisting of not fewer than seven nor more than 11 (at the discretion of the council) members appointed by the county council for terms of four years and until successors are appointed and qualify, except that of those members initially appointed one-half of such appointees less one shall be appointed for terms of two years only.

(2) Previous service on a county library board prior to the enactment of this chapter establishing the board shall not limit service on the board.

(3) Vacancies shall be filled in the manner of the original appointment for the unexpired term.

(4) To the extent feasible, members shall be appointed from all geographical areas of the county.

(5) The board shall annually elect a chairperson, vice-chairperson, secretary, treasurer, and such other officers as it deems necessary.

(6) The board shall meet not less than four times each year and at other times as called by the chairperson or upon the written request by a majority of the members.

(b) The board as provided for in subsection (a) of this section shall be authorized to exercise powers as to the policies of the county library which shall not be inconsistent with the general policies established by the council, and pursuant to that authority shall be empowered to:

(1) Employ a chief librarian whose qualifications and credentials shall meet the certification requirements of the state library board, and who shall be responsible to the county library board for the administration of the program and the selection of library staff members required to carry out the functions of the library system;

(2) Purchase, lease, hold, and dispose of real and personal property in the name of the county for the exclusive use of the county public library system; provided, however, any such conveyance, lease, or purchase of real property shall be by the county council;

(3) Acquire books and other library materials and provide for the use thereof throughout the county;

(4) Accept donations of real property, services, books, and other items suitable for use in the library system;

(5) Designate or mark equipment, rooms, buildings, and other library facilities to commemorate and identify gifts and donations made to the library system;

(6) Cooperate or enter into contracts or agreements with any public or private agency which result in improved services or the receipt of financial aid in carrying out the functions of the library system; provided, however, such contracts and agreements shall be subject to approval by the county council;

(7) Enter into contracts or agreements with other counties to operate regional or joint libraries and related facilities; provided, however, such contracts and agreements shall be subject to approval by the county council;

(8) Receive and expend grants, appropriations, gifts, and donations from any private or public source for the operation, expansion, or improvement of the library system;

(9) Take any actions deemed necessary and proper by the board to establish, equip, operate, and maintain an effective library system within the limits of approved appropriations of the county council.

(c) In addition to the powers and duties prescribed in subsection (b) of this section, the board shall:

(1) Provide and make available to the residents of the county books and library materials and in the fulfillment of this function shall establish a headquarters library and may establish branches and subdivisions thereof in appropriate geographical areas of the county within the limits of available funds. The board may operate one or more bookmobiles over routes determined by the board;

(2) Adopt regulations necessary to ensure the effective operation, maintenance, and security of the property of the library system, provided, however, that such regulations shall not be in conflict with policy or regulations established by the county council;

(3) Annually at a time designated by the county council submit to the council a budget for the ensuing fiscal year adequate to fund the operation and programs of the library system. Such budget shall list all funds which the board anticipates will be available for the operation of the library system. All funds appropriated, earned, granted, or donated to the library system or any of its parts shall be used exclusively for library purposes. All financial procedures relating to the library system including audits shall conform to the procedures established by the county council;

(4) Annually file a detailed report of its operations and expenditures for the previous fiscal year with the county council.

**Sec. 26-3. - Applicability of state law.**

(a) All state laws and regulations relating to county public library systems shall apply to the library system created pursuant to section 26-1

(b) All employees of a county public library shall be subject to the provisions of S.C. Code 1976, § 4-9-30(7).

**Sec. 26-4. - Funding; taxation.**

The county public library system shall be funded by annual appropriations by the county council including millage, if any, levied specifically for the county public library system plus aid provided by the state and federal governments and other sources. If the county council levies a tax specifically for the support of the county public library system, such tax shall apply to all persons and corporations subject to school taxes.

**Sec. 26-5. - Ownership of assets and property.**

All assets and property, both real and personal, owned by any county library prior to the creation of a library system under this chapter shall be transferred to the county by the persons or entities owning title thereto; provided, however, that all such assets and property shall be used exclusively for library purposes.

## South Carolina State Law

**§ 4-9-35. County public library systems; boards of trustees.**

(A) Each county council shall prior to July 1, 1979, by ordinance establish within the county a county public library system, which ordinance shall be consistent with the provisions of this section; provided, however, notwithstanding any other provision of this chapter, the governing bod y of any county may by ordinance provide for the composition, function, duties, responsibilities, and operation of the county library system. County library systems created by such ordinances shall be deemed a continuing function of county government and shall not be subject to the provisions of § 4-9-50 except as state funds are specifically appropriated under other provisions of law.

(B) Each county public library system shall be controlled and managed by a board of trustees consisting of not fewer than seven nor more than eleven members appointed by the county council (council) for terms of four years and until successors are appointed and qualify except that of those members initially appointed one-half of such appointees less one shall be appointed for terms of two years only. Previous service on a county library board prior to the enactment of the county ordinance establishing the board shall not limit service on the board. Vacancies shall be filled in the manner of the original appointment for the unexpired term. To the extent feasible, members shall be appointed from all geographical areas of the county.

(C) The board shall annually elect a chairman, vice-chairman, secretary, treasurer and such other officers as it deems necessary. The board shall meet not less than four times each year and at other times as called by the chairman or upon the written request by a majority of the members.

**§ 4-9-36. Duties of boards of trustees.**

The board as provided for in § 4-9-35 shall be authorized to exercise powers as to the policies of the county library which shall not be inconsistent with the general policies established by the governing body of the county, and pursuant to that authority shall be empowered to:

(1) Employ a chief librarian whose qualifications and credentials shall meet the certification requirements of the State Library Board, and who shall be responsible to the county library board for the administration of the program and the selection of library staff members required to carry out the functions of the library system.

(2) Purchase, lease, hold and dispose of real and personal property in the name of the county for the exclusive use of the county public library system. Provided, however, any such conveyance, lease or purchase of real property shall be by the county governing body in accordance with the provisions of §§ 4-9-10 et seq. and §§ 5-1-10 et seq., as amended.

(3) Acquire books and other library materials and provide for use thereof throughout the county.

(4) Accept donations of real property, services, books and other items suitable for use in the library system.

(5) Designate or mark equipment, rooms and buildings, and other library facilities to commemorate and identify gifts and donations made to the library system.

(6) Cooperate or enter into contracts or agreements with any public or private agency which results in improved services or the receipt of financial aid in carrying out the functions of the library system. Provided, however, such contracts and agreements shall be subject to approval by the governing body of the county.

(7) Enter into contracts or agreements with other counties to operate regional or joint libraries and related facilities. Provided, however, such contracts and agreements shall be subject to approval by the governing body of the county.

(8) Receive and expend grants, appropriations, gifts and donations from any private or public source for the operation, expansion or improvement of the library system.

(9) Take any actions deemed necessary and proper by the board to establish, equip, operate and maintain an effective library system within limits of approved appropriations of county council.

**§ 4-9-37. Additional duties of boards of trustees.**

In addition to the powers and duties prescribed in § 4-9-36 the board shall:

(a) Provide and make available to the residents of the county books and library materials and in the fulfillment of this function shall establish a headquarters library and may establish branches and subdivisions thereof in appropriate geographical areas of the county within the limits of available funds. The board may operate one or more bookmobiles over routes determined by the board.

(b) Adopt regulations necessary to insure effective operation, maintenance and security of the property of the library system. Provided, however, such regulations shall not be in conflict with policy or regulations established by the county governing body.

(c) Annually at a time designated by the county council submit to the council a budget for the ensuing fiscal year adequate to fund the operation and programs of the library system. Such budget shall list all funds which the board anticipates will be available for the operation of the library system. All funds appropriated, earned, granted or donated to the library system, including funds appropriated by the county council, shall be deposited and expended as provided for by the ordinance in each county establishing the library system. All funds appropriated, earned, granted or donated to the library system or any of its parts shall be used exclusively for library purposes. All financial procedures relating to the library system including audits shall conform to the procedures established by the county council.

(d) Annually file a detailed report of its operations and expenditures for the previous fiscal year with the county council.

**§ 4-9-38. Status of donations for tax purposes; applicability of state laws.**

All county public library systems established pursuant to § 4-9-35 are deemed to be educational agencies and gifts and donations of funds or property to such systems shall be deductible by the donors for tax purposes as provided by law for gifts and donations for tax purposes.

All state laws and regulations relating to county public library systems shall apply to library systems created pursuant to § 4-9-35.

All employees of a county public library system shall be subject to the provisions of item (7) of § 4-9-30.

**§ 4-9-39. Funding of systems; transfer of assets of former libraries.**

County public library systems shall be funded by annual appropriations by the county council including millage, if any, levied specifically for the county public library system plus aid provided by the state and federal governments and other sources. If any county council levies a tax specifically for the support of a county public library system, such tax shall apply to all persons and corporations subject to school taxes. All assets and property, both real and personal, owned by any county library prior to the creation of a library system under Section 4-9-35 shall be transferred to the county by the persons or entities owning title thereto provided, however, any decision to sell or otherwise transfer the property for use other than for library purposes must be made by two-thirds majority of the county governing body.