



### **Statutory Powers of the Mayor**

In the council form of government, the city council has five, seven, or nine members, including a mayor. The mayor presides over meetings (by tradition), calls special meetings, designates a temporary judge, performs administrative duties only if authorized by council, and acts and votes as member of council. The mayor has no additional statutory authority beyond that of other council members.

### **Statutory Powers of Council**

In the council form of government, the council has all legislative, policy and administrative power, establishes departments and prescribes functions, may hire an administrator to assist council, may appoint an officer to administer departments subject to council direction, investigates departments, appoints a clerk, an attorney and a judge, elects the mayor pro tempore [§5-7-190], and prepares and adopts a balanced budget.

### **Powers of Administrator**

The administrator may be appointed by council to assist council and has only the authority delegated by council. Council may appoint an officer of the city, other than a member of council (see §5-7-180), to administer departments.

### **Powers of Municipal Governments**

Municipalities are not sovereign bodies with inherent powers. They are political subdivisions of the state with those powers delegated by state law, fairly implied from state law and not inconsistent with the state constitution and state law. The Home Rule Act did not change all prior statutes dealing with municipal and county governments, but it extensively broadened the powers of counties and mandated that local government powers be construed liberally rather than strictly. A general grant of power

is now construed to include those powers fairly implied and not prohibited by the Constitution or in conflict with general law [S.C. Constitution Article VIII, §17; S.C. Code § 5-7-10].

All powers of a municipality are vested in the council, except as otherwise provided by law [S.C. Code §5-7-160]. The council is the municipality for purposes of exercising the powers granted by state law [Mason v. Williams, 194 S.C. 290, 9 S.E.2d 537 (1940)]. Municipal powers are referred to in various ways according to the nature of the authority and procedure for exercising them.

### **Legislative**

The municipal council is a legislative body and is the only municipal body authorized to enact ordinances, adopt resolutions, and establish policies. Legislative power may be exercised only by council and may not be delegated or contracted away.

### **Executive**

The exercise of executive functions and general control of municipal operation varies with the form of government. In the council form, executive functions are exercised by the council, unless they are delegated to the mayor or an administrator employed by council to assist the council [§5-11-40]

### **Judicial**

Judicial powers are exercised only by municipal courts, which are in the unified court system under the administrative control of the Chief Justice of the South Carolina Supreme Court. Mayors' courts have been abolished. In all forms of municipal government, judges of municipal courts are appointed by council.

### **Quasi-Judicial**

Building and zoning boards of appeals have powers authorized by statute which are quasi-judicial in that they involve the conduct of a hearing, introduction and consideration of evidence and application of law to the evidence to reach a decision. This process is similar to the judicial functions of courts. Appeal from a board is filed in circuit court.

## **Administrative**

Day-to-day implementation of policies of council involves administrative duties, which are handled by the City Administrator under Lancaster's form of government.

## **Discretionary**

Discretionary powers involve the exercise of judgment and may be exercised by the council, administrator, or public employee with delegated authority. An appointment or discharge of an at-will employee is a discretionary function.

## **Ministerial**

Duties performed as required by law without exercise of independent judgment are referred to as ministerial duties. The issuance of a license or permit to an applicant who meets all requirements of the applicable law is an example of a ministerial duty.

## **Contractual**

A municipality and another party may be bound by agreement under contract laws in matters such as purchasing goods and services, buying, selling, or leasing land, construction, provision of services and franchises. The power to contract may be delegated by council unless approval is required to be given by ordinance (e.g., sale or lease of property and franchise for use of streets).

## **Police Powers**

This term refers to all powers to protect and promote health, safety, morals, and welfare. Adoption and enforcement of health and safety codes, zoning, and land use regulations, licensing, and adoption of ordinances providing penalties for offenses are done under general and specific statutory grants of police powers.

General and specific grants of power are contained in the Home Rule Act (Title 5, Chs. 1-17) and other statutes in the South Carolina Code of Laws. Most municipal powers predate the 1975 Home Rule Act (e.g., Title 5, Chs. 19-39). Although the Constitution is generally construed as a document limiting powers of the General Assembly, rather than granting powers, it does contain self-executing authority for municipalities to own

and operate public utility systems; a power which cannot be taken away by the General Assembly [S.C. Constitution, Article VIII, §16]